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FINAL
CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. August 5, 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 July 22, 2014

AWARDS AND PROCLAMATIONS

- Proclamation:
National Clown Week
- Service Award:
Carmen Carbajal
- Awards:
WPD/WFD Hero Awards

I. PUBLIC AGENDA

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

1. Arlen Hamilton - Arts Council quality of life issues.
2. Russ Pataky - Efforts to decriminalize marijuana.
3. Shirley Mansfield - Lack of enforcing leash laws for dogs, run down areas of town, and poor street conditions.
4. Beverly Danley - Decriminalization of marijuana petition.

II. CONSENT AGENDAS (ITEMS 1 THROUGH 28)

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. Ordinance Calling for Special Question Election to Impose 1.0% Sales Tax.

RECOMMENDED ACTION: Place one of the ordinances on first reading and approve the appropriate Notice of Special Question Election.

2. Consideration of Marijuana Petition. (DEFERRED TO AUGUST 12TH)

3. Public Hearing and Issuance of Health Care Facilities Revenue Bonds, Presbyterian Manors, Inc. (Districts I and VI)

RECOMMENDED ACTION: Close the public hearing and place on first reading the Ordinance authorizing the issuance of Health Care Facilities Revenue Bonds to Presbyterian Manor, Inc., in an amount not-to-exceed \$30,800,000 and authorize the necessary signatures.

4. Licenses and Permit Unification.

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

5. Operating Partnership Agreements with Mid-America All-Indian Center and Wichita Historical Museum Association.

RECOMMENDED ACTION: Approve the Operating Partnership Agreements with Mid-America All-Indian Center and Wichita Historical Museum Association.

6. Permanent Street Closures at Railroad Crossings on Boston and Clark at Mead Street. (District III)

RECOMMENDED ACTION: Approve the closures and agreements, place the ordinance on first reading, and authorize all necessary signatures for the acquisition or granting of easements, railroad agreements, and all required permits.

7. 2015 Annual Operating Budget.

RECOMMENDED ACTION: Receive public comment on the 2015 Proposed Budget.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

V. NON-CONSENT PLANNING AGENDA

None

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VII. NON-CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

None

IX. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 28)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated July 28 and August 4, 2014.

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

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2014</u>	<u>(Consumption on Premises)</u>
Amir Etezaz	EEI Ruel and Retail, Inc. dba EEI CS2 Ridge***	731 North Ridge Road
Amir Etezazi	EEI Ruel and Retail, Inc. dba EEI CS2 Ridge***	248 South Hillside
Nika Chakma	Quik Pick***	3733 North Arkansas
<u>Renewal</u>	<u>2014</u>	<u>(Consumption off Premises)</u>
Amy Thrasher	Wal-Mart #5990***	2111 North Amidon
Cecilia Pinon	El Super Del Centro South Inc***	1560 South Main
Sham Gupta	Schulte Food Mart***	11012 Southwest Boulevard

* Tavern (less than 50% of gross revenues from sale of food)

**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.

3. Preliminary Estimates:

- a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:

- a. Petition for Sanitary Sewer in Waterfront Sixth Addition. (District II)
b. Paving Improvements in Clear Creek Addition. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Statement of Costs:

- a. List of Statement of Costs.

RECOMMENDED ACTION: Approve and file.

6. Consideration of Street Closures/Uses.
 - a. Community Events - Race for Freedom. (District VI)
 - b. Community Events - Black Top Nationals. (Districts I and VI)
 - c. Community Events - Kidzcope Good Grief 5K. (District VI)
 - d. Community Events - Pedal Fest. (District II)
 - e. Community Events - Boots and Daisy Dukes 5K. (District VI)

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

7. Design Services Agreements:
 - a. Agreement for Design Services for USD 259 Fourth Addition. (District II)
 - b. Supplemental Design Agreement No. 2 for Improvements to Mt. Vernon and Oliver Intersection. (District III)

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

8. Property Acquisition:
 - a. Acquisition of a Portion of 4300 West 37th Street North for the K-96 and Hoover Road Interchange Project. (District V)

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

9. Minutes of Advisory Boards/Commissions

Joint Investment Committee, June 5, 2014
Board of Electrical Appeals, April 22, 2014
Board of Electrical Appeals, June 10, 2014
Wichita Transit Advisory Board, May 23, 2014
Wichita Transit Advisory Board, June 27, 2014

RECOMMENDED ACTION: Receive and file.

10. Notice of Intent to Use Debt Financing - Roof Replacements 2014 - Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Adopt the Resolution and authorize the necessary signatures.

11. Contract Amendments with Catholic Charities, Inc.

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

12. Contract Amendment with Center of Hope, Inc.

RECOMMENDED ACTION: Approve the contract amendments, and authorize the necessary signatures.

13. Amended Resolution Establishing Number of Directors for NBC Baseball Foundation.

RECOMMENDED ACTION: Adopt the Resolution increasing the number of Directors for the NBC Baseball Foundation

14. Summer Youth Employment Program Grant Award.

RECOMMENDED ACTION: Authorize staff to receive a grant from Spirit AeroSystems in support of the savings incentive component of The Way to Work program.

15. Acceptance of a State Historic Preservation Grant to Conduct a Window Repair Workshop at Linwood Park Greenhouse. (District I)

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

16. Acceptance of a State Historic Preservation Grant for a Building Condition Report and Maintenance Plan for Old City Hall. (District I)

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

17. Ordinance to Amend City Code Regarding Payment of Connection Fees.

RECOMMENDED ACTION: Approve the payment option, place the ordinance on first reading, and authorize the necessary signatures.

18. Funding for Improvements to 135th Street West, Maple to Central. (District V)

RECOMMENDED ACTION: Approve the revised budget, including the redirection of CIP funding from the Pawnee Bridge to this project, adopt the resolution, and authorize all necessary signatures for the acquisition or granting of easements, utility relocation agreements, and all required permits.

19. Funding for Improvements to the Intersection of Mt. Vernon and Oliver. (District III)

RECOMMENDED ACTION: Approve the revised budget, including the redirection of CIP funding from the Pawnee Bridge to this project, adopt the resolution, and authorize all necessary signatures for the acquisition or granting of easements, utility relocation agreements, and all required permits.

20. 2014 Traffic Signalization Program.

RECOMMENDED ACTION: Approve the project, approve the locations for construction, adopt the resolution, and authorize the necessary signatures.

21. Amending Resolution for Sanitary Sewer Improvements in Sierra Pointe Addition. (District II)

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

22. Wichita Retirement Systems' Comprehensive Annual Financial Report for the Fiscal Year Ended December 31, 2013.

RECOMMENDED ACTION: Receive and file the Wichita Retirement Systems' Comprehensive Annual Financial Report for the fiscal year ended December 31, 2013.

23. 2015 Funding Contributions for the Cheney Lake Watershed Water Quality Project.

RECOMMENDED ACTION: Approve the MOU and working agreement, including funding contributions, and authorize the necessary signatures.

24. Second Reading Ordinances: (NONE)

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.

25. *SUB2014-00010 -- Plat of 21st and Amidon Addition located on the southeast corner of 21st Street North and Amidon. (District VI)

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

II. CONSENT HOUSING AGENDA ITEMS

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

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

None

II. CONSENT AIRPORT AGENDA ITEMS

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

26. *Transportation Security Administration - Amendment of Solicitation and Modification of Contract - Wichita Mid-Continent Airport.

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

27. *Roof Replacements 2014 - Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Approve the project budget.

28. *Midwest Corporate Aviation, Inc. - Aviation Fuel Storage and Distribution Facilities - Colonel James Jabara Airport.

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Ordinance Calling for Special Question Election to Impose 1.0% Sales Tax

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Option 1: Approve the proposed ordinance calling for a special question election to impose a one percent (1.0%) city-wide sales tax and authorize the City Clerk to request notice of the election be published by the Sedgwick County Election Commissioner.

Option 2: Approve the proposed ordinance calling for a special question election placing two questions on the ballot for voters' consideration to impose a city-wide sales tax not to exceed one percent (1.0%). The questions would propose an eight-tenths of one percent (0.80%) of the tax to fund the purchase, development and maintenance of a long-term water supply, Wichita Transit operations and street maintenance and repairs and two-tenths of one percent (0.20%) city-wide sales tax to fund job creation and development and authorize the City Clerk to request notice of the election be published by the Sedgwick County Election Commissioner.

Background: For nearly a year, the City Council has encouraged a community dialogue on the future strategic direction for the City of Wichita. In early 2014, ACT ICT engaged over 2,000 residents in a series of meetings. This led to City Council workshop discussions on May 6, May 13 and May 20. In these discussions, the City Council narrowed the focus to four strategic plan priorities. On May 27, 2014, the City Council requested additional community discussion of a one percent (1.0%) city-wide sales tax for a period of five years to fund four areas: the purchase, development, maintenance and operation of a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs.

Since May 27, staff conducted 16 community meetings, including neighborhood meetings in each City Council district. An estimated 495 residents participated in these meetings. Comment cards were completed by approximately 228 meeting participants. The results of these comments were consistent with ACT ICT, indicating strong support for the four strategic items.

Analysis: The proposed ordinance calls for a vote to occur on November 4, 2014, in conjunction with the general election to levy a one percent (1.0%) city-wide retail sales tax. The sales tax assessment would begin on April 1, 2015 and terminate no later than April 1, 2020.

As requested at the July 22, City Council meeting, two options are being presented for consideration. The first option would fund all four strategic items. The funding for each item would be apportioned as follows:

\$ 250.0 million for the purchase, development, maintenance and operation of a long-term water supply
\$ 80.0 million for job creation and development
\$ 39.8 million for Wichita Transit operations
\$ 27.8 million for street maintenance and repairs

The second option would place two questions on the ballot for consideration. The questions would propose eight-tenths of one percent (0.80%) city-wide sales tax to fund the purchase, development and maintenance of a long-term water supply, Wichita Transit operations and street maintenance and repairs. A second ballot question would propose two-tenths of one percent (0.20%) city-wide sales tax to fund job creation and development.

The Election Commissioner has established the deadline of August 22, 2014 for ballot questions to be submitted.

If adopted by the voters, the City must adopt an ordinance following the election, requesting the Department of Revenue to begin collection of revenue as set forth in the ordinance approved.

Financial Considerations: A proposed one percent city-wide sales tax is estimated to generate \$397.6 million over five years. A total of \$250 million would be allocated for the purchase, development, maintenance and operation of a long-term water supply; \$80 million for job development and creation; \$39.8 million for Wichita Transit operations and \$27.8 million for street maintenance and repairs.

Legal Considerations: The proposed ordinances and notices of election have been prepared by the Law Department and are approved as to form.

Recommendations/Actions: It is recommended that the City Council place one of the ordinances on first reading and approve the appropriate Notice of Special Question Election.

Attachments: Ordinances and Notices of Special Question Election.

Option 1

First Published in The Wichita Eagle on August 15, 2014

ORDINANCE NO. 49-809

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR THE CALLING OF A SPECIAL QUESTION ELECTION FOR THE PURPOSE OF SUBMITTING TO QUALIFIED ELECTORS OF THE CITY OF WICHITA THE QUESTION RELATING TO THE IMPOSITION OF A ONE PERCENT (1.0%) CITY-WIDE RETAILERS' SALES TAX , PROVIDING FOR THE CALLING OF SUCH ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND PROVIDING FOR THE GIVING OF NOTICE OF SAID ELECTION.

WHEREAS, K.S.A. 12-187 *et seq.* (the "Act") authorizes the governing body of the City of Wichita (the "Governing Body") to submit to the electors of the City of Wichita the question of imposing a city-wide retailers' sales tax; and

WHEREAS, the Governing Body deems it advisable to authorize and provide for the calling of a special question election in the city for the purpose of submitting to the qualified electors of the city the question of imposing a special one percent (1.0%) city-wide retailers' sales tax to take effect April 1, 2015, and which will terminate no later than April 1, 2020. Such revenue shall be utilized for the purchase, development, maintenance and operation of a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs;

WHEREAS, in order to authorize such city-wide retailers' sales tax, it is deemed advisable to call for a special question election in the city to be held on Tuesday, November 4, 2014.

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

SECTION 1. **Public Purpose.** It is hereby deemed necessary and in the best interests of the citizens of the city to assist with the financing of certain municipal operations including the financing of the costs associated with the purchase, development, maintenance and operation of a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs and that a special question election be called.

SECTION 2. **City-wide Sales Tax.** In order to support the financing of the public services set forth in Section 1, and in order to provide funds for these services, it is necessary and advisable pursuant to the authority of the Act to institute the city-wide retailers' sales tax. Collection of the city-wide retailers' sales tax, if approved by the electors of the city, shall commence on April 1, 2015, and which will terminate no later than April 1, 2020. The implementation of the city-wide retailers' sales tax shall not be effective unless a majority of the qualified electors of the city voting on such proposition shall vote in favor thereof at a special question election to be held in the city for that purpose.

SECTION 3. **Special Question Election.** It is hereby authorized, ordered and directed that a special question election shall be and is hereby called to be held in the city on November 4, 2014, at which time there shall be submitted to the qualified electors of the city the following proposition:

PROPOSITION NO. 1 – CITY-WIDE RETAILERS' SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose a one percent (1.0%) city-wide retailers' sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$250 million dollars of such tax applied to pay the costs for the purchase, development,

maintenance and operation of a long-term water supply, with an amount not to exceed \$80 million dollars of such tax applied for job development and creation, with an amount not to exceed \$39.8 million dollars of such tax applied to support Wichita Transit operations, and with an amount not to exceed \$27.8 million dollars of such tax applied for street maintenance and repairs?

SECTION 4. Special Question Election Procedures.

The votes at said special question election shall be by ballot, and the proposition stated above shall be printed on the ballots, together with voting instructions as provided by law. The City Clerk shall cause the Sedgwick County Election Commissioner to give notice, of the election as provided by law by publishing a Notice of Special Question Election, in substantially the form attached here to as Exhibit A, once each week for two (2) consecutive weeks in *The Wichita Eagle*, with the first publication to be not less than twenty-one (21) days prior to the date of the special question election, and the last publication being not more than forty-five (45) days prior to the date of the special question election. The Notice of Special Question Election shall be submitted to the Sedgwick County Election Commissioner no later than August 15, 2014, for such publications.

SECTION 5. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body of the City of Wichita, Kansas, and publication once in the official newspaper of the City.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August,
2014.

CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Sharon L. Dickgrafe
Interim Director of Law and City Attorney

NOTICE OF SPECIAL QUESTION ELECTION

TO ALL THE QUALIFIED ELECTORS
OF THE CITY OF WICHITA, KANSAS:

Notice is hereby given by the Governing Body of the City of Wichita, Kansas, and the Sedgwick County Election Commissioner that there will be a special question election in the City of Wichita, Kansas (the "City") on the 4th day of November, 2014, for the purpose of voting on the question of levying a city retailers' sales tax in the amount of one percent (1.0%) on retail sales consummated within the City, for the special purpose of funding the costs associated with purchasing, developing, maintaining and operating a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs. The tax will take effect on April 1, 2015 and end no later than April 1, 2020. The tax will be collected by the State Department of Revenue, and the revenue therefrom returned to the City.

The proposition shall appear on the ballot as follows:

PROPOSITION NO. 1 – CITY-WIDE RETAILERS' SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose a one percent (1.0%) city-wide retailers' sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$250 million dollars of such tax applied to pay the costs for the purchase, development, maintenance and operation of a long-term water supply, with an amount not to exceed \$80 million dollars of such tax applied for job development and creation, with an amount not to exceed \$39.8 million dollars of such tax applied to support Wichita Transit operations, and with an amount not to exceed \$27.8 million dollars of such tax applied for street maintenance and repairs?

_____ Yes

_____ No

Dated this _____ day of _____, 2014.

Sedgwick County Election Commissioner

ORDINANCE NO. 49-809

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR THE CALLING OF A SPECIAL QUESTION ELECTION FOR THE PURPOSE OF SUBMITTING TO QUALIFIED ELECTORS OF THE CITY OF WICHITA THE QUESTION RELATING TO THE IMPOSITION OF A CITY-WIDE SALES TAX NOT TO EXCEED ONE PERCENT (1.0%), PROVIDING FOR THE CALLING OF SUCH ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, AND PROVIDING FOR THE GIVING OF NOTICE OF SAID ELECTION.

WHEREAS, K.S.A. 12-187 *et seq.* (the “Act”) authorizes the governing body of the City of Wichita (the “Governing Body”) to submit to the electors of the City of Wichita the question of imposing a city-wide retailers’ sales tax; and

WHEREAS, the Governing Body deems it advisable to authorize and provide for the calling of a special question election in the city for the purpose of submitting to the qualified electors of the city the question of imposing a city-wide retailers’ sales tax not to exceed one percent (1.0%) to take effect April 1, 2015, and will terminate no later than April 1, 2020. Such revenue shall be utilized for the purchase, development, maintenance and operation of a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs;

WHEREAS, in order to authorize such city-wide retailers’ sales tax, it is deemed advisable to call for a special question election in the city to be held on Tuesday, November 4, 2014.

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

SECTION 1. **Public Purpose.** It is hereby deemed necessary and in the best interests of the citizens of the City to assist with the financing of certain municipal operations, including the financing costs associated with the purchase, development, maintenance and operation of a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs and that a special election be called.

SECTION 2. **City-wide Sales Tax.** In order to support the financing of the public services set forth in Section 1, and in order to provide funds for these services, it is necessary and advisable pursuant to the authority of the Act to institute the city-wide retailers' sales tax. Collection of the city-wide retailers' sales tax, if approved by the electors of the City, shall commence on April 1, 2015, and will terminate no later than April 1, 2020. The implementation of the city-wide retailers' sales tax shall not be effective unless a majority of the qualified electors of the city voting on such proposition shall vote in favor thereof at a special question election to be held in the city for that purpose.

SECTION 3. **Special Question Election.** It is hereby authorized, ordered and directed that a special question election shall be and is hereby called to be held in the city on November 4, 2014, at which time there shall be submitted to the qualified electors of the city the following propositions:

PROPOSITION NO. 1 – CITY-WIDE RETAILERS' SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose an eight-tenths of one percent (0.80%) city-wide retailers' sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$250 million dollars of such tax applied to pay the costs for the purchase,

development, maintenance and operation of a long-term water supply, with an amount not to exceed \$39.8 million dollars of such tax applied to support Wichita Transit operations, and with an amount not to exceed \$27.8 million dollars of such tax applied for street maintenance and repairs? Revenue for each specified use may be adjusted, as necessary, to provide for the termination of the city-wide sales tax prior to April 1, 2020.

PROPOSITION NO. 2 – CITY-WIDE RETAILERS’ SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose a two-tenths of one percent (0.20%) city-wide retailers’ sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$80 million dollars of such tax applied for job development and creation?

SECTION 4. Special Question Election Procedures. The votes at said special question election shall be by ballot, and the propositions stated above shall be printed on the ballots, together with voting instructions as provided by law. The City Clerk shall cause the Sedgwick County Election Commissioner to give notice, of the election as provided by law by publishing a Notice of Special Question Election, in substantially the form attached here to as Exhibit A, once each week for two (2) consecutive weeks in *The Wichita Eagle*, with the first publication to be not less than twenty-one (21) days prior to the date of the special question election, and the last publication being not more than forty-five (45) days prior to the date of the special question election. The Notice of Special Question Election shall be submitted to the Sedgwick County Election Commissioner no later than August 15, 2014, for such publications.

SECTION 5. **Effective Date.** This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body of the City of Wichita, Kansas, and publication once in the official newspaper of the City.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2014.

CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Sharon L. Dickgrafe
Interim Director of Law and City Attorney

NOTICE OF SPECIAL QUESTION ELECTION

TO ALL THE QUALIFIED ELECTORS
OF THE CITY OF WICHITA, KANSAS:

Notice is hereby given by the Governing Body of the City of Wichita, Kansas, and the Sedgwick County Election Commissioner that there will be a special question election in the City of Wichita, Kansas (the "City") on the 4th day of November, 2014, for the purpose of voting on the question of levying a city retailers' sales tax in an amount not to exceed one percent (1.0%) on retail sales consummated within the City, for the special purpose of funding the costs associated with purchasing, developing, maintaining and operating a long-term water supply, job development and creation, Wichita Transit operations, and street maintenance and repairs. The tax will take effect on April 1, 2015 and end no later than April 1, 2020. The tax will be collected by the State Department of Revenue, and the revenue therefrom returned to the City.

The propositions shall appear on the ballot as follows:

PROPOSITION NO. 1 – CITY-WIDE RETAILERS' SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose an eight-tenths of one percent (0.80%) city-wide retailers' sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$250 million dollars of such tax applied to pay the costs for the purchase, development, maintenance and operation of a long-term water supply, with an amount not to exceed \$39.8 million dollars of such tax applied to support Wichita Transit operations, and with an amount not to exceed \$27.8 million dollars of such tax applied for street maintenance and repairs?

_____ Yes

_____ No

PROPOSITION NO. 2 – CITY-WIDE RETAILERS’ SALES TAX

Shall the following be adopted?

Shall the City of Wichita, Kansas, be authorized, pursuant to K.S.A. 12-187 *et seq.*, to impose a two-tenths of one percent (0.20%) city-wide retailers’ sales tax to be effective April 1, 2015, and which will terminate no later than April 1, 2020, with an amount not to exceed \$80 million dollars of such tax applied for job development and creation?

_____ Yes

_____ No

Dated this _____ day of _____, 2014.

Sedgwick County Election Commissioner

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.) (Districts I and VI)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing and place the Ordinance on first reading.

Background: On April 16, 2013, the Wichita City Council approved a two year Letter of Intent for Presbyterian Manors, Inc. (“PMI”) to issue Health Care Facilities Refunding and Improvement Revenue Bonds in an amount not-to-exceed \$110,000,000. The City Council approved the issuance of industrial revenue bonds in the amount of approximately \$85 million on July 23, 2013. Bond proceeds were used to refinance existing debt and finance new improvements at several of its facilities throughout the state, including the PMI residential facility located at 4700 W. 13th Street in Wichita. Through a series of interlocal agreements, the City of Wichita serves as a “host” bond issuer in order to facilitate consolidated financings of PMI facilities in Kansas.

On June 10, 2014, PMI requested, and the City Council approved, an increase of the 2013 Letter of Intent for an additional \$15 million of industrial revenue bonds to cover increased construction costs at the west 13th Street project and the acquisition of a new corporate headquarters.

PMI is now requesting the issuance of bonds in an amount not-to-exceed \$30,800,000.

Analysis: PMI owns and operates 16 retirement facilities in Kansas and Missouri, which have an aggregate of 1,472 licensed adult care beds and 555 additional retirement units. PMI operates retirement communities and independent living centers, provides other long-term care services for older individuals and disabled persons, and offers accommodations and services especially designed to meet the physical, social, spiritual and psychological needs, and to contribute to the health, security, sense of well-being and usefulness of older individuals and disabled persons.

The 2013 Bond proceeds were used to refinance outstanding bonds (Series III, 2004 and Series III, 2007), fund new improvements and pay costs of issuance. Approximately \$28,660,000 is being used to fund improvements associated with a major project to reposition the Wichita facility, and \$11,300,000 will be used to construct improvements for the PMI Kansas facilities located in Arkansas City, Kansas City, Lawrence, Newton, Parsons and Topeka.

PMI is requesting a bond issuance in an amount not-to-exceed \$30,800,000 to cover increased costs at the west 13th Street Project and to finance the acquisition and rehabilitation of a new corporate headquarters located at 2414 N. Woodlawn. PMI will occupy at least 75% of the building. As a 501(c)(3), PMI would be eligible for a 100% tax abatement on any real property it occupies. Since a portion of the building might be leased to tenants that provide rental income, PMI would not be eligible for the tax abatement on the property in its own right. Therefore, PMI is requesting a ten-year, 100% abatement on the new headquarters and has agreed to a Payment-In-Lieu-Of-Taxes (PILOT) for the portion of the building it leases to other tenants. PMI may terminate this tax abatement prior to the end of the ten year abatement period should it occupy the entire building at which point its 501(c)(3) status would make it eligible for the abatement. PMI anticipates creating at least 26 new jobs, at an average annual salary of \$29,525 as result of its expansion. The North American Industrial Classification System average for these jobs (nursing and residential care facilities) is \$24,297.

An estimated analysis of the sources and uses of project funds is:

Sources of Funds:

Principal amount of the Series 2014 Bonds	\$ 30,800,000
Net Original Issue Discount	(95,344)
Corporation contribution	<u>1,000,000</u>
Total sources of funds	<u>\$ 31,704,656</u>

Uses of Funds:

Deposit to the Project Fund for Phase II Project	\$ 23,144,372
Deposit to the Project Fund for Office Building Project	3,500,000
Deposit to Funded Interest Fund	2,150,544
Deposit to the Series 2014A Debt Service Reserve Account	1,190,950
Deposit to the Series 2014B-1 Debt Service Reserve Account	235,875
Deposit to the Series 2014B-2 Debt Service Reserve Account	155,250
Deposit to the Series 2014C Debt Service Reserve Account	102,703
Costs of issuance	<u>1,224,961</u>
Total uses of funds	<u>\$ 31,704,656</u>

B.C. Ziegler and Company in Chicago, Illinois, will underwrite the bonds. The firm of Gilmore & Bell, PC, will serve as bond counsel in the transaction. Presbyterian Manor, Inc, has complied with the Standard Letter of Intent Conditions.

Financial Considerations: Presbyterian Manor, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Presbyterian Manor, Inc. is generally exempt from ad valorem property taxes pursuant to Kansas law.

City staff and PMI have negotiated the terms of a property tax abatement designed to abate the taxes only on property actually occupied by PMI for the new corporate headquarters. Under this arrangement, all bond-financed improvements will be subject to 100% five-year abatement, plus a second five years subject to Council review and approval. Each year of the abatement period, PMI will pay the City a PILOT equal to the prorated amount of taxes that would have been due on the portion of the building not occupied by PMI, based on current appraised value and current tax rates.

Legal Considerations: Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The form of bond documents shall be subject to review and approval by the Law Department prior to the issuance of any bonds.

Recommendations/Actions: It is recommended that the City Council close the public hearing and place on first reading the Ordinance authorizing the issuance of Health Care Facilities Revenue Bonds to Presbyterian Manor, Inc., in an amount not-to-exceed \$30,800,000 and authorize the necessary signatures.

Attachments: Bond Ordinance.

(Published in the *Wichita Eagle*, August 13, 2014)

ORDINANCE NO. 49-800

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS, TO ISSUE ITS HEALTH CARE FACILITIES REVENUE BONDS (PRESBYTERIAN MANORS, INC.), FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, IMPROVING AND EQUIPPING, IMPROVEMENTS TO EXISTING SENIOR LIVING FACILITIES AND ACQUIRING, REMODELING AND EQUIPPING A CORPORATE OFFICE BUILDING; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “Issuer”), is authorized by K.S.A. 12-1740 *et seq.* and K.S.A. 10-116a, all, as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for the promotion and advancement of physical and mental health, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, to issue revenue bonds for the purpose of paying the costs of such facilities, and to issue revenue bonds for the purpose of refunding such bonds; and

WHEREAS, pursuant to the Act, the Issuer has issued its Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.), Series IV-A, 2013, in the original principal amount of \$78,055,000 and its Taxable Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.), Series IV-B, 2013, in the original principal amount of \$7,000,000 (collectively, the “Series 2013 Bonds”) under a Bond Trust Indenture dated as of July 1, 2013 (the “Original Bond Indenture”, and with all amendments and supplements thereto, the “Bond Indenture”), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as Bond Trustee (the “Bond Trustee”), for the purpose of providing funds to finance and refinance certain retirement and health care facilities (as more particularly described in the Original Bond Indenture, the “Project”); and

WHEREAS, the Project is leased by the Issuer to Presbyterian Manors, Inc., a Kansas not for profit corporation (the “Corporation”) pursuant to a Lease Agreement, dated as of July 1, 2013, between the Issuer, as lessor, and the Corporation, as lessee (the “Original Lease Agreement” and with all amendments and supplements thereto, the “Lease Agreement”), whereby the Corporation agrees to pay Base Rental Payments (as therein defined) sufficient to pay the principal of and premium, if any, and interest on the Bonds, as defined below; and

WHEREAS, the Original Bond Indenture makes provision for the issuance of additional parity bonds from time to time on the terms and conditions provided for therein; and

WHEREAS, the Issuer has found and does find and determine that it is desirable in order to promote, stimulate and develop the general welfare and economic prosperity of the Issuer and the State of Kansas that the Issuer issue the following additional parity bonds (collectively, the Series 2014 Bonds”):

- (a) Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.) Series IV-A, 2014 in the aggregate principal amount of \$17,400,000;

- (b) Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.) Series IV-B-1, 2014, Tax Exempt Mandatory Paydown Securities-80 (TEMPS-80SM) in the aggregate principal amount of \$5,550,000;
- (c) Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.) Series IV-B-2, 2014, Tax Exempt Mandatory Paydown Securities-50 (TEMPS-50SM) in the aggregate principal amount of \$4,600,000; and
- (d) Taxable Health Care Facilities Revenue Bonds (Presbyterian Manors, Inc.), Series IV-C, 2014, Taxable Mandatory Paydown Securities (Taxable MPS) in the aggregate principal amount of \$3,250,000; and

WHEREAS, the proceeds of the Series 2014 Bonds shall be used to (a) finance, refinance and reimburse the costs of additions, improvements and renovations to the retirement and health care facilities of the Corporation located in the City of Wichita (the “Wichita Facility Improvements”), (b) finance, refinance and reimburse the costs of the acquisition, remodeling and equipping of a new corporate headquarters office building located in the City of Wichita (the “Corporate Headquarters Building”), (c) fund interest on the Series 2014 Bonds during the construction of the Wichita Facility Improvements and the improvements to the Corporate Headquarters Building, (d) fund a debt service reserve fund for the Series 2014 Bonds, and (e) pay certain costs related to the issuance of the Series 2014 Bonds; and

WHEREAS, the Series 2014 Bonds and the interest thereon shall not be a general obligation of the Issuer, shall not be payable in any manner by taxation and shall be payable on a parity with the Series 2013 Bonds solely from the trust estate established under the Bond Indenture, including revenues from the lease of the Facilities (as hereinafter defined) to the Corporation; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the Series 2014 Bonds to execute and deliver the following documents (collectively, the “Bond Documents”):

- (i) a Supplemental Bond Trust Indenture No. 1, amending and supplementing the Original Bond Indenture, between the Issuer and the Bond Trustee, prescribing the terms and conditions of and the provisions for issuing and securing the Series 2014 Bonds;
- (ii) a Supplemental Lease Agreement No. 1, amending and supplementing the Original Lease Agreement, between the Issuer, as lessor, and the Corporation, as lessee, whereby the Issuer will lease the Wichita Facility Improvements and the Corporate Headquarters Building (collectively, the “2014 Project”) in consideration of payments by the Corporation of Base Rental Payments (as defined in the Bond Indenture) sufficient to pay the principal of and interest on the Series 2014 Bonds and other payments provided for therein;
- (iii) a Bond Purchase Agreement among the Issuer, the Corporation and B.C. Ziegler and Company, Chicago, Illinois, as purchaser of the Series 2014 Bonds;
- (iv) a Tax Compliance Agreement among the Issuer, the Corporation and the Bond Trustee; and
- (v) an Agreement for Payment in Lieu of Taxes (the “Agreement for Payment in Lieu of Taxes”) with the Corporation, under which the Corporation will make certain payments in lieu of

taxes for each year after issuance of the Series 2014 Bonds that the Corporate Headquarters Building is exempt from ad valorem taxation.

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

Section 1. Authority to Cause the 2014 Project to be Constructed and Acquired. The Governing Body of the Issuer hereby declares that the 2014 Project, if in being, would promote the welfare of the City of Wichita, Kansas and the State of Kansas and the Issuer is hereby authorized to cause the 2014 Project to be constructed and acquired all in the manner and as more particularly described in the Bond Indenture and the Lease Agreement.

Section 2. Authorization of and Security for the Series 2014 Bonds. The Issuer is hereby authorized and directed to issue the Series 2014 Bonds, to be designated as set forth above, in the aggregate principal amount of \$30,800,000. The Series 2014 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Indenture. The Series 2014 Bonds shall be special limited obligations of the Issuer payable solely from the trust estate established under the Bond Indenture, including revenues from the lease of the Project and the 2014 Project (collectively, the "Facilities"). The Series 2014 Bonds shall not be general obligations of the Issuer, nor constitute a pledge of the full faith and credit of the Issuer and shall not be payable in any manner by taxation.

Section 3. Lease of the Facilities. The Issuer shall cause the Facilities, including the 2014 Project, to be leased to the Corporation pursuant to and in accordance with the provisions of the Lease Agreement.

Section 4. Execution of Series 2014 Bonds and Bond Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Series 2014 Bonds and deliver them to the Bond Trustee for authentication on behalf of, and as the act and deed of the Issuer in the manner provided in the Bond Indenture. The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Bond Documents on behalf of, and as the act and deed of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such minor corrections or amendments thereto as such signatory may approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or any Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series 2014 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's official seal.

Section 5. Pledge of the Facilities and Net Revenues. The Issuer hereby pledges the Facilities and the net revenues generated under the Lease to the payment of the Series 2014 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the Bonds (as defined in the Bond Indenture) shall be deemed to have been paid within the meaning of the Bond Indenture.

Section 6. Authority To Correct Errors, Etc. The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or

additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 7. Further Authority. The officers, agents and employees of the Issuer are hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series 2014 Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

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

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PASSED by the Governing Body of the City of Wichita, Kansas, on August 12, 2014.

CITY OF WICHITA, KANSAS

(Seal)

By: _____
Carl Brewer, Mayor

Attest:

By: _____
Karen Sublett, City Clerk

Approved as to form:

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: License and Permit Unification
INITIATED BY: Metropolitan Area Building and Construction Department
AGENDA: New Business

Recommendation: Approve the first reading of the ordinance creating Article 1 (G) and repealing Article 1, Sections 2, 3, and 4, and replacing with the amended Article 1, Sections 2, 3, and 4, all pertaining to the Wichita-Sedgwick County Unified Building and Trade Code (UBTC).

Background: The Metropolitan Area Building and Construction Department (MABCD) was formed as a consolidated entity between Sedgwick County and the City of Wichita pursuant to a joint ordinance and resolution that was approved by the governing bodies of both local government entities in 2012.

Within the joint ordinance and resolution, it was stated the consolidation was intended "to better serve the public and to make more efficient and effective the customer service provided to all of their citizens and stakeholders..." and to "jointly administer the codes with the intent that the same will be adopted and maintained in substantially identical form where practical." As part of that, the UBTC was adopted by both the City and the County, which with limited exceptions, has created a code for building, mechanical (HVAC), electrical, and plumbing trades that is identical throughout the City of Wichita, the unincorporated areas of Sedgwick County and the second- and third-class cities that have adopted the UBTC.

The proposed ordinance change furthers the consolidation efforts between City of Wichita and Sedgwick County Code Departments.

Analysis: Presently, the City of Wichita and Sedgwick County issues separate general contractor licenses. Additionally, there are still jurisdictional differences regarding permit fee charges. Maintaining the dual fee structure is not an efficient utilization of MABCD staff and technology. Furthermore, it is inefficient and confusing for contractors and trades people that perform work within the jurisdiction of the MABCD to pay different fee amounts based upon whether the work is completed inside or outside of the city limits of Wichita. MABCD staff met with all building and trade advisory boards and Wichita Area Builders Association (WABA) to vet the potential changes. All boards and WABA overwhelmingly support the license and permit unification.

As a result, MABCD staff proposes unified fees for all of these items with the intent of creating efficiency and simplicity, while also being roughly even with the present dual fee structure in terms of total City and County revenue generated from such fees.

Additionally, this code change proposes the addition of language to clarify when the MABCD may be permitted not to issue a license or certificate to an applicant that wishes to perform a trade or work as a building contractor within the jurisdiction of the MABCD. The UBTC already contains language under which administrative hearings may occur in front of the MABCD Boards of Appeals for licensure revocation or other action. However, at this time, the UBTC does not contain any such language to permit the MABCD to deny the issuance of a license or certificate. As a result, hypothetically, a person who may have just been convicted of

felony theft, for thefts they completed while working as a contractor, could not be denied a license or certificate by the MABCD for that reason. This code change remedies the situation.

Financial Considerations: These changes are intended to be budget neutral.

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

Recommendations/Actions: It is recommended that the City Council place the ordinance on first reading and authorize the necessary signatures.

Attachments: Ordinance

First Published in The Wichita Eagle on August 15, 2014

DATE

ORDINANCE NO. 49-807

AN ORDINANCE CREATING ARTICLE 1 (G) AND REPEALING ARTICLE 1, SECTIONS 2, 3 AND 4 AND REPLACING WITH THE AMENDED ARTICLE 1, SECTIONS 2, 3 AND 4, ALL PERTAINING TO THE WICHITA-SEDGWICK COUNTY UNIFIED BUILDING AND TRADE CODE.

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

SECTION 1. Article 1 (G) of the Wichita-Sedgwick County Unified Building and Trade Code, is hereby created to read as follows:

G. Non-issuance of licenses and certificates.

- (a) In addition to the testing requirements, continuing education units requirements, and all other requirements for individuals to obtain any types of licenses and certificates issued by the MABCD under this Unified Building and Trade Code, the Director of the MABCD (with the term “Director” in this Section including any person(s) so designated by the Director of the MABCD and including the Assistant Director of the MABCD in the event of the absence or unavailability of the Director) may elect not to issue a license or certificate for any reason or reasons specific to each applicant including:
 - (1) A demonstrated pattern of abandonment of contracts without legal causes;
 - (2) A demonstrated pattern of diversion of funds or property received for performance or completion of a specific contract, or for a specified purpose in the performance or completion of any contract, and their application or use for any other contract, obligation or purpose, or the failure, neglect or refusal to use such funds or property for the performance or completion of such contract;

- (3) A demonstrated pattern of fraudulent departures from or disregard of plans or specifications in any material respect, without consent of the owner or the owner's duly authorized representative;
 - (4) A demonstrated pattern of willful and deliberate disregard and violation of the provisions of this Code, any other ordinance of the City, any resolution of the County, or failure to comply with any lawful order of any lawful court order within the United States, any board of appeals of the MABCD, or the Director of the MABCD;
 - (5) A demonstrated pattern of failures to keep records showing all receipts and disbursements of the applicant in all of applicants transactions as a contractor as the term is defined in this Article;
 - (6) Any misrepresentation of a material fact discovered within any application for a license, certificate or permit;
 - (7) Any previous fraudulent act by the applicant as a contractor in consequence of which another suffers harm or injury;
 - (8) Any previous fraudulent use of a license or certificate to obtain building permits for another;
 - (9) A demonstrated pattern of carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public;
 - (10) A demonstrated pattern of failures to obtain permits as required in this Code; and
 - (11) Any felony conviction which indicates that the applicant is not fit to be licensed and/or issued a certificate.
- (b) When the MABCD Director elects not to issue a license or certificate to an applicant for one of the reasons indicated above in subsection (a), the Director shall provide notice of the decision in writing to the applicant's last known address, including a statement as to the specific misconduct supporting the decision and which reason(s) indicated within subsection (a) said misconduct fits within. The Director's notice to the license or certificate applicant must mention the applicant's right to appeal and the appeal procedure indicated below.
- (1) Upon receipt of the notice, which shall be deemed to have occurred three (3) days after said notice is mailed, the applicant shall have ten (10) days to request a hearing before the applicable MABCD board of appeals. The applicant's notice to appeal must be provided in writing to the Director. If and when a timely appeal

has been received by the Director, the matter shall be placed on the applicable MABCD board of appeals agenda during the next meeting not less than fourteen (14) days after the date said appeal is received by the Director.

- (2) The applicable MABCD board of appeals shall then hold a de novo appeal hearing on the matter within which it will determine whether or not to grant a license or certificate to the applicant based upon the criteria indicated within the Unified Building and Trade Code, including but not limited to those reasons stated within subsection (a). Both the Director and the applicant shall have an opportunity to be heard and present evidence. The MABCD boards of appeals shall have the authority to develop their own procedures for these hearings.
- (3) Within thirty (30) days of the final decision of the applicable board, any person aggrieved thereby may appeal and maintain an action in the District Court of Sedgwick County. Any such appeal shall not be a *de novo* appeal, but would instead be an appeal under which the reasonableness of the board’s decision would be adjudicated.

SECTION 2. Article 1, Section 2, 3 and 4 of the Wichita-Sedgwick County Unified Building and Trade Code, Kansas, is hereby amended to read as follows:

ARTICLE 1, SECTION 2 – LICENSING AND PERMIT FEES

**TABLE A
MABCD LICENSE FEES**

MABCD LICENSE FEES	2YRS	MABCD LICENSE FEES	2YRS
CLASS A	\$1,000.00	ROOFING	\$360.00
CLASS B	\$600.00	ROOFING & SIDING	\$360.00
CLASS C- RESIDENTIAL	\$450.00	SIDING	\$360.00
*CLASS D – RESIDENTIAL MAINT.	\$360.00	SIGN	\$360.00
CELL TOWER	\$360.00	SWIMMING POOL	\$360.00
FIRE ALARM SYSTEM	\$360.00	WRECKING	\$360.00
FIRE SPRINKLER	\$360.00	NOT OTHERWISE CLASSIFIED	\$360.00
FIRE SUPPRESSION SYS	\$360.00		

MOBILE HOME	\$360.00		
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* Wichita Jurisdiction Only

ELECTRICAL LICENSES

LICENSE	2 YR. FEE
Electrical	\$360.00
Elevator	\$360.00
Handicapped Accessibility	\$360.00

MECHANICAL LICENSES

LICENSE	2 YR. FEE
Air Conditioning & Heating	\$360.00
Fire Suppression System Installer	\$360.00
Refrigeration	\$360.00
Solid Fuel	\$360.00
Sheet Metal	\$360.00
Solar Heat	\$360.00

PLUMBING LICENSES

LICENSE	2 YR. FEE
Drain Cleaner	\$360.00
Drain Layer	\$360.00
Fire Sprinkler	\$360.00
Gas Fitter	\$360.00
Lawn Irrigation	\$360.00
Plumbing	\$360.00
Water Conditioner	\$360.00

TABLE B

BUILDING PERMIT FEES

1. Residential – New Build:

On Residential New Build, the building permit shall be 38 cents for each square foot of finished space and 30 cents for each square foot of unfinished space.

2. Commercial – New Build:

Total Valuation	Fee
\$1.00 to \$1,000.00	\$40.00
\$1,001.00 to \$2,000.00	\$40.00 for the first \$1,000.00 plus \$3.00 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$40,000.00	\$70.00 for the first \$2,000.00 plus \$11.00 for each additional \$1,000.00, or fraction thereof, to and including \$40,000.00
\$40,001.00 to \$100,000.00	\$488.00 for the first \$40,000.00 plus \$9.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,028.00 for the first \$100,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,828.00 for the first \$500,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 to \$5,000,000.00	\$6,328.00 for the first \$1,000,000.00 plus \$3.00 for each additional \$1,000.00, or fraction thereof to and including \$5,000,000.00.
\$5,000,001.00 and up	\$18,328.00 for the first \$5,000,000.00 plus \$2.25 for each additional \$1,000.00 or fraction thereof.

3. For all remodels or rebuilds for both residential and commercial, the building permit shall be based upon the amounts specified in paragraph 2 above.

Note: The Table B fee structure may be adjusted from time to time per the provisions of the City of Wichita Resolution No. R-95-560, adopted by the Wichita City Council on December 12, 1995.

**TABLE C
Other Inspections and Fees:**

1.	Inspections outside of normal business hours (Minimum charge—two hours)	\$60.00 per hour
2.	Reinspection fees	\$50.00
3.	Inspections for which no fee is specifically indicated (Minimum charge—one-half hour)	\$40.00 per hour
4.	Plan review	60% of the building permit fee
5.	Additional plan review required by significant floor plan modifications or other major changes to the plans (Minimum charge—one-half hour)	\$40.00 per hour
6.	For use of outside consultants for plan checking and inspections, or both	Actual Costs (Actual costs include administrative and overhead costs)
7.	Conditional building permit issuance (Minimum charge: \$50.00)	Additional 25% of plan review fee
8.	Progress print submittal fee (No additional charge for conditional permit)	Additional 50% of plan review fee
9.	Change of Contractor (Minimum charge \$40.00)	10% of original building permit fee

10.	Replacement of Inspection Record Card	\$15.00
11.	Certification of Occupancy letters—charge for research with a \$20.00 per address minimum	\$40.00 per hour
12.	Change of Address Processing Fee	\$35.00
13.	Federal Flood Plain Application Processing Fee	\$15.00
14.	Location permit	\$50.00
15.	Roofing permit	\$.05 per sq. ft. based upon structure footprint. Min. - \$50, Max. - \$1,500
16.	Siding permit	Based upon valuation stated in Table B (2) above
17.	Wrecking Permit	\$50.00

**TABLE D
WICHITA JURISDICTION ONLY
GRADING PLAN REVIEW FEES**

50 cubic yards (38.2 m ³) or less	No Fee
51 to 100 cubic yards (40 m ³ to 76 m ³)	\$25.00
101 to 1,000 cubic yards (77.2 m ³ to 764.6 m ³)	\$40.00
1,001 to 10,000 cubic yards (765.3 m ³ to 7,645.5 m ³)	\$50.00
10,001 to 100,000 cubic yards (7,646.3 m ³ to 76,455 m ³)	\$50.00 for the first 10,000 cubic yards (7,645.5 m ³), plus \$25.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
100,001 to 200,000 cubic yards (76,456 m ³ to 152,911 m ³)	\$275.00 for the first 100,000 cubic yards (76,455 m ³), plus \$13.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
200,001 cubic yards (152,912 m ³) or more	\$405.00 for the first 200,000 cubic yards (152,911 m ³), plus \$7.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
Other Fees:	
Additional plan review required by significant changes to the approved plans	\$40.00 per hour.

**TABLE E
WICHITA JURISDICTION ONLY
GRADING PERMIT FEES**

50 cubic yards (38.2 m ³) or less	\$25.00
51 to 100 cubic yards (40 m ³ to 76.5 m ³)	\$40.00
101 to 1,000 cubic yards (77.2 m ³ to 764.6 m ³)	\$40.00 for the first 100 cubic yards (76.5 m ³) plus \$18.00 for each additional 100 cubic yards (76.5 m ³) or fraction thereof.
1,001 to 10,000 cubic yards (765.3 m ³ to 7,645.5 m ³)	\$202.00 for the first 1,000 cubic yards (746.6 m ³), plus \$15.00 for each additional 1,000 cubic yards (746.6 m ³) or fraction thereof.
10,001 to 100,000 cubic yards (7,646.3 m ³ to 76,455 m ³)	\$337.00 for the first 10,000 cubic yards (7,645.5 m ³), plus \$66.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
100,001 cubic yards (76,456 m ³) or more	\$931.00 for the first 100,000 cubic yards (76,455 m ³), plus \$37.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
Other Inspections and Fees:	
See Table C or D above.	

**TABLE F
FIRE SPRINKLER**

Wichita Jurisdiction: Valuation per thousand or increments thereof: \$18.00

Permit issuance Fee: \$25.00

Fire Sprinkler permit shall be issued as a plumbing permit.

Sedgwick County Jurisdiction – See Table 105.1.4 of the Sedgwick County Fire Code and Section 105 of the 2012 International Fire Code for applicable information, with a link to the former included below:

http://www.sedgwickcounty.org/fire/fire_sprinklers.asp

TABLE G—MISCELLANEOUS

Air Supported Structures	
1,000 square feet or less in floor area	\$ 85.00
For each additional 1,000 square feet or fraction thereof	\$ 10.00
Tents*:	

(No building permit is required for tents of 200 square feet or less in size)	
201 - 1,000 square feet or fraction thereof	\$ 85.00
For each additional 1,000 square feet or fraction thereof	\$ 10.00
Parking Lots: (Plan review fee assessed per Table C Other Inspections and Fees)	
Each permit issuance	\$ 50.00

*Tent permit fees indicated in Table G apply within the Wichita Jurisdiction only. Within the Sedgwick County Jurisdiction, see Table 105.1.4 of the Sedgwick County Fire Code and Section 105.7 of the 2012 International Fire Code for applicable information, with a link to the former included in Table F above.

Towers, tanks, communications structures, wind generators and structures not specified above shall be taken on a valuation basis for issuance of the building permit.

Article 1, Sec. 2 (a) - Re-inspections.

Re-inspections. A re-inspection fee may be assessed for each inspection or re-inspection when any portion of the work for which the inspection is called for is not complete or when corrections called for are not made. This section is not to be interpreted to require fees the first time a job is rejected for failure to comply with this code. However, fees may be assessed for inspections called before the job is ready for such inspections.

Re-inspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the required construction documents are not readily available to the inspector or for failing to provide access at the time, when the inspection was requested. In order to obtain a re-inspection, the applicant shall pay a fee of \$50.00 and request re-inspection of the job. When re-inspection fees have been assessed, no additional inspection of the job will be performed until the required fees have been paid.

Article 1, Sec. 2 (b) - Substantiation of valuation.

The building official may, when deemed necessary, require reasonable substantiation of valuation stated in any application for permit or any other form that may be prescribed.

Permit fees required by other sections of this Code for mechanical, plumbing and electrical installations necessary to the proper function of the building shall be in addition to the fees required by this section.

Article 1, Sec. 2 (c) - Change of contractor.

In the event a contractor does not complete work for which a valid permit has been issued and he no longer holds a valid contract for the work, a second permit must be obtained by a contractor to complete the balance of the work. A fee shall be charged for the second permit that

is ten percent (10%) of the original permit fee, but in no case less than the minimum fee for a building permit. Building permits are nontransferable.

Article 1, Sec. 2 (d) - Special approval for permits required in certain hydrogeologic areas.

This section only applies in the Wichita Jurisdiction.

In those areas of the city having a high ground water table, which areas are not served by an approved water course or storm sewer for surface water disposal, building permit applications require a special approval by the building official.

The application, in addition to providing the information required on the standard application form, shall indicate the lowest floor elevation of the proposed building, whether groundwater may be required to be pumped as a matter of waterproofing below-grade structure and, if so, the manner of water disposal.

Topographic and groundwater elevations for reference purposes are shown on the most current Hydrogeologic Map of Sedgwick County, Kansas, prepared by the State Geological Survey of Kansas.

Article 1, Sec. 2(e) – Civil Penalty for failure to obtain permit.

This section only applies in the Wichita Jurisdiction.

1. Building:

Any person or entity that commences work without first obtaining the necessary permit(s) shall be subject to a civil penalty of twice the amount of the applicable permit(s), but not to exceed a maximum fine of \$5,000. Any person or entity that violates this section may be required to appear before the Board of Code Standards and Appeals at the discretion of the Director of MABCD.

2. Trades:

Any person or entity that commences work without first obtaining the necessary permit shall be subject to a one hundred fifty dollars (\$150) civil penalty in addition to the required permit fee. If the same person or entity has a second violation within twelve (12) months from the first violation, the civil penalty for the second violation shall be three hundred dollars (\$300) in addition to the required permit fee. If a third violation occurs within a twelve (12) month period, the civil penalty shall be six hundred dollars (\$600) plus the required permit fee. Any person or entity that violates this section may be required to appear before the appropriate trade board at the discretion of the Director of the MABCD.

Any person or entity who wishes to appeal the assessment of the above-stated civil penalties can request in writing within 10 days of such assessment to the appropriate Advisory Board.

TABLE H
Uniform Plumbing Code – Permit Fees

	ITEMS	QTY	Each
1	Waste Openings		\$ 4.50
2	Reconnect Moved Building		\$ 11.00
3	Interior Rainwater Drain		\$ 4.00
4	Gas Meter Loop / Pressure Test		\$ 9.00
5	Gas Opening / Pressure Test		\$ 9.00
6	Medical Gas Openings		\$ 5.00
7	Water Service New or Replacement		\$ 5.00
8	Mobile Home Water Service		\$ 5.00
9	Water Heater New or Replacement		\$ 9.00
10	Backflow Device		\$ 5.00
11	Lawn Sprinklers		\$ 10.00
12	Water Conditioning		\$ 4.50
13	Standpipes (Number of Risers)		\$ 36.00
14	Miscellaneous		\$ 9.00
15	Investigation Fee		\$
16	Permit Issuance Fee	1	\$ 25.00

Provided also that plumbing work done in conjunction with a building project covered by a building permit for a one- or two-family dwelling new construction, repair, remodel or addition is covered and permitted under the authority granted by the building permit and does not require a separate plumbing permit.

A separate plumbing permit is required if work requiring a permit and inspection as defined in this Code is begun more than one hundred and eighty days from the date of the issuance of the building permit.

Expiration of Permit: Every permit issued by the Director of the MABCD under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days, or one hundred eighty (180) days have expired since an inspection was requested and such inspection was approved by the building official. Provided, that the building official may authorize the refunding of any fee paid

hereunder which was erroneously paid or collected and may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code. No refund shall be paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

**Table I
Electrical permit required—Fees listed.**

		AUTHORIZED WORK		QTY	EA
CIRCUITS	1	120 volt Circuit			\$ 2.00
	2	277 volt Circuit			\$ 2.00
HEATING APPLIANCES	3	Heating Appliance less than 4500 watt			\$ 3.00
	4	Range or Heat Device 4500 watt or over			\$ 8.00
	5	Clothes Dryer			\$ 8.00
SPECIAL CIRCUITS AND ADDITIONS	6	Feeder			\$ 9.00
	7	Hot tub / Sauna or Jacuzzi			\$ 14.00
	8	Special Power Circuit			\$ 9.00
	9	Generator			\$ 9.00
	10	Sign Per Circuit			\$ 7.00
	11	Outlets Added to Existing Circuit			\$ 0.75
	12	Smoke Detectors			\$ 0.75
Fixtures	13	Light Fixture or Lampholding Device (also retrofits of fixtures)			\$ 0.75
MOTORS AND AIR COND.	14	1 HP or less			\$ 5.00
	15	Over 1 HP			\$ 7.00
	16	Water Well Motor			\$ 7.00
SERVICE (New/Change)	17a	480 volts or less	Per Meter (100 Amps or less)		\$ 11.00
	17b		Each Additional Amp		\$ 0.06
	18	Over 480 volts	Each Service Entrance		\$ 71.00
	19	Construction Service (480 volts or less)			\$ 14.00
	20	Construction Service (Over 480 volts)			\$ 28.00
Miscellaneous	21	Reinspection of discont. service (meter reset - only one meter per permit)			\$ 11.00
	22	Transformer			\$ 11.00
	23	Miscellaneous			\$ 14.00
	24	Investigation Fee			\$
	25	Permit Issuance Fee		1	\$ 25.00

Provided also that electrical work done in conjunction with a building project covered by a building permit for a one- or two-family dwelling new construction, repair, remodel or addition is covered and permitted under the authority granted by the building permit and does not require

a separate electrical permit. A separate electrical permit is required if a water well motor is installed or will be installed.

A separate electrical permit is required if work requiring a permit and inspection as defined in this Code is begun more than one hundred eighty (180) days from the date of the issuance of the building permit.

A separate electrical permit shall be required for each building or structure, or each tenant space with an electric meter, and anytime a separate electric meter is installed.

Exception: One- and two-family dwellings or multi-family dwellings when such dwelling units are not individually owned.

Expiration of Permit: Every permit issued by the Director of the MABCD under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days, or one hundred eighty (180) days have expired since an inspection was requested and such inspection was approved by the building official. Provided, that the building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected and may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code. No refund shall be paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

**TABLE J
Elevator Fee Permits.**

New Installations:	
Passenger or Freight Elevator, Escalator, or Moving Walk	
Up to and including \$40,000.00 valuation	\$125.00
Over \$40,000.00 valuation	\$125.00 plus \$2.00 for each \$1,000.00 or fraction thereof over \$40,000.00
Dumbwaiter, Private Residence Elevator, and Handicap Lifting Equipment	
Up to and including \$10,000.00 valuation	\$50.00
Over \$10,000.00 valuation	\$50.00 plus \$1.50 for each \$1,000.00 or fraction thereof over \$10,000.00
Alterations & Repairs:	
Total Valuation	Fee
\$1.00 to \$500.00	\$25.00
\$501.00 to \$2,000.00	\$25.00 for the first \$500.00 plus \$2.00 for each additional \$100.00, or

	fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$55.00 for the first \$2,000.00 plus \$9.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$262.00 for the first \$25,000.00 plus \$6.50 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,000.00 to \$100,000.00	\$424.50 for the first \$50,000.00 plus \$4.50 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$649.50 for the first \$100,000.00 plus \$3.50 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,049.50 for the first \$500,000.00 plus \$3.00 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$3,549.50 for the first \$1,000,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof
Annual Inspection Fees:	
Fees for annual inspections as required by Article 4 of this Code.	
Routine:	
Each Elevator, Escalator and Moving Walk	\$50.00
Each Commercial Dumbwaiter	\$25.00
Each Commercial Handicap Lifting Equipment	\$25.00
Safety Load Test:	
Annual (per Elevator or Escalator)	\$50.00
Five Year (per Traction Elevator)	\$200.00 includes the annual fee for that year.

Expiration of Permit: Every permit issued by the Director of the MABCD under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days, or one hundred eighty (180) days have expired since an inspection was requested and such inspection was approved by the

building official. Provided, that the building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected and may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code. No refund shall be paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

**TABLE K
International Mechanical Code - Permit fees.**

The fees for mechanical work shall be as indicated in the following schedule.

		BTU'S/HP			
HEATING APPLIANCES		CFM/KW	QUANTITY		UNIT FEE
1	Forced Air Furnace (2,000 cfm or less)				\$ 14.00
2	Forced Air Furnace (over 2,000 cfm)				\$ 19.00
3	Air Handler (2,000 cfm or less)				\$ 14.00
4	Air Handler (over 2,000 cfm)				\$ 19.00
5	Floor Furnace				\$ 14.00
6	Wall Heater				\$ 14.00
7	Room Heater				\$ 14.00
8	Infrared Heaters				\$ 14.00
9	Unit Heaters				\$ 14.00
10	Tube Heaters				\$ 14.00
AIR CONDITIONING/ CIRCLE ONE		TONS/OR HP	QUANTITY		UNIT FEE
11	5 Ton or less (without coil)				\$ 11.00
12	5 Ton or less (with coil)				\$ 11.00
13	Over 5 Tons (without coil)				\$ 17.00
14	Over 5 Tons (with coil)				\$ 17.00
15	Cooling coil (only)				\$ 8.00
REFRIGERATION		TONS/OR HP	QUANTITY		UNIT FEE
16	Refrigeration (50 hp or less)				\$ 14.00
17	Refrigeration (greater than 50 hp)				\$ 19.00
ROOF TOPS		BTU'S/HP/TON S/CFM	QUANTITY		UNIT FEE
18	Combination (2,000 cfm or less)				\$ 26.00
19	Heat only (2,000 cfm or less)				\$ 14.00
20	Cooling only (2,000 cfm or less)				\$ 14.00
21	Combination (over 2,000 cfm)				\$ 36.00
22	Heat only (over 2,000 cfm)				\$ 19.00
23	Cooling only (over 2,000 cfm)				\$ 17.00
MISCELLANEOUS EQUIPMENT		BTU'S/HP	QUANTITY		UNIT FEE

CFM/KW

24	Chiller/Water Tower			\$ 33.00
25	Boiler (Residential only)			\$ 19.00
26	VAV Boxes/FTU's/FCU's			\$ 7.00
27	Heat Recovery Unit			\$ 33.00
28	Incinerator/Crematory			\$ 33.00
29	Any equipment/appliance not listed			\$ 7.00

**BTU'S/HP/TON
S/CFM**

FIREPLACES		QUANTITY	UNIT FEE
30	Gas		\$ 14.00
31	Solid Fuel		\$ 14.00
32	Pellet Stove		\$ 14.00
33	Gas Logs/Inserts		\$ 14.00
34	Chimney liners		\$ 9.00

**BTU'S/HP/TON
S/CFM**

HOODS SYSTEMS		QUANTITY	UNIT FEE
35	Type one hood system		\$ 38.00
36	Type two hood system		\$ 19.00
37	Fume hood system		\$ 19.00
38	Paint booth system		\$ 19.00
39	Spray booth system		\$ 19.00

**BTU'S/HP/TON
S/CFM**

EXHAUST/DRYERS/VENTILATION		QUANTITY	UNIT FEE
40	Exhaust fan @ duct (under 500 cfm)		\$ 8.00
41	Exhaust fan @ duct (over 500 cfm)		\$ 15.00
42	Exhaust systems		\$ 33.00
43	Ventilation systems		\$ 33.00
44	Residential dryer vent		\$ 14.00
45	Commercial dryer vent		\$ 28.00

**BTU'S/HP/TON
S/CFM**

MISCELLANEOUS		QUANTITY	UNIT FEE
46	Fire damper		\$ 1.00
47	Fire and Smoke damper		\$ 2.50
48	Hydronic piping		\$ 14.00
49	Flue and/or Vent connector		\$ 8.00
50	Fire suppression		\$ 14.00
51	Repairs/alterations		\$ 18.00
	Investigation Fee		
	Permit Issuance	1	\$ 25.00

Provided also that mechanical work done in conjunction with a building project covered by a building permit for a one- or two-family dwelling new construction, repair, remodel or addition is covered and permitted under the authority granted by the building permit and does not require a separate mechanical permit.

A separate heating and air-conditioning permit is required if work requiring a permit and inspection as defined in this Code is begun more than one hundred eighty (180) days from the date of the issuance of the building permit.

Expiration of Permit: Every permit issued by the Director of the MABCD under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days, or one hundred eighty (180) days have expired since an inspection was requested and such inspection was approved by the building official. Provided, that the building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected and may authorize the refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this Code. No refund shall be paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

ARTICLE 1, SECTION 3 – ENFORCEMENT

Violations.

- (a) Any person or entity violating any provisions of this Code shall be deemed guilty of an unclassified misdemeanor and upon conviction of each violation thereof, shall be assessed a fine according to the Schedule of Fines set forth herein.
- (b) “Violation of this Code” shall mean:
 - (1) Doing any act that is prohibited or made or declared unlawful, an offense or a violation of this Code or by rule or regulation authorized by ordinance or resolution.
 - (2) Failure to perform an act that is required to be performed by this Code or by rule or regulation authorized by ordinance or resolution.
 - (3) Failure to perform an act if the failure is declared unlawful, an offense or a violation of this Code or by rule or regulation authorized by ordinance or resolution.

- (c) The imposition of a fine does not prevent revocation or suspension of a license, certificate, permit or franchise.
- (d) Violations of this Code that are continuous with respect to time may be abated by injunctive relief or other equitable relief. The imposition of a fine does not prevent equitable relief.
- (e) Violations of this Code that are continuous with respect to time shall be considered a separate violation for each day the violation continues.

Schedule of Fines. The following Schedule of Fines for violations of this Code or by rule or regulation authorized by ordinance or resolution, shall apply:

- (a) Not more than \$500.00 nor less than \$100.00 for each count upon a first conviction.
- (b) Not more than \$1,000.00 nor less than \$200.00 for each count upon a second conviction that occurs within a 12-month period of the first conviction.
- (c) Not more than \$2,000.00 nor less than \$500.00 for each count upon a third conviction that occurs within a 12-month period of the second conviction.
- (d) Not more than \$2,000.00 nor less than \$500.00 for each count upon each conviction that occurs within a 12-month period of the third conviction.

Article 1, Section 4 – CONTRACTORS – GENERAL

Sec. 1.4(a) Licensed Contractors – Established Place of Business Required.

Every Licensed Contractor who has obtained a license as set forth in this Code shall have and maintain an established place of business at a definite address and with his/her registered company name and license number displayed as it appears on his/her license. Licensed Contractors operating out of their home must conform to the requirements set forth in Sec. IV-E of the Wichita-Sedgwick County Unified Zoning Code.

Sec. 1.4(b) Licensed Contractors – Marking of Vehicles.

Any person, firm, or other legal entity required by this Code to obtain a Contractor's license shall be subject to the following:

- (a) Vehicles used in performance of installations or service regulated under this Code shall display contractors' permanent vehicle permit numbers. Such numbers shall be assigned by the Metropolitan Area Building and Construction Department to a contractor duly licensed under the provisions of this Code;
- (b) Permanent vehicle permit numbers must be affixed to both sides of vehicle(s), in a conspicuous place, either by paint of a contrasting color or by the use of a permanent decal;

- (c) Permanent vehicle permit numbers must be a minimum of two (2) inches high with a one-half (1/2) inch wide stroke per character;
- (d) A contractor's employee(s) using their personal vehicles as transportation to or from the job site must display the permanent vehicle permit marking;
- (e) The contractor shall be responsible for removing the permanent vehicle permit number at the time any vehicle is taken out of service.

Violation of any provision of this Section may result in a hearing before the appropriate Board. Said Board may order any or all of the following:

1. No further permits shall be issued to the contractor until such time as the violation is abated;
2. All inspections of further work performed by the contractor will be suspended until such time as the violation is abated, excepting extreme hazard or life safety inspection; or
3. A license review, subjecting the contractor to possible suspension, recall or cancellation of the master certificate and/or license, in accordance with the specific provisions of this Code.

Exception: If the contractor chooses to advertise his or her business on their vehicles and abides with Art. 1.4(d), Truth in Advertising Requirements, then the above Section 1.4(b), Marking of Vehicles, does not apply.

Sec. 1.4(c). Insurance Requirements.

Every contractor under this Code shall procure and maintain a policy of general liability insurance covering the activities of the contractor while engaged in contracting hereunder. Such insurance policy shall be written with an insurance company licensed to do business in the state and shall have minimum limits of coverage of three hundred thousand dollars (\$300,000.00) per occurrence. In addition, every such contractor shall procure and maintain worker's compensation insurance as required by Kansas law and automobile liability insurance as required by Kansas law. Every contractor licensed under this Code shall, prior to the issuance of a license, file with the MABCD certificates of insurance evidencing the insurance coverage specified herein. All such certificates shall indicate that the MABCD shall be given at least thirty (30) days advance written notice of any cancellation or material change in coverage of such insurance. Failure of a Licensed Contractor to either procure or maintain such insurance shall be a violation of law and shall be grounds for suspension or revocation of the Licensed Contractor's license and/or the Qualified Master's certificate.

Sec. 1.4(d) Truth in Advertising Requirements.

- (a) It is unlawful for any such person, firm or legal entity to advertise as a Licensed

Contractor unless, at the time such advertisement occurs, such person, firm or legal entity has a then valid contractor's license issued under the provisions of this Code;

(b) Any advertisement by such person, firm or legal entity as a Licensed Contractor which is placed or published in any publication or other print medium circulated, displayed or distributed within the jurisdiction of the MABCD or which is broadcast by radio or television or any internet posting/publication, electronic billboard, or any electronic or telephonic transmission of information, or any other means to persons within the jurisdiction of the MABCD shall include the full name of the licensed person, firm or legal entity and the license number assigned by the MABCD to such person, firm or legal entity;

(c) As used herein, the words "advertise" or "advertisement" shall mean and include, but not be limited to, a business card, contract bid proposal form, printed letterhead, any other printed or written material, or any internet posting/publication, electronic billboard, or telephonic transmission of information, designed to inform persons of the services offered by the advertising person, firm or legal entity and to solicit business from such persons, or any broadcast statement designed to inform persons of the services offered by the advertising person, firm or legal entity and to solicit business from such persons. Such words are intended to include telephone directory display ads but not basic white and yellow page listings.

Sec. 1.4(e) Interfering with an inspector or code enforcement officer; violation.

- (a) No person shall interfere with or hinder an MABCD inspector or code enforcement officer in the lawful discharge of that person's duties.
- (b) It shall be a violation of this Code for any person to interfere with or hinder a MABCD inspector or code enforcement officer in the lawful discharge of that person's duties. Interference with a MABCD inspector or code enforcement officer within the Wichita Jurisdiction is a misdemeanor and within the Sedgwick County Jurisdiction is a class H violation.

SECTION 4. The originals of Article 1, Sections 2, 3 and 4 of the Wichita-Sedgwick County Unified Building and Trade Code, are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Sharon Dickgrafe
Interim Director of Law

**City of Wichita
City Council Meeting
August 5, 2014**

TO: Mayor and City Council

SUBJECT: Operating Partnership Agreements with Mid-America All-Indian Center and Wichita Historical Museum Association (All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: It is recommended that the City Council approve the Operating Partnership Agreements with the Mid-America All-Indian Center and Wichita Historical Museum Association.

Background: On July 16, 2013, the City Council approved the addendum to the 2008 Cultural Arts Plan. A notable policy that developed as a result of the addendum was the identification of the Cultural Institutions and the recommendation for the implementation of Operational Partnership Agreements between the City and the Cultural Arts organizations. A Cultural Institution as defined by the Cultural Arts Plan is an arts and cultural organization with operations and activities in a facility that is owned and/or operated by the City of Wichita.

In the fall of 2013, the City of Wichita began negotiations with the various Cultural Institutions. Due to the previous historical agreements between the City of Wichita and the various Cultural Institutions, it was imperative to retain and recognize the unique differences between the various agreements while trying to standardize the expectations for City owned and/or operated facilities. Mid-America All-Indian Center and the Wichita Historical Museum Association have completed negotiations that define the City's expectations for these organizations and identified anticipated funding amounts.

Analysis: The purpose of having the Operational Partnership Agreement is to outline fiduciary and maintenance roles and responsibilities for both the organizations and the City. These agreements have been negotiated individually to address the unique relationship the City has with each of these facilities while outlining performance expectations and maintenance responsibilities.

Notable points in the agreements include:

- Identify major system maintenance items such as HVAC systems or other systems outlined by City staff during a joint inspection. Maintenance that is identified as the responsibility of the City will be completed at the City's discretion.
- Identify regular system maintenance for minor and routine maintenance the organizations will be responsible for performing.
- Agree that the organizations shall be responsible for payment of utility services.
- Identify performance measures that are to be reviewed and adjusted after completion and filing of an annual Operating Partnership Agreement Report that address the following:
 - Establish and annually review and report their identified mission and core goals, which should be supportive of the goals set out in the City's Cultural Arts Plan; and
 - Analyze and demonstrate how their annual programming activities and functions are appropriate and supportive of their mission and core goals; and
 - Maintain the vitality of their governing board by demonstrating how the board attendance and participation requirements have been enforced, how their adherence to established term limits have been met and how racial, geographical, and economic diversity have been

- sought; and
- Demonstrate progress satisfactory to the City toward attainment of their agreed Performance Measures which will be an attachment identified as Exhibit C to the contract.
- Identify direct payment of funds that may be used by the organizations for operations.
- Prepare an evaluation and review of needs for capital improvements for the individual facilities.

Financial Consideration: The Operating Partnership Agreements identify the direct payment of funds which may be used for each of the organization's operations. Funding in the operating agreement will change annually based on the estimated change in the City's assessed valuation. This will provide the same approximate mill levy equivalent for each of the organizations each year of the agreement.

Legal Consideration: The Operating Partnership Agreements have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Operating Partnership Agreements with the Mid-America All-Indian Center and Wichita Historical Museum Association.

Attachments: Operating Partnership Agreements
Exhibit A – Lease Agreements
Exhibit B - Operating Agreement Report forms
Exhibit C – Performance Measures

Exhibit "A"

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 3RD day
of AUGUST, 1976.

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS
hereinafter referred to as "CITY"
or "LESSOR"

AND

THE WICHITA HISTORICAL MUSEUM ASSOCIATION
a non-profit association, hereinafter
referred to as "MUSEUM" or "LESSEE."

WITNESSETH: That in consideration of the covenants and agree-
ments herein contained the parties hereto agree as follows:

1. LESSOR does hereby lease, grant and demise unto the LESSEE
the following described premises situated in Wichita, Sedgwick
County, Kansas, to-wit:

The real estate, together with the improve-
ments thereon, legally described as:

That part of the Southeast Quarter (SE 1/4)
of Section Twenty (20), Township Twenty-
Seven (27), Range One (1) East of the 6th
P.M., Wichita, Sedgwick County, Kansas,
commonly known as "GREIFFENSTEIN'S ADDITION"
to Wichita, Sedgwick County, Kansas, AND
LIMITED to only lots 1, 3, 5, and 7 of the
above described ADDITION.

A copy of the quarter section map outlining
in red the leased area is attached hereto.

2. The term of this agreement shall be for a period of one (1)
year commencing on the 1ST day of July, 1977 and
terminating on the 30TH day of June, 1978; provided,
however, that said term will automatically renew for additional one (1)
year periods at the annual renewal date unless terminated as set forth
in the immediately succeeding paragraph.

It is further provided that the LESSOR may notify the LESSEE,
and the LESSEE may notify the LESSOR, by giving ninety (90) days'

written notice, that it does not intend to exercise its option to renew this lease and intends to terminate the lease, said ninety (90) days' written notice to be given at least ninety (90) days prior to the expiration of the original term or any renewal term of this lease agreement.

3. Rental for the use of said premises shall be the sum of One Dollar (\$1.00) per annum and shall be due and owing at the beginning of the rental period.

4. Because of the better rates the LESSOR is capable of obtaining for utilities, LESSOR agrees to contract in its name for all utilities furnished to the leased premises, and LESSEE specifically agrees to, and shall be responsible for payment, either directly or indirectly, of all utilities furnished to the leased premises.

5. LESSEE shall make no structural alterations in, or structural additions to, said premises without the written consent of the LESSOR. All contents of the facility placed or caused to be placed therein by the LESSEE shall remain the property of the LESSEE even though such contents may be affixed to the building. The LESSEE, at any time and without approval from the LESSOR, may remove said contents from the facility. If the installation and/or removal of such contents causes damage to the facility, the LESSEE shall repair any such damage caused.

6. At least annually, and not later than May 15 of each year, the LESSEE shall furnish the LESSOR a complete final report of its receipts and disbursements for the preceding year. In addition, if LESSOR has reason to believe that LESSEE is performing functions of such a nature, or in such a fashion, which might violate Paragraph 7(c) of this lease LESSOR shall have the right at any reasonable time to audit at its own expense LESSEE'S fiscal books and records.

7. LESSEE agrees to provide to LESSOR at the beginning of the terms of this lease, and annually thereafter but not later than December 1 of each year, its program plan and/or plans for the

Following year and to provide LESSOR semiannual reports on the program contents including information on the following:

- a. Staff organization.
- b. Projected fees, tuition, and other charges for all services, activities, and merchandise.
- c. An adequate administrative staff for the premises and programs referred to immediately above.

It is understood that LESSEE may make appropriate admission charges as well as charges for programs, merchandise, and/or activities where applicable; provided, however, that no such charges, activities, or programs will be carried on which will result in the loss of the non-profit status of LESSEE, LESSOR, or of the leased premises.

8. LESSEE agrees that the premises must be open to the public and the LESSEE will not, on the grounds of race, color, sex, religion, age, ancestry, physical handicap, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by law.

9. LESSEE agrees to comply with all laws, ordinances, rules and regulations of the City of Wichita, State of Kansas, and United States of America; and LESSEE further agrees to not violate or permit or suffer the violation of any law, ordinance, rule or regulation of the City of Wichita, State of Kansas, or United States of America.

10. LESSEE agrees to comply with all applicable laws, ordinances, rules and regulations of the City of Wichita, State of Kansas, and United States of America regarding the storing, handling, and sale of food and food products; and LESSEE further agrees to obtain all required licenses and permits for the handling, storing and sale of food and food products.

11. LESSEE shall indemnify and hold harmless the LESSOR from and against any and all claims of every kind or character for injuries and/or damages to persons and/or property arising out of or in connection with the use and occupancy of the leased premises by LESSEE, its agents, servants, employees or invitees, and not

caused by LESSOR'S negligence. LESSEE further agrees to not make or suffer any waste on the premises or use said premises or any part thereof for any purpose called "extra hazardous" by insurance companies. LESSOR shall indemnify and hold harmless the LESSEE from and against any and all claims of every kind or character for injuries and/or damages to persons and/or property arising out of or in connection with the maintenance, supervision, repair or any other function pertaining to the leased premises performed by the LESSOR, its agents, servants, employees, and invitees.

LESSEE shall carry liability insurance with the following minimum limits.

\$100,000.00	each person
\$500,000.00	each accident
\$ 50,000.00	property damage

A certificate evidencing the above and foregoing insurance shall be furnished to LESSOR containing a ten (10) day prior notice clause to the LESSOR before any material change or cancellation is effective. Said certificate shall also include the City of Wichita as an additional insured.

12. LESSOR shall maintain and keep in repair at its own expense the interior and exterior of said premises, keeping the same in proper condition, including but not limited to replacement of all broken glass, painting and repair and maintenance of all interior and exterior portions of said premises including exterior lighting. LESSOR shall also maintain in good condition the grounds, including but not limited to the sidewalks, walkways, trees and flowers and shrubs which might be a part of the premises surrounding the premises, at all times.

13. LESSOR shall furnish, and LESSEE will maintain or cause to be maintained, on the leased premises sufficient fire extinguishing units as may be required by hazard or casualty insurance or by the LESSOR.

14. LESSOR at its option shall have the option to terminate and cancel this lease in the event the LESSEE ceases to use and occupy the leased premises as a historical museum without the prior approval and permission of LESSOR; and it is further agreed that should the LESSEE fail to make the above-mentioned payments as herein specified, or to pay the rent aforesaid when due, or fail to fulfill any of the agreements, promises or covenants herein contained, or if any term, condition or covenant of this lease on the part of LESSEE to be kept or performed shall be violated or neglected then in either or any of said cases said LESSOR will notify LESSEE of such failure to fulfill said agreements, promises or covenants; and LESSEE will take such corrective action to comply with said agreements, promises or covenants within fifteen (15) days after notification. Failure on the part of the LESSEE to take corrective action to fulfill any breach of agreements, promises or covenants within the fifteen (15) day period after receipt of notification from LESSOR will authorize and empower LESSOR to cancel and annul this lease; or LESSOR is hereby authorized and empowered at its option at any time after said default, neglect, or violation of such agreements, conditions, or covenants by LESSEE to reenter and take possession of said premises without said reentry working a forfeiture of the rents to be paid and the covenants to be kept by said LESSEE for the full term of this lease. It is further expressly understood and agreed that a failure of LESSOR to take advantage of any breach of any agreement, promise, condition, or covenant on the part of said LESSEE shall not operate as a waiver thereof on the happening of any subsequent cause for so doing.

15. LESSEE shall pay all lawful taxes and assessments which, during the term or terms hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body upon the leased premises or upon any taxable interest of LESSEE acquired in this lease agreement, or any taxable possessory right which LESSEE may have in or to the premises or facilities hereby

leased, or the improvements thereof, by reason of its use, occupancy or activities thereof, or otherwise, as well as all taxes on taxable property real or personal owned by LESSEE in and about said premises; provided, however, that nothing herein contained shall prevent LESSEE from contesting the legality, validity or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled to do so. LESSEE shall not carry on any activity or use of the premises that would jeopardize the property from its exemption as nontaxable public property.

16. LESSEE shall not assign this lease or any portion thereof, or sublet the premises or any portion thereof for more than forty-eight (48) hours without the written consent of LESSOR, and that LESSEE will, at the expiration of the time as herein recited, or any previous termination thereof, for any cause, quietly yield and surrender the aforesaid premises and all property, machinery and fixtures therein owned by LESSOR to the said LESSOR, its legal representatives and assigns, in as good condition and repair as when it took them, reasonable wear and tear and damage by the elements alone excepted.

Any such assignment, subletting, or attempt thereat without such consent shall be void and shall at the option of the LESSOR terminate this lease.

17. It is mutually agreed that all covenants, terms and conditions of this lease shall extend, apply to and firmly bind the heirs, executors, administrators, assigns and successors of the respective parties as fully as the respective parties are themselves bound.

IN WITNESS WHEREOF, LESSOR has caused these presents to be executed by the Mayor of the City of Wichita, Kansas attested by its Clerk and the seal of the City of Wichita affixed hereunto; and said LESSEE has caused these presents to be signed by its proper

association officers and its association seal to be hereunto affixed
and attested as of the day and year first above written.

CITY OF WICHITA, KANSAS

By

James M. Donnell
MAYOR

JAMES M. DONNELL
"LESSOR"

ATTEST:

Donald C. Gisick

City Clerk
DONALD C. GISICK

WICHITA HISTORICAL MUSEUM ASSOCIATION

By

Robert A. Puckett
Title President

"LESSEE"

ATTEST:

Robert A. Puckett

Approved as to form:

John Dekker
John Dekker, Director of Law

Operational Agreement Annual Report

For Time Period January 1, 2014
through December 31, 2014

In order to obtain consistent information from the organizations that received Operational Agreement Funding for Fiscal Year (FY) 2014, please use the following form as a template for your Annual Report due **ON or BEFORE March 15, 2015 at 5 p.m.**

Please use the attached template for your annual report in the exact order as listed. For narratives, please type the question as written and then address the answer.

Board of Directors

List your current Board of Directors and contact information; identify officers, and terms of office.

Staff

List your current staff for the past three (3) years, identify their positions and whether they are full-time or part-time employees. Also list any open positions.

Exhibitions (Museums Only)

What is the size of the collection?

What is the percentage of collection owned by Museum?

The number of new exhibits per year the Museum creates?

Education and Public Programs

On no more than three (3) separate sheets, please address the following questions. List the question first; followed by your response.

1. Describe the various educational and public programs offered by your organization.
2. How do these programs correspond with your organization's mission and core values?

3. What methods do you use to identify and measure success with these programs?
4. Who are your target participants?
5. What has your organization done to encourage participation from all ethnic groups, ages, genders, socio-economic groups etc?
6. What programming partnerships and resource sharing or collaborations has your organization developed in the past three years?
7. Describe your organization's contribution to the City of Wichita and the citizens at large.

Attendance and Membership

	Membership and Volunteers		
	2010	2011	2012
Total Paid Memberships			
Total Membership Revenue			
Total Number of Volunteers			
Total Number of Volunteer Hours			

	Attendance		
	2010	2011	2012
Total Attendance			
Total Paid Admissions			
Total school groups or tours			

On no more than one (1) separate sheet, please address the following questions. List the question first; followed by your response.

1. What steps does your organization take to increase membership?
2. What is the percentage free admission of total attendance?

3. How does the organization use new technology?

Financial revenue and expenses

	Total Operating Revenue			
	2010	2011	2012	% of Total Budget
Total City and County Support				
Total Facility Rental Revenue				
Total Admissions Revenue				
Total Membership Revenue				
Total Grant, Foundation, and Corporate Support				
Total Gift Shop Sales				
Total Fundraising and Event Revenue				
Total Revenue from Investment/Endowment				
TOTAL SUPPORT AND REVENUE				

Total Operating Expenses				
	2010	2011	2012	% of Total Expenses
Total Salaries and Benefits				
Total Building Repairs and Maintenance				
Total Utilities				
Total Marketing				
Total Other				
Total Operating Expenses				

Financial Narrative

On no more than three (3) separate sheets, please address the following questions. List the question first; followed by your response.

1. List the successful grants and foundations requests the organization applied for and received in the last 3 years.
2. How many months of operating reserve does your organization currently maintain?
3. Provide a copy of your most current 990.
4. Provide a copy of your annual operating budget for the current year.

Capital Improvements

On a separate sheet please list the Capital Improvements for the next 5 to 10 years with estimated expenditures.

Facility Maintenance

On a separate sheet please list facility maintenance including major systems and grounds maintenance the organization will provide for the next three years. List facility maintenance including major systems and grounds maintenance the organization expects the City to provide service, repair and maintenance.

Exhibit C

Performance Measures – Wichita Historical Museum

- i. Museum shall establish a financial operating reserve to ensure Museum's financial security sufficient to cover three (3) to six (6) months of operating expenses.
- ii. Museum shall demonstrate average annual growth over three years (including historical performance prior to this Agreement) in earned income and customary, non-campaign related, private contributions.
- iii. Museum shall work toward average annual growth over three years (including historical performance prior to this Agreement) in total attendance, paid attendance, school group attendance and attendance or outreach to identified underserved populations.
- iv. Museum shall establish and then annually review its identified mission and core goals, which should be reflective of goals set out in the City's Cultural Arts Plan.
- vi. Museum shall analyze and demonstrate how its annual programming, activities and functions are appropriate and supportive of its identified mission and core goals.
- vii. Museum shall maintain the vitality of its governing board by demonstrating how the board attendance and participation requirements has been enforced; how its adherence to established term limits has been met; and how racial, geographical and economic diversity has been sought.

**OPERATING PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF WICHITA, KS (CITY)
AND THE WICHITA HISTORICAL MUSEUM ASSOCIATION
(MUSEUM)**

Whereas, The Wichita Historical Museum Association, hereafter "Museum" is a not-for-profit Arts and Cultural Organization which provides education and artistic leadership to the public, and does so in part by stewardship of City-owned facilities and City grants toward the operations of Museum; and

Whereas, it is the City's intent, subject to annual City Council appropriation and the availability of funds, to assist Museum to maintain the City-owned facility from which it operates in a manner such that the facility is well maintained and is open, accessible and secure for public use and benefit, while identifying future anticipated funding amounts to assist Museum to create long range plans.

Therefore, the parties agree to the terms of the following Operating Partnership Agreement (the "Agreement"), negotiated and executed annually to address a rolling, three-year operational plan:

1. **Term.** *The Term of this Agreement shall commence on January 1, 2014, and shall continue for a period of three years, unless otherwise terminated under provisions agreed to herein. The parties agree to participate in annual performance reviews, the results of which shall be considered during discussions for extension of this Agreement. The parties anticipate entering into successive extensions or renegotiations of this Agreement, unless Museum is in default of this Agreement or its Lease with City. In the event that the parties fail to formalize or conclude negotiations prior to the expiration of the Term, this Agreement shall continue in full force and effect beyond the initial Term unless cancelled under the provision set out in this Agreement or as otherwise amended.*

2. **The City Facility.** *City has provided to the Museum, by long term leasehold for a fee of \$1.00 per year, the property located at 204 South Main Street, Wichita, Kansas which includes the original historic City Hall Building, sidewalks and related hardscaping. The entire property is of recognized cultural and/or historical importance and is dedicated through the leasehold granted to be used for museum purposes. The lease between City and Museum is attached as Exhibit A to this Agreement (the "Lease").*

3. **Maintenance of the City Facility.** *Responsibility for maintenance of this property is allocated between the parties in the following manner:*

- a. **Major Systems Maintenance.** *Major systems maintenance items, relating to the building envelope and HVAC systems and other systems as outlined by City staff during a joint inspection of the facility are the responsibility of the City. The City retains discretionary control over the means, manner and timing of that maintenance.*
- b. **Regular Systems Maintenance.** *Minor and routine maintenance items relating to interior fit and finish, wear and tear, lighting, plumbing fixtures, security*

systems, housekeeping, etc. are the responsibility of the Museum. The Museum's maintenance regimen shall include observation, inspection and timely notice to the City of actual or impending Major System repair needs. Any failure to perform Regular Systems maintenance or provide notice of Major System repair needs leading to exacerbation of Major System Maintenance will be considered in future operations allocations.

- c. **Allocation of Maintenance Responsibility.** Unless otherwise agreed in writing, Museum, as the occupant with continual opportunity to evaluate property conditions, has responsibility for notice to City of all maintenance needs, and should anticipate bearing financial responsibility for that maintenance unless and until it is budgeted by the City.
- d. **Property Insurance.** The City will procure and pay for an all-risk property insurance policy, providing coverage as it deems appropriate for functional repair or replacement of the City's building and other improvements, and any artifacts or other personal property owned by the City. Museum acknowledges that repair or replacement with identical or similar materials, and with identical or similar levels of skilled labor or craftsmanship may not be available or may not be economically feasible. Museum obtains no right under this Agreement, the Lease, or any insurance policy carried by the City to require repair or replacement of City property to any particular standard or condition.
- e. **Utilities.** Museum shall pay all costs for utility services (whether for installation, service, administration, connection, or maintenance thereof) used at the facility or upon the premises, with no responsibility or expense accruing or inuring to City, including all permits, licenses or authorizations necessary in connection therewith. Such payments by Museum shall be made directly to the utility supplier or service provider. Unless otherwise agreed upon in writing, if Museum requires utilities beyond that currently provided or that are available to be extended to the premises boundary, Museum agrees to pay the full cost and expense associated with the upgrade/extension/installation of all such utilities related to its use of the premises, and to comply with all provisions for maintaining such utilities.
- f. **Modifications to the Facility.** The Museum shall provide prior notification to the Division of Cultural Arts and Services before making minor modifications to the City facility, whether such modification is intended for preservation, operational efficiency, aesthetic improvement or other purpose. The Museum shall seek approval for major structural changes from the Division of Cultural Arts and Services before making any modifications to the City facility. The City retains discretion on the approval decision subject to the lease. Any such change, if allowed, shall be for the benefit of the Museum only, and not on behalf of or for the benefit of the City. Any modification shall be secured before commencing the work by a public works bond for both performance and payment from a surety approved by the City Attorney. The Museum indemnifies the City against the imposition of any mechanic's lien for work done on the leasehold property. The

parties acknowledge that any such improvement is for the sole benefit of the Museum, and shall be removed and the original condition restored on lease termination, unless this requirement is waived in writing by the City. Upon completion, any modification, other than approved and acknowledged trade fixtures, shall become immediately the property of the City.

- h. **Cooperation with Maintenance.** Museum agrees to work cooperatively and in good faith with City and contractors in facility improvement and maintenance activities to minimize any disruptions. If requested by the City, Museum shall cooperate with and assist City to the greatest extent possible in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such facility development, improvement, and maintenance activities.
- i. **Waste Prohibited.** Museum acknowledges that the facility is itself a significant part of the City's cultural heritage, and must be protected. Museum will guard against and not commit waste of the facility by action or neglect, and will cooperate with City to allow inspections at all reasonable times, and will report all instances of property damage regardless of cause, in a timely fashion. Should Museum fail to so report or allow inspection, or be known to have committed waste, the parties recognize that the facility is unique property of substantial value, and stipulate that injunctive relief is appropriate to enforce the provisions of this Agreement.

4. **Museum Governance and Operation:**

- a. **Governance.** The Museum shall maintain its status as a non-profit organization, and demonstrate at the request of the City that this status is current. The Museum shall establish and maintain a governing board that operates under reasonable procedural standards that promote transparency for both stakeholders and the public. The governing board of the Museum should be comprised of individuals reflecting the interests and perspectives of both stakeholders and the general public. Board service should be subject to reasonable term limits. The governing board shall include as a voting member a City Council member or a City staff person designated by the City Council.
- b. **Identity.** Museum must retain its status as a not-for-profit corporation under State of Kansas Law with a specific legal identity and business purpose as registered with the Secretary of State.
- c. **Operation.** Museum shall perform conservation, curation, public education and other activities and duties consistent with its mission and the goals of the City's Cultural Arts Plan. These activities shall be reported to the City for evaluation annually using the Operational Partnership Agreement Annual Report form attached as Exhibit B. This form shall be progressively modified as required on a yearly basis to allow current reporting of data.

- d. **Performance Measures:**
- i. Museum shall establish and then annually review and report its identified mission and core goals, which should be supportive of the goals set out in the City's Cultural Arts Plan.
 - ii. Museum shall analyze and demonstrate how its annual programming, activities and functions are appropriate and supportive of its identified mission and core goals.
 - iii. Museum shall maintain the vitality of its governing board by demonstrating how the board attendance and participation requirements has been enforced; how its adherence to established term limits has been met; and how racial, geographical and economic diversity has been sought.
 - iv. Museum shall demonstrate attainment or progress satisfactory to the City toward attainment of its Agreed Performance Measures, attached at Exhibit C. These Performance Measures are to be reviewed and adjusted after completion and filing of the Operating Agreement Annual Report.
- e. **Corporate Independence** Nothing in this Agreement shall be deemed to create an agency or joint venture relationship. Both parties are, and shall remain, separate, independent corporate entities. No employee of either shall be deemed to be the employee or agent of the other. Should any corporate officer or elected official of either body participate as a member of the governing body of the other, that officer or elected official shall only be deemed to be acting on behalf of the individual deliberative body for which he or she is then currently engaged.
- f. **Nondiscrimination**. The Museum agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The Museum agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.
5. **Financial Stability**. Museum recognizes that one of its key obligations is to demonstrate the ability to achieve, separate from City support, growth in its direct fundraising capacity or in other financial assets that allow it to provide increasingly independent continuity of services for all Wichita citizens and visitors.
- a. **Planning**. The Museum shall include in its Operational Agreement Annual Report (the template for which is shown as Exhibit B to this Agreement) a five (5) year maintenance and operating forecast and a ten (10) year capital improvement forecast, prepared after a careful premises inventory. These forecasts should clarify the needs of the Museum for both premises and program, and include

statements of the anticipated revenue sources for operations and capital. The Museum should seek input from City Cultural Arts and Services staff when preparing these documents, and anticipate that they may be subject to change upon annual renewal of the Operating Partnership Agreements.

- b. **Capital Expenditure Funding.** Museum agrees to prepare, as part of its annual report to City, and City agrees to review and evaluate an updated evaluation and needs assessment for capital improvements for the facility. However, Museum agrees to pay all costs incurred in connection with the construction of the new structures, facilities and improvements, unless otherwise expressly agreed to in writing by the Museum and City. In any case of construction, Museum agrees to make direct payment to all materials, product and service providers for all such costs as they are incurred. Museum shall have no right, authority, or power to bind City for the payment of any claim for labor or material or for any charge or expense incurred in the erection, construction, operation, or maintenance of said improvements. Museum agrees to require contractors to name the City as beneficiary of the required original performance bond and the City as additional insured in any comprehensive accident or general liability insurance; builder's risk insurance; or any other policies obtained by the Museum relating to the approved construction.
 - c. **City Indirect Support.** The City provides to Museum a City facility at nominal rent, and major systems maintenance of that facility. Through its planning process, Museum will work with City staff to identify work that will be provided by the City for the benefit of Museum. The value of these services will be included in the evaluation of Museum's total City support.
 - d. **Direct Support.** Through this Agreement, the City will provide to Museum direct payment of funds that may be used by Museum for its operations. This funding is tied to the fraction of the Cultural Arts mill levy that is allocated to Museum by City Council. The allotment fraction will remain fixed for the three years covered by this Agreement. The absolute dollar amount provided to Museum will fluctuate from year to year during this Agreement, as do the revenues obtained by the applicable tax mill levy. However, the annual direct support provided by the City to Museum for the three years of this Agreement can be approximated at \$155,609.
 - e. **Rent Adjustment.** To the extent that Museum has an existing lease with the City for its facility that calls for rent at an amount greater than \$1.00 per year, this Agreement serves as formal written waiver of the rent due in excess of \$1.00 per year, effective as of January 1, 2014, through the term of this Agreement, and any renewal hereof unless modified by City and Museum through amendment to this Agreement. All other terms and conditions of the existing lease shall remain in effect during the term of this Agreement.
6. **Assignment.** Museum shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of City. Any assignment or delegation so made and so permitted shall be subject to all terms, conditions and other provisions

of this Agreement.

7. **Indemnification**. Each party shall protect, defend and hold the other, its officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, or other liability loss, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to the use or occupancy of the facility or premises or the acts or omissions of that party's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death, damage or liability loss may occur, *except to the extent such injury, death, damage or liability loss is caused by the negligence of the indemnified party*. Each party shall give the other reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or termination of this Agreement to the extent that they relate to liabilities, losses, suits, claims, judgments, fines or demands arising from or incident to events occurring during the effective term of this Agreement or an extension or modification thereof.

8. **Insurance Requirements**. Museum shall procure, maintain and carry, at its sole cost in accordance with this Agreement, all insurance as required per the amounts as set forth below. Insurance shall be furnished by a company meeting with the reasonable approval of the City Attorney. The requirements, procurement and carrying of the required insurance shall not limit any of the Museum's obligations or liability under this Agreement or as a matter of law. Where "minimum limits" of insurance are specified, such minimum insurance limits are required and considered by City to be the lowest insured amounts acceptable under this Agreement. The Museum is not limited or restricted whatsoever in securing additional insurance coverage and higher insured limits than those specified herein if, at Museum's determination and discretion and commensurate with the type of activity and associated business and operational risk, additional coverage and higher limits are necessary and appropriate.

Insurance shall include the following terms, conditions and minimum limits:

a. **WORKERS' COMPENSATION**

Museum shall maintain Workers' Compensation insurance to cover the statutory requirements of the Workers' Compensation laws of the State of Kansas for its operations on the Premises, and when applicable, to Federal Laws and Voluntary Compensation and Employer's Liability (including occupational disease) coverage.

b. **AUTOMOBILE LIABILITY**

Museum shall maintain automobile insurance, which shall include all owned, non-owned and hired automobiles used on the premises, and shall have minimum bodily injury and property damage limits as outlined herein.

Combined Single Limit	\$500,000 Each Accident
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c. **COMMERCIAL GENERAL LIABILITY**

Museum shall maintain Commercial General Liability insurance on an occurrence form. Minimum limits, as outlined herein, shall be:

Annual Aggregate	\$500,000
Each Occurrence	\$500,000

The City of Wichita shall be added as a primary and non-contributory additional insured, and Museum acknowledges the contractual responsibility to respond in defense and indemnity for any claims raised by third parties resulting from the negligent acts or omissions of Museum's officers, employees, agents or invitees.

d. **UMBRELLA/EXCESS LIABILITY COVERAGE**

The Museum shall provide minimum Umbrella/Excess liability limits (excess of all automobile and commercial general liability) of:

Each Occurrence Limit	\$1,000,000
Annual Aggregate Limit	\$1,000,000

The City of Wichita shall be added as primary and non-contributory additional insured covered under this umbrella/excess liability coverage.

Museum agrees that in the event of future changes in the law or upon notice by the City, the minimum levels of insurance required by this section may be increased within the bounds of commercial reasonableness.

9. **Personal Property.** Any personal property of Museum or others, including that of the City, placed in or upon the premises shall be at the sole risk of the Museum, and City shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the Museum waives all rights of recovery from or subrogation against the City for such loss or damage unless such loss or damage is the result of the City's negligence. Museum shall be solely responsible for obtaining insurance policies that provide coverage for bailment losses and losses of Museum-owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Museum's cost for such insurance.

10. **Cancellation.** The City, in addition to any other rights to which it may be entitled by law or otherwise, may cancel this Agreement by giving Museum sixty (60) days written notice, in order to assure compliance with Kansas Cash Basis and Budget law requirements. During this notice period, management from both parties shall confer in an attempt to determine if the dispute may be mitigated sufficiently or resolved prior to expiration of the sixty (60) day period. Barring such satisfactory resolution, the termination shall be effective at the end of the originally noticed sixty (60) day period. Additionally, this Agreement shall terminate in conjunction with termination of the underlying Lease, when accomplished by either party.

11. **Waste Management.** Museum shall be responsible for the removal and disposal of garbage, debris, contaminants and any other waste material (whether solid or liquid) arising out

of its occupancy of the facility or out of its operation. Such removal shall conform to all governmental requirements and regulations. Such removal and disposal of garbage, debris, contaminants, or other waste material is understood to include routine clean-up of the facility and premises. Museum shall immediately react and take prompt corrective actions to remove and dispose of any paper, garbage and debris on the premises upon demand of City. Museum shall provide, and screen from public view, suitable covered receptacles for all garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets or other similar items in an unsightly or unsafe manner on or about the premises is forbidden. In the event Museum shall fail to perform its upkeep, maintenance and repair responsibilities, City may, but is not obligated to, perform maintenance and make repairs thereon and thereto which it determines to be necessary, charging the same cost to the expense of Museum, to include a twelve percent (12%) administrative fee, upon thirty (30) days prior written notice of its intent to do so.

12. **Severability and Invalid Provisions.** In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the City or the Museum in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this Agreement.

13. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provision of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-29350), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the reasoned opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

14. **Non-Waiver of Rights.** No waiver or default by either party of any of the terms, covenants and conditions to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.

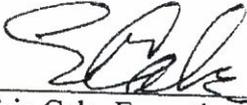
15. **Harmonization of Documents.** The parties agree and intend that the terms of this Operating Partnership Agreement supersede any conflicting provisions in their Lease Agreement dated August 3, 1976.

This Agreement is executed and effective this _____ day of _____, 2014.

CITY OF WICHITA, KANSAS

Wichita Historical Museum Association, Inc.

Carl Brewer, Mayor

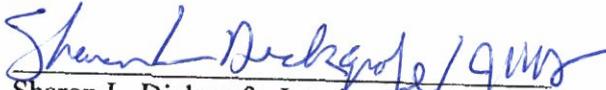


Eric Cale, Executive Director

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:



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

Exhibit A – Lease Agreement

Exhibit B – Operational Agreement Annual Report template

Exhibit C – Agreed Performance Measures

AGREEMENT

THIS AGREEMENT, made and entered into this 3rd day of January, 1984,
by and between

THE CITY OF WICHITA, KANSAS
A municipal corporation,
hereinafter called the

"CITY"

and

THE MID-AMERICA ALL-INDIAN CENTER, INC.
A nonprofit corporation with its principal
office and place of business in the City of
Wichita hereinafter called the

"MAAIC"

WITNESSETH THAT:

WHEREAS, the City and MAAIC desire to provide a comprehensive program
of services and activities for Native American citizens; and

WHEREAS, the City and MAAIC desire to provide programs to promote
education about Native American Heritage for all citizens of the City; and

WHEREAS, the City and MAAIC desire to provide and maintain a central
facility for these programs which facility shall be identified as the Mid-
America All-Indian Center facility, and

WHEREAS, the City and MAAIC desire that the programs and the facility be
managed in a professional manner with complete accountability to the citizens of
Wichita,

NOW THEREFORE, to accomplish these goals, the City and MAAIC, for and
in consideration of the following mutual promises and covenants, agree as follows:

SECTION 1. SERVICES PROVIDED

MAAIC shall provide services and activities necessary to promote the goals
stated above during the term of this agreement in compliance with the Performance
Criteria specified in Exhibit A which is attached and incorporated herein by
reference.

SECTION 2. FACILITY LEASE

The City hereby leases to the MAAIC the following described premises, situated
in Wichita, Sedgwick County, Kansas, to wit:

The real estate, together with the improvements thereon, legally
described as:

That part of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty (20),
Township Twenty-seven (27) South, Range One (1) East of the 6th
P.M., lying North of the Arkansas River and West of the Little
Arkansas River, Wichita, Sedgwick County, Kansas, commonly known
as "TWO RIVERS ADDITION" to Wichita, Sedgwick County, Kansas,
EXCEPT that part of Lot One (1), Block Three (3), Park Plaza
First Addition to Wichita, Sedgwick County, Kansas, lying West
of the Little Arkansas River.

The term of this lease shall be for a period of thirty (30) days commencing with
the expiration of the existing lease on March 24, 1984; provided, however, that
said term shall automatically renew for additional thirty (30) day periods through-
out the term of this agreement unless terminated as set forth in the succeeding
subparagraph.

It is provided that this lease may be terminated by either party, by giving
thirty (30) days written notice of intent not to renew. It is agreed that this
lease may be terminated by either party upon the failure to comply with any of
the performance criteria provided for in Exhibit A by giving fifteen (15) days written
notice.

Rental for the use of said premises shall be the sum of one dollar (\$1.00) per annum, payable to the City on or before December 31, 1984.

MAAIC shall make no alterations in or additions to the premises without the written consent of the City.

SECTION 3. CONFLICT OF INTEREST

A. Personal Financial Interest of Member of City and MAAIC

No officer(s), or employee(s), or agent(s) of the MAAIC who exercises any functions or responsibilities in connection with the planning and implementation of the program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in this contract; and the MAAIC shall comply with all federal, state and local conflict of interest laws, statutes, and regulations; and they shall apply to all parties and beneficiaries under this contract as well as to all officer(s), employee(s), or agent(s) of the City of Wichita and MAAIC.

SECTION 4. NON-DISCRIMINATION

Discrimination prohibited. No recipient or proposed recipient of any funds, services, or other assistance under the provisions of this contract or any program related to this contract shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the ground of race, color, sex, religion, national origin, ancestry, physical handicap, or age, except where age is a bona fide occupational qualification. Applicants for employment with the MAAIC shall be selected and employees shall be treated during employment without regard to their race, color, sex, religion, national origin, ancestry, physical handicap, or age, except where age is a bona fide occupational qualification.

The MAAIC further agrees to implement and comply with the City's Non-Discrimination-Equal Employment Opportunity/Affirmative Action Program Requirements attached hereto as Exhibit B and incorporated herein by reference.

SECTION 5. COMPLIANCE WITH LOCAL LAWS

All parties shall comply with all applicable laws, ordinances and codes of the State of Kansas and local governments.

SECTION 6. ASSIGNABILITY

The MAAIC shall not assign any interest in this contract without prior written consent of the City.

SECTION 7. COPYRIGHTS

If this contract results in a book or other copyrightable material the author is free to copyright the work but the City reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyright material and material which can be copyrighted.

SECTION 8. USE AND DISPOSITION OF PROPERTY

A. Ownership During Usage by MAAIC

All office equipment, supplies, materials, and other personal property purchased in whole or in part with funds, provided by the City of Wichita and used in whole or in part for the administration of the program shall be the sole and exclusive property of the City.

B. Inventory

The MAAIC shall maintain in its office and file with the City an up-to-date Inventory List of all personal property, e.g., furniture, fixtures, equipment, etc., purchased in whole or in part in the administration of the program or under previous projects funded by the City or in the administration of a project operated in conjunction with the contract. Such report shall be submitted to the Department of Administration by April 1, 1984. Such

Inventory List must identify each item purchased, state the physical location of same, the cost of each item, the date purchased, and the City of Wichita inventory seal number affixed to each item. The MAAIC shall be responsible for conducting a physical inventory of each of the inventoried items and with its final report for this contract year certifying in written form that all such inventory items are in the possession of the MAAIC. No inventoried items may be disposed of in any fashion without the prior written approval of the City.

C. Disposition of Personal Property

In the case of termination of any individual project activity, all personal property listed on City Inventory in the possession of the MAAIC or any MAAIC representative(s) shall be secured by the MAAIC. Said personal property shall be returned to the City immediately upon the request of the City. The MAAIC shall be responsible for any item(s) which are included on the MAAIC Inventory List as required hereinbefore, and which are not returned to the City as provided above and shall forthwith reimburse the City for the value of said item(s) less reasonable depreciation as mutually agreed by the City and the MAAIC.

SECTION 9. FOOD HANDLING

MAAIC agrees to comply with all applicable laws, ordinances, rules and regulations of the City of Wichita, State of Kansas, and the United States regarding the storing, handling and sale of food and food products; MAAIC further agrees to obtain all required licenses and permits for the handling, storing and sale of food and food products.

SECTION 10. INDEMNIFICATION AND INSURANCE

MAAIC shall indemnify and hold harmless the City from and against any and all claims for every kind or character for injuries and/or damages to persons and/or property arising out of or in connection with the use and occupancy of the leased premises by MAAIC, its agents, servants, employees or invites, and not caused by the City's negligence. MAAIC further agrees not to make or suffer any waste on the premises or use said premises or any part thereof for any purposes called "extra hazardous" by insurance companies.

MAAIC shall carry liability insurance with the following minimum limits:

\$100,000.00	each person
\$500,000.00	each accident
\$ 50,000.00	Property damage

A certificate evidencing the above and foregoing insurance shall be furnished to the City containing a ten (10) day prior notice clause to the City before any material change or cancellation is effective. Said certificate shall also include the City of Wichita as an additional insured.

SECTION 11. MAINTENANCE OF BUILDINGS AND GROUNDS

The City shall maintain and keep in repair at its own expense the interior and exterior of said premises, keeping the same in proper condition, including but not limited to replacement of all broken glass, painting and repair and maintenance of all interior and exterior portions of said premises. The City shall also maintain in good condition the grounds, including but not limited to the lawn, shrubs, trees and flowers surrounding said premises, at all times. The City shall also provide custodial services but not including trash disposal.

The City shall provide and MAAIC will maintain or cause to be maintained on the premises sufficient fire extinguishing units as may be required by hazard or casualty insurance or by the City.

SECTION 12. TAXES

MAAIC shall pay all lawful taxes and assessments which, during the term or terms hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body upon the leased premises or upon any taxable interest of MAAIC acquired in this agreement, or any taxable possessory rights which MAAIC may have in or to the premises or facilities hereby leased, or the

improvements thereof, by reason of its use, occupancy or activities thereof, or otherwise, as well as all taxes or taxable property real or personal, owned by MAAIC in and about said premises; provided, however, that nothing herein contained shall prevent MAAIC from contesting the legality, validity or application of any such tax or assessment to the full extent MAAIC may be lawfully entitled to do so. MAAIC shall not carry on any activity or use of the premises that would jeopardize the property from its exemption as nontaxable public property.

It is mutually agreed that all the covenants, terms and conditions of this agreement shall extend, apply to and firmly bind the heirs, executors, administrators, assigns and successors of the respective parties as fully as the respective parties are themselves bound.

The term of this agreement shall be January 3, 1984 through December 31, 1984.

IN WITNESS WHEREOF, LESSOR has caused these presents to be executed by the Mayor of the City of Wichita, Kansas, attested by its Clerk and the seal of the City of Wichita affixed hereunto, and said LESSEE has caused these presents to be signed by its proper corporate officers and its corporate seal to be hereunto affixed and attested as of the day and year first above written.

CITY OF WICHITA, KANSAS

By Margalee Wright
Margalee Wright, Mayor

ATTEST:

[Signature]
City Clerk

MID-AMERICA ALL-INDIAN CENTER, INC.

By [Signature]
Title: Chairman, Board of Trustees

By [Signature]
Title: Executive Director

ATTEST:

Approved as to form:

*

John Dekker, Director of Law

* AIC memo dated 1-12-84 from JDC
Reple approving contract as to form.

PERFORMANCE CRITERIA

Contract Objectives

It is mutually agreed and understood by the City of Wichita and the Mid-America All-Indian Center, hereinafter referred to as the City and MAAIC respectively, that execution of this contract obligates the MAAIC to the following performance requirements.

The MAAIC, as a delegate agency of the City will perform all duties and functions except as may be herein provided necessary to operate and maintain the Mid-America All-Indian Center facility located at 650 N. Seneca.

PROGRAM OPERATION

MAAIC agrees to provide programs oriented to Native American (Indian) persons in the general areas enumerated below:

Cultural and Social Programs - including but not limited to arts and crafts, traditional dancing and singing, movies, lectures, fine arts performances, and dinners.

Service Programs - including but not limited to nutrition, health, Al'anon meetings, alcoholism counseling and treatment, emergency food and clothing outreach and referral.

MAAIC agrees to maintain programs which are currently funded, including programs funded under the Job Training Partnership Act and programs funded under the City's alcoholism treatment funds. MAAIC also agrees to explore all other sources of funding for Native American programs. These sources of funding shall include but not be limited to federal grant programs, private foundations, non-profit charitable organizations, and private donors. MAAIC agrees to develop and submit a minimum of twenty (20) grant applications to be submitted to various funding sources during the period January 3 through March 31, 1984. Copies of all grant applications shall be provided to the Director of Administration of the City or his designee. Efforts to secure additional funding shall continue throughout the term of this contract. MAAIC agrees to maintain and operate the Native America Museum, Library/Archival Area and the Gift Shop.

PROGRAM MANAGEMENT

The MAAIC agrees to develop and maintain a management system which shall be adequate to insure accountability of all funds received by and expended by the MAAIC. The management system shall include but not be limited to the following elements:

Accounting and Bookkeeping - All funds received by and/or expended by the MAAIC shall be accounted for in accordance with generally acceptable accounting procedures. The accounting system shall be established in such a manner as to meet the requirements of all funding agencies. Complete financial reports shall be generated on a monthly basis. These monthly reports shall be distributed to the Director of the MAAIC and to the City no later than the 10th day of the following month.

Purchasing - MAAIC shall develop and maintain written purchasing policies and procedures.

Personnel - MAAIC shall develop and maintain written personnel and payroll policies and procedures.

Resource and Cost Allocation - MAAIC shall develop a resource and cost allocation plan. This plan shall determine the allocation of all facility resources and costs to the various programs included under the responsibility of the MAAIC.

FACILITIES MANAGEMENT

The MAAIC shall be responsible for all regular operation and maintenance activities of the Mid-America All-Indian Center located at 650 N. Seneca except as may be otherwise provided herein. MAAIC agrees that the premises will be open to the public and make appropriate charges for admission and/or programs, merchandise and activities.

The City will provide the maintenance to the exterior and interior of the building and parking lot. The City shall provide one custodian to assist with custodial maintenance of the facilities.

The MAAIC may sub-lease any or all parts of the facility to other parties on a temporary basis for legal programs and activities. Any temporary lease having a term in excess of seven (7) days must have the written approval of the City. MAAIC agrees to develop a marketing/leasing plan for the facility and to make aggressive efforts to lease the facility to generate revenues to contribute to the costs of operating the facility. The marketing/leasing plan will be submitted to the City for its review no later than January 31, 1984.

DEBT MANAGEMENT

MAAIC agrees to satisfy all current obligations during 1984 and to completely satisfy all debts outstanding as of January 2, 1984 no later than December 31, 1984. The MAAIC shall provide to the City a recapitulation of all outstanding debt obligations no later than January 31, 1984. The MAAIC agrees that past debt shall be reduced a minimum of ten percent (10%) per month during the term of this contract or until all past debt is satisfied. This reduction shall apply to all debt, including past utility bills.

MAAIC shall provide the City with monthly reports which provide the amount of debt outstanding, the persons or organizations to which the debt is owed, and the amount of the debt reduced during each month. These reports shall be submitted to the City by the tenth (10th) of each month providing information for the previous month.

MEETINGS OF THE BOARD OF TRUSTEES

The MAAIC agrees that the Board of Trustees shall meet on a regular basis, not less frequently than once per month. It is further agreed that the meetings of the Board of Trustees shall follow published agendas, formal votes shall be taken and recorded on all items of business and that minutes of all meetings shall be kept and placed on file in the Administrative offices. A copy of the minutes of each meeting shall be provided to the City within seven (7) days of each meeting.

MAAIC also agrees that all currently vacant positions on the Board of Trustees shall be filled no later than February 15, 1984. All future vacancies shall be filled within 45 days of the vacancy.

EXECUTIVE DIRECTOR

The MAAIC agrees to fill the position of Executive Director with the most qualified person available. MAAIC shall develop a written job description which outlines the duties of the position of Executive Director and which specifies the minimum qualifications for appointment to that position.

MAAIC agrees to undertake a national search for an Executive Director. MAAIC agrees to develop a plan outlining all activities which will be undertaken in the recruitment and selection process. MAAIC shall submit this plan to the City for its review by January 31, 1984. MAAIC agrees the selection of Executive Director shall be made by majority vote of the Board of Directors. MAAIC agrees to interview a minimum of three (3) qualified candidates prior to selection of the Executive Director.

AUDITING OF ACCOUNTING RECORDS

MAAIC agrees to retain the services of an independent Certified Public Accountant (CPA) to audit its financial records no less frequently than once

per annum. The CPA shall also conduct such program audits as may be requested under federal grants, other funding agencies or the City.

MAAIC agrees that it shall select the CPA firm in a manner consistent with City of Wichita Administrative Regulation 7 - Employment of Professional Services. It is agreed that the City Manager or his designee shall be a member of the selection committee for purpose of selecting the CPA.

ENERGY MANAGEMENT

MAAIC agrees to implement all possible management procedures which will reduce energy usage in the Mid-America All-Indian Center facility. The City may, at its option, undertake modifications to the facility which will reduce energy usage.

MANAGEMENT AND TECHNICAL ASSISTANCE

It is agreed the City will assign a City employee to the MAAIC during the period January 2, 1984 through March 31, 1984. The term of this assignment may be amended at the option of the City. The City employee may provide management and technical assistance and suggestions regarding any element of the operation and maintenance of the MAAIC facility and programs covered under this agreement. The MAAIC will endeavor to follow the suggestions and assistance provided by the City employee assigned unless the MAAIC Board of Trustees determines it is not in the best interest of the MAAIC to do so. Should such a determination be made, a complete written explanation detailing the reasons for the determination shall be submitted to the City Manager.

The MAAIC agrees to provide a work station for the City employee assigned to the MAAIC.

It is understood that the City employee shall have no supervisory authority over employees of the MAAIC or its programs. It is further agreed that the assignment of the City employee does not abrogate any responsibility of the MAAIC under the terms of this agreement or any agreement with the United States Government or other funding agencies. It is also agreed the City shall assume no liability by virtue of the technical assistance provided under this agreement.

CORPORATE STATUS

The MAAIC agrees to maintain its status as a legal corporation in conformance with the laws of the State of Kansas and the rules and regulations of the Kansas Secretary of State throughout the terms of this agreement.

DEFAULT OF AGREEMENT

It is agreed that failure of the MAAIC to meet any of the contract objectives specified under the terms of this Exhibit may constitute a default of the agreement and may constitute grounds for termination of the agreement in accordance with the provisions of Section 2. FACILITY LEASE of this agreement. The City shall consider progress toward contract objectives prior to declaring default.

Original

LETTER OF AGREEMENT
FOR DELEGATION OF ACTIVITIES
UNDER GRANT NO. 70037

This Agreement entered into as of March 10, 1975, including all attachments and conditions annexed hereto (which are expressly made part hereof), shall govern certain activities of the Mid-America All-Indian Center financed under Grant No. 70037-75/01 during the period February 1, 1975, to December 31, 1975 which are to be carried out by the Mid-America All-Indian Center, hereinafter referred to as the "Delegate", on behalf of the Community Action Agency of Wichita, Kansas, hereinafter referred to as the "Grantee".

The Grantee and Delegate agree as follows:

1. WORK TO BE PERFORMED. The Delegate shall, in a satisfactory manner as determined by the Grantee, perform all activities in Attachment "A".
2. COMPLIANCE WITH APPROVED PROGRAM. All activities authorized by this agreement will be performed in accordance with the approved work program, the approved budget, the grant conditions and relevant OEO directives.
3. REPORTS, RECORDS & EVALUATIONS. The Grantee shall supervise, evaluate and provide guidance and direction to the Delegate in the conduct of activities delegated under this contract. The Delegate agrees to submit to the Grantee such reports as may be required by OEO directives or by the Grantee, including the reports listed in Attachment "B" according to the schedule there set out.

The Delegate also agrees to prepare and retain, and permit the Grantee to inspect as it deems necessary for grant purposes (in addition to inspections authorized by the conditions in the grant from OEO) the records listed in Attachment "C", as well as all other records that may be required by relevant OEO directives, with the exception of

confidential client information. The Delegate further agrees that the Grantee may carry out monitoring and evaluation activities to include, at a minimum, those listed in Attachment "D", and will effectively insure the cooperation of the Delegate's employees and board members in such efforts.

4. CHANGES. The Grantee may, from time to time, request changes in the scope of the services of the Delegate to be performed hereunder. Such changes, including any increase or decrease in the amount of the Delegate's compensation, which are mutually agreed upon by and between the Grantee and the Delegate, must be incorporated in written amendments to this contract.

5. COMPLIANCE WITH LOCAL LAWS. The Delegate shall comply with all applicable laws, ordinances, and codes of the state and local governments.

6. COVENANT AGAINST CONTINGENT FEES. The Delegate warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant the Grantee shall have the right to annul this contract with liability or, in its discretion, to deduct from the contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as legally may be available.

7. SCHEDULE OR PAYMENT. Subject to receipt of funds from OEO, the Grantee agrees to reimburse the Delegate for authorized expenditures. An advance of \$3,500.00 for estimated expenditures for the month of February and March will be made to the Delegate, who will submit to the Grantee vouchers that are sufficient to support payment under the Grantee's accounting procedures established or approved by the Grantee's accountant. Within thirty (30) days the Grantee will approve or disapprove payment of the vouchers, and will make additional payments equal

event, however, will the Delegate receive reimbursement for personnel costs exceeding \$18,000.00 or for non-personnel costs exceeding \$3,000.00, except as it has received prior written authorization from the Grantee, which is incorporated into and shall be attached to this contract.

8. TERMINATION. The Grantee may, by giving reasonable written notice specifying the effective date, terminate this contract in whole or in part for cause, which shall include: (1) failure, for any reason, of the Delegate to fulfill in a timely and proper manner its obligations under this contract, including compliance with the approved program and attached conditions, with statutes and Executive Orders, and with such OEO directives as may become generally applicable at any time; (2) submissions by the Delegate to OEO or to the Grantee of reports that are incorrect or incomplete in any material respect; (3) ineffective or improper use of funds provided under this contract; and (4) suspension or termination by OEO of the grant to the Grantee under which this contract is made, or the portion thereof delegated by this contract. The Grantee may also assign and transfer this contract to another grantee when required to do so by OEO direction.

If the Delegate is unable or unwilling to comply with such additional conditions as may be lawfully applied by OEO to the grant to the Grantee, the Delegate shall terminate the contract by giving reasonable written notice to the Grantee, signifying the effective date thereof. In such event the grantee may require the delegate to insure that adequate arrangements have been made for the transfer of the delegated activities to another Delegate or to the Grantee.

In the event of any termination, all property and finished or unfinished documents, data, studies and reports purchased or prepared by the Delegate under this contract shall be disposed of according to OEO directives, and the Delegate shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of the contract. Notwithstanding the above, the Delegate shall not be relieved of liability to the Grantee for damages sustained

and the Grantee may withhold any reimbursement to the Delegate for the purpose of a set-off until such time as the exact amount of damages due the Grantee from the Delegate is agreed upon or otherwise determined.

9. NON FEDERAL SHARE. The Delegate will contribute \$5,432.00 to the program funds. Such contribution shall be in cash in the amount of \$ 00 and in-kind in the amount of \$5,432.00.

10. REVIEW OF NEW DIRECTIVES. The Grantee will submit promptly to the Delegate for comment those proposed additional directives that it receives from OEO for comment.

In witness whereof, the Grantee and the Delegate have executed this agreement as of the date first above written.

APPROVED:

Jay R. Hunter
Jay Hunter, Executive Director

DATE: 4/11/75

William T. Atwater
William T. Atwater, Director of CAA

DATE: April 11, 1975

Jeremiah Smith
Jeremiah Smith, Director of Community Development

DATE: _____

Don E. Anderson
Don E. Anderson, Director of Administration

DATE: 4/23/75

Ralph Wula
Ralph Wula, City Manager

DATE: 4/29-75

THE CITY OF WICHITA, KANSAS

Connie A. Peters
Mayor CONNIE A. PETERS

ATTEST:

Donald C. Gisick
DONALD C. GISICK City Clerk
(SEAL)

APPROVED AS TO FORM:

John Dekker
John Dekker, Director of Law and City Attorney

ATTACHMENT "A"

Mid-America All-Indian Center, Inc., (MAAIC) is a comprehensive social and cultural institution for Indian people, many of whom are very poor. The current MAAIC organization is almost totally dedicated to social programs. However, cultural identity is very important to Indian people and there would be no viable organization without cultural activities such as Indian dances and Pow Wows.

As you know, the City is building a new facility for our Center. Although this new building will have more space devoted to cultural activities, such as a museum, the Project Coordinator must continue to devote the majority of his time to social program development. The enclosed brochure describes the proposed functions of our new building and outlines the objectives of MAAIC.

MAAIC opened its doors with a \$25,000 OEO grant on January 1, 1973. We continue to receive our basic administrative grant for HEW's Office of Native American Programs, OEO's successor for Indian programs. From the beginning, MAAIC's primary goal was to assist economically disadvantaged Indian people to improve and enrich their lives. The Indian Center provides direct assistance for problems relating to education, housing, employment and health services. The Indian Center also assists Indian people secure services from state and local social agencies such as welfare and legal aid.

The primary job of the Project Coordinator is to secure the funding to sustain and expand these programs. In 1974, the Project Coordinator developed and successfully pursued funds from the following sources for MAAIC:

ATTACHMENT "B"

Reports, Records, and Evaluations

The Delegate shall maintain standard payroll records.

The Delegate shall submit a monthly progress report to the Grantee.

The monthly progress report shall include a detailed record of the activities involved in the:

1. Coordination involved in the development and construction of the new Indian Center facility

It should also include a:

2. Status report on the development of all proposals being written by the Mid-America All Indian Center.
3. A comprehensive report on the specific management consulting services provided to Mid-America All Indian Center.

The Delegate may exempt "confidential client information" referred to in Line #1, Page 2 of 17 of the Standard Letter of Agreement from requested records.

"Confidential Client Information" is hereby defined as that information which is routinely taken as a client social history. The grantee may request names, addresses, and services provided to the clients.

2. Wichita Revenue Sharing - Social Services
3. CETA (Title I) - skill training programs, job development and placement
4. CETA (Title III) - public service employment and transition placement
5. National Endowment for the Arts - arts, crafts and dancing programs

The Project Coordinator also acts as a liaison between the City and MAAIC for completion of the new facility. Grants secured in 1974 from the above mentioned agencies totaled to approximately \$350,000.

In 1975 the Project Coordinator will seek refunding of the above mentioned programs and will also attempt to secure funds or technical assistance from the following sources to expand MAAIC's social programs:

1. HEW - Indian Health Services
2. Office of Indian Education - Adult education programs, counselling
3. NCR Corporation - grant to develop accounting system for Indian Centers and train Indians in associated accounting and data processing skills
4. Economic Development Administration - funds for technical assistance in operating systems
5. Small Business Administration - special program for Indians
6. Wichita State University - technical assistance for educational programs

In 1975, the period of the CAA grant, over 90% of the program funds obtained will be for social programs to assist the economically disadvantaged. The enclosed fact sheet enumerates the activities of MAAIC.

ATTACHMENT "C"

Maintenance of Records.

The Delegate Agency shall establish and maintain records in accordance with requirements prescribed by the Grantee and/or OEO with respect to all matters covered by this contract. The Delegate Agency shall retain such records for a period of three years after receipt of the final payment under this contract or termination of this contract.

ATTACHMENT "D"

The monthly progress report submitted by the Delegate Agency will be reviewed by the CAA Director. The CAA Director will provide his comments as to the effectiveness of the project to the CAA Advisory Board.

A quarterly evaluation will be made by the Community Action Agency Evaluation Committee and staff.

SPECIAL CONDITIONS
AND
GENERAL CONDITIONS

ATTACHMENT E

OFFICE OF ECONOMIC OPPORTUNITY - COMMUNITY ACTION PROGRAM
SPECIAL CONDITION #1

1. NAME OF GRANTEE

City of Wichita, Community Action Agency

2. GRANT NO. PROGRAM YR. ACTION NO.

70037 - 75 / 01

SPECIAL CONDITION APPLIES TO:

ALL PROGRAM ACCOUNTS IN GRANT ACTION ONLY PROGRAM ACCOUNT NUMBER(S)

This grant is subject to the Special Condition below, in addition to the applicable General Conditions governing grants under Title II or III-B of the Economic Opportunity Act of 1964 as amended.

FISCAL LIMITATIONS ON OEO FUNDING (AUGUST, 1973 REVISED)

It is possible that the legislation approved by Congress for OEO programs for this fiscal year may result in legislative or fiscal limitations not presently anticipated. Accordingly, OEO reserves the right to revise this grant action in any manner which OEO may deem appropriate in order to take account of legislative and other limitations affecting OEO programs and funding. OEO may reduce the amount of this grant as a whole or as to any program account or accounts, may limit the rate of the grantee's authority to commit and spend funds, and may restrict the grantee's use of both its uncommitted and unspent funds.

In accepting this grant, the grantee acknowledges OEO's authority to make such revisions in the grant program or budget.

In no event, however, shall any revision made by OEO authorized by this condition affect expenditures and legally binding commitments made by the grantee before it received notice of such revision, provided that such amounts have been expended or committed in good faith and are otherwise allowable and that such expenditures and commitments are consistent with the cash withdrawal guidelines in OEO Instruction 6714-1 or superseding OEO directives. For this purpose, funds shall not be recognized as so committed solely because the grantee has committed them by contract or otherwise to a delegate agency.

The grantee is responsible for informing delegate agencies of this special condition before concluding any program agreements with delegate agencies.

OSM 27 (REV. AUG 68)

REPLACES CAP FORMS 29, 29A, 29B, 29C, 29D, DATED MAR 66 AND CAP FORM 29C, DATED AUG 67, WHICH ARE OBSOLETE.

GPO 681-149

OFFICE - ECONOMIC OPPORTUNITY - COMMUNITY AC PROGRAM	
SPECIAL CONDITION #2	
1. NAME OF GRANTEE City of Wichita Community Action Agency	2. GRANT NO. PROGRAM YR. ACTION NO. 70037 75 / 01
3. SPECIAL CONDITION APPLIES TO:	
a. <input checked="" type="checkbox"/> ALL PROGRAM ACCOUNTS IN GRANT ACTION b. <input type="checkbox"/> ONLY PROGRAM ACCOUNT NUMBER(S)	
This grant is subject to the Special Condition below, in addition to the applicable General Conditions governing grants under Title II or III-D of the Economic Opportunity Act of 1964 as amended.	

LISTING OF EMPLOYMENT OPENINGS

(This Special Condition is applicable if this grant is for \$10,000 or more and will generate 400 or more man-days of employment).

- (a) The grantee agrees that all employment openings of the grantee which exist at the time of this grant award and those which occur during the duration of the grant, including those not generated by this grant and including those of delegate agencies and those occurring at an establishment of the grantee other than the one wherein the grant is being performed, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide periodic reports to such local office regarding employment openings and hires as may be required.
- (b) Listing of employment openings with the employment service system pursuant to this Special Condition shall be made at least concurrently with the use of any other recruitment source or effort and shall involve only the normal obligations which attach to the placing of a bona fide job order but does not require hiring of any job applicant referred by the employment service system.
- (c) The periodic reports required by paragraph (a) of this Special Condition, shall be filed at least quarterly (calendar basis) with the appropriate local office or, where the grantee has hiring facilities in more than one local State employment service area, with the central office of that State employment service. Such reports shall indicate for each hiring facility the number of individuals who were hired during the reporting period and the number of hires who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The grantee shall maintain copies of the reports submitted until one year after the funding period of the grant, during which time they shall be made available, upon request, for examination by any authorized representatives of the Director, Office of Economic Opportunity or of the Secretary of Labor.
- (d) Within 15 days of the effective date of a grant, the grantee shall advise the employment service system in each State wherein he has establishments, of the name and location of each such establishment in the State. As long as the grantee is subject to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent grant funding actions.

OFFICE ECONOMIC OPPORTUNITY & COMMUNITY ACT PROGRAM	
SPECIAL CONDITION 1.2 (Cont.)	
1. NAME OF GRANTEE City of Wichita Community Action Agency /	2. GRANT NO. PROGRAM YR. ACTION NO. 70037 - 75 / 01
3. SPECIAL CONDITION APPLIES TO: a. <input checked="" type="checkbox"/> ALL PROGRAM ACCOUNTS IN GRANT ACTION b. <input type="checkbox"/> ONLY PROGRAM ACCOUNT NUMBER(S)	
This grant is subject to the Special Condition below, in addition to the applicable General Conditions governing grants under Title II or III of the Economic Opportunity Act of 1964 as amended.	

- (c) This Special Condition does not apply (1) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, and (2) to grants to State and local governments.
- (f) This Special Condition does not apply to openings which the grantee proposes to fill from within his own organization. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization.
- (g) The grantee agrees to place this Special Condition (excluding this paragraph (g)) in any delegation agreement or subcontract directly under this grant.

DEFINITIONS

- (1) "All employment openings" includes all openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.
- (2) "Appropriate office of the State employment service system" means the local office of the Federal-State nation system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
- (3) "Openings which the grantee proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the grantee's organization (including any affiliates, delegate agencies or subsidiaries, and parent organizations).
- (4) "Man-day of employment" means any day during which an employee performs more than 1 hour of work.

**GENERAL CONDITIONS GOVERNING GRANTS UNDER TITLES I-D,
II (except section 222(a)(4) and III-B of the
ECONOMIC OPPORTUNITY ACT OF 1964**

Program funds expended under authority of this funding action are subject to the provisions of the Economic Opportunity Act as amended, the general conditions listed below, any attached special grant conditions, and OEO directives. The grantee is expected to inform OEO promptly if it fails to receive, or has reason to believe it has failed to receive, all OEO applicable directives or any attachments to the Statement of OEO Grant. Many of those provisions do not represent invariable policies of the Office of Economic Opportunity and exceptions should be requested in cases in which compliance with one or more of them would cause unnecessary difficulties in carrying out the approved program. Requirements found in grant conditions or OEO directives may be waived only by a written notification signed by an authorized OEO official. Any such waiver must be explicit: no waiver may be inferred from the fact that the funding action is responsive to a grant funding request which may have contained material inconsistent with one or more of these conditions.

1. DEFINITIONS. As used in these conditions:

- (a) An "approved program" consists only of those activities described in the grant funding request for which funding is approved in the Statement of OEO Grant and its attachments (which may include modifications of proposed activities) or in OEO approved written amendments to the Statement of OEO Grant.
- (b) "Program account funding period" extends from the effective date of a new or refunding action through the termination date or expiration of planned number of months for which funding is provided.
- (c) "Total program funds" refers to all amounts approved for expenditure for the approved program as shown on the Statement of OEO Grant, whether such amounts are derived from Federal or non-Federal sources, or whether they are provided in cash or in kind.
- (d) "OEO directives" are statements of policy and procedure published in the OEO publications system.

- 2. APPLICABILITY OF CONDITIONS TO DELEGATE AGENCIES.** These conditions are applicable both to the grantee and to any delegate agency or organization that, pursuant to an agreement with the grantee, undertakes responsibility for any part of the approved program. Such an agreement may be entered into only if (1) the intention to make such a delegation to the particular agency has been set forth in the funding request for this grant action or has otherwise been approved by OEO, and (2) the contract contains all of the provisions found in the approved "Standard Contract Form for Delegation of Program Accounts."

Revised - January 1972

3. **LIMITATIONS ON EXPENDITURE OF PROGRAM FUNDS.** Expenses charged against program funds may not be incurred prior to the effective date of the grant or subsequent to the grant termination date and may be incurred only as necessary to carry out the purposes and activities of the approved program. Such expenditures may not exceed the maximum limits shown on the Statement of OEO Grant or those subsequently approved for that approved program, subject to allowable flexibility guidelines published by OEO. All expenses incurred for the approved program must be supported by approved contracts, purchase orders, requisitions, bills, or other evidence of liability consistent with the grantee or delegate agency's established purchasing procedures. Expenses charged against program funds must also be incurred in accordance with OEO directives. Liabilities of the grantee or its delegate agencies to third parties as a result of termination action which are costs of phasing out in accordance with OEO directives or are specifically approved shall be considered proper expenditures of program funds. OEO will determine the disposition of unexpended funds at the termination of the grant.
4. **LIMITATIONS ON EXPENDITURES OF FEDERAL FUNDS.** Expenditures of funds derived from Federal grant funds must not exceed in any event the amount of the Federal grant shown in the Statement of OEO Grant, (Column 9, OEO Form 314). Moreover, if a minimum non-Federal percentage of program funds is shown in the Statement of OEO Grant (Column 10, OEO Form 314), the portion of the total expenditures of the approved program derived from non-Federal sources, valued in accordance with OEO Instructions, must not be less than that minimum percentage of the total program funds for the approved program. This requirement must be met for each program account funding period, and should be substantially true for each financial reporting period. Deficiencies of non-Federal share in one program account may be supplied by an excess in other program accounts consistent with applicable OEO Instructions concerning the pooling of non-Federal share. Further, the amount of total program funds derived from Federal grant funds must not exceed the grantee's allowable costs for the approved program which have been or are to be paid in cash.
5. **PROPERTY.** No program funds may be expended or costs incurred for the purchase of real property except as in accordance with regulations on the acquisition, ownership, and disposition of personal property as set forth in OEO directives.
6. **DISCRIMINATION PROHIBITED.** No person in the United States shall, on the ground of race, color, religion, sex, age, or national origin, be excluded from participation in, be denied the proceeds of, or be subject to discrimination under the program approved as a result of this funding request. The grantee and its delegate agencies will comply with the regulations promulgated by the Director of OEO, pursuant to the Civil Rights Act of 1964, and pursuant to the Economic Opportunity Act of 1964, as amended.

Revised - January 1972

7. **DISCRIMINATION IN EMPLOYMENT PROHIBITED.** In all hiring or employment made possible by or resulting from this grant action, each employer (1) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates or pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and its delegate agencies shall comply with all applicable Statutes and Executive Orders on equal employment opportunity and this grant action shall be governed by the provisions of all such Statutes and Executive Orders, including enforcement provisions, as set forth in OEO directives.
8. **RELIGIOUS INSTITUTIONS.** The grantee and its delegate agencies shall ensure that any part of the approved program that is conducted by a church or church related institution is entirely non-sectarian in content and purposes, and that OEO directives on grants and delegations to churches or church related institutions are satisfied.
9. **LABOR STANDARDS.** All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are federally assisted under this grant shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5).
10. **PATENTS.** Any discovery or invention arising out of or developed in the course of work aided by the grant shall be promptly and fully reported to the Director of OEO for determination as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.
11. **COPYRIGHTS.** If the grant results in a book or other copyrightable material, the author is free to copyright the work, but OEO reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and any material which can be copyrighted resulting from the approved community action program.
12. **REPORTS, RECORDS, AND INSPECTIONS.** The grantee and its delegate agencies shall submit financial, program progress, evaluation, and other reports as required by OEO directives, and shall maintain such property, personnel, financial and other records and accounts as are deemed necessary by OEO to

Revised - January 1972

assure proper accounting for all program funds. The grantee and its delegate agencies and contractors shall permit on-site inspections by OEO representatives, and shall effectively require employees and board members to furnish such information as, in the judgment of the OEO representatives, may be relevant to a question of compliance with grant conditions and OEO directives, or the effectiveness, legality, and achievements of the program. All grant records will be made available to the authorized representatives of OEO or the Comptroller General of the United States, and will be retained for three years after the expiration of this grant unless permission to destroy them is granted by the Director of OEO.

13. COVENANT AGAINST CONTINGENT FEES.. The grantee warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this funding action upon an agreement or understanding for commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant the government shall have the right to annul this funding action without liability or, in its discretion, to deduct from the grant or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as may be legally available.
14. SUSPENSION AND TERMINATION.. The Director of OEO may in accordance with published regulations, suspend or terminate this grant in whole or in part for cause, which shall include: (1) failure or unwillingness of the grantee or its delegate agencies to comply with the approved program including attached conditions, with applicable statutes and Executive Orders, or with such OEO directives as may become generally applicable at any time; (2) submission by the grantee or its delegate agencies to OEO of reports which are incorrect or incomplete in any material respect; (3) ineffective or improper use of Federal funds by the grantee or its delegate agencies; (4) making any change which significantly impairs the representative character of the grantee's policy making body or the grantee's capacity to enlist community support; (5) failure of the grantee either to adequately monitor and evaluate program activities delegated to other agencies, or to provide effective guidance to such agencies in carrying out the purpose and activities of the portions of the approved program delegated to them. This grant may also be suspended or terminated in whole or in part in the event the grantee is a Community Action Agency and a new agency is recognized by OEO as the Community Action Agency for all or part of the area served by the grantee in accordance with OEO directives. In such event part of the grant funds and the grantee's or delegate agencies' functions, obligations, records (or copies), authority and property relating to assistance provided to the grantee or its delegate agencies under this funding shall be transferred by the grantee and its delegate agencies to such newly recognized agency. No suspension or termination will effect any expenditures or legally binding commitments made prior to receiving notice of the suspension or termination, provided such expenditures or commitments were made in good faith and not in anticipation of termination

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and are otherwise allowable. Funds shall not be treated as committed for this purpose solely by virtue of a grantee's contract or other commitment to a delegate agency. Upon suspension or termination, the disposition of unexpended Federal funds and property purchased with program funds will be subject to OEO direction.

Revised - January 1972

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ATTACHMENT "F"

REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY STATEMENT
FOR CONTRACTS OR AGREEMENTS

"During the performance of any City contract or agreement, the vendor, supplier, contractor or subcontractor to the City, agrees to comply with all the provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Executive Orders 11246, 11375 and 11141; Title 41 of the Code of Federal Regulations, Part 60; Title 29 of the Code of Federal Regulations; the Age Discrimination In Employment Act of 1967, and/or any laws, regulations, or amendments as may be promulgated thereunder.

The vendor, supplier, contractor or subcontractor will not discriminate against any employee or applicant for employment, because of race, color, sex, religion, national origin or age, except where age is a bona fide occupational qualification. The vendor, supplier, contractor or subcontractor will take affirmative action to ensure that applicants for employment are selected, and that employees are treated during employment, without regard to their race, color, sex, religion, national origin or age, except where age is a bona fide occupational qualification. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor agrees to post in conspicuous places, available to employees and applicants, the provisions of the non-discrimination clause.

The vendor, supplier, contractor or subcontractor will in all solicitations or advertisement 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 their race, color, sex, religion, national origin or age, except where age is a bona fide occupational qualification.

The vendor, supplier, contractor or subcontractor will send to each union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, a notice advising the labor union workers' representative of the vendor, supplier, contractor or subcontractor's commitments, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.

Revised Non-Discrimination and Equal Employment Opportunity Statement
For Agreements or Contracts
July 29, 1974
Page Two

The vendor, supplier, contractor, or subcontractor will furnish all information and reports required by the rules, regulations, and orders pursuant thereto, and will permit access to his books, records, and accounts by the City of Wichita for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the vendor, supplier, contractor or subcontractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders; this contract may be cancelled, terminated, or suspended in whole or in part, and the vendor, supplier, contractor or subcontractor may be declared ineligible for further City contracts, in accordance with procedures authorized and such other sanctions may be imposed and remedies involved as provided by rule, regulations or as otherwise provided by law.

The vendor, supplier, contractor or subcontractor will take such action with respect to any subcontract or purchase order as the City of Wichita may direct as a means of enforcing such provisions including sanctions for noncompliance.

Each vendor, supplier, contractor or subcontractor having a contract or agreement shall file and shall cause each of his subcontractors to file an Equal Employment Opportunity Program or Affirmative Action Program with the City of Wichita. The Equal Employment Opportunity Program or Affirmative Action Program shall be filed within such times as indicated in the bid specification and shall contain such information as to the practices, policies, programs and employment statistics of the contractor and each subcontractor, and shall be in such form as may be prescribed by the City within the Equal Employment Opportunity Procedure Manual.

If a vendor, supplier, contractor or subcontractor, during the performance of a City agreement or contract, is found to be in noncompliance with the goals and timetables established in the Equal Employment Opportunity/Affirmative Action Program for the particular agreement or contract as a result of the lack of effort or action on their part and after recommendations are given by the City to bring them into a compliance posture are not acted upon; that vendor, supplier, contractor or subcontractor's agreement or contract, at the discretion of the City Commission, will be subject to cancellation, termination or suspension in whole or in part, and the vendor, supplier, contractor, or subcontractor may be declared ineligible for further City contracts until such time the City Commission determines the vendor, supplier, contractor, or subcontractor concerned shows documented proof of compliance.

During the performance of any City contract or agreement, the vendor, supplier, contractor or subcontractor agrees to comply with all the provisions of the Kansas Act Against Discrimination, as amended. The vendor, supplier, contractor or subcontractor will not discriminate against any employee or applicant for employment, because of race, religion, color, sex, national origin, ancestry or physical handicap. The vendor, supplier, contractor or subcontractor will comply with Kansas Statutes, Chapters 44-1030, 44-1031 and 44-1032, in connection with contracts or agreements."

Operational Agreement Annual Report

**For Time Period January 1, 2014
through December 31, 2014**

In order to obtain consistent information from the organizations that received Operational Agreement Funding for Fiscal Year (FY) 2014, please use the following form as a template for your Annual Report due **ON or BEFORE March 15, 2015 at 5 p.m.**

Please use the attached template for your annual report in the exact order as listed. For narratives, please type the question as written and then address the answer.

Board of Directors

List your current Board of Directors and contact information; identify officers, and terms of office.

Staff

List your current staff for the past three (3) years, identify their positions and whether they are full-time or part-time employees. Also list any open positions.

Exhibitions (Museums Only)

What is the size of the collection?

What is the percentage of collection owned by Museum?

The number of new exhibits per year the Museum creates?

Education and Public Programs

On no more than three (3) separate sheets, please address the following questions. List the question first; followed by your response.

1. Describe the various educational and public programs offered by your organization.
2. How do these programs correspond with your organization's mission and core values?

3. What methods do you use to identify and measure success with these programs?
4. Who are your target participants?
5. What has your organization done to encourage participation from all ethnic groups, ages, genders, socio-economic groups etc?
6. What programming partnerships and resource sharing or collaborations has your organization developed in the past three years?
7. Describe your organization's contribution to the City of Wichita and the citizens at large.

Attendance and Membership

	Membership and Volunteers		
	2010	2011	2012
Total Paid Memberships			
Total Membership Revenue			
Total Number of Volunteers			
Total Number of Volunteer Hours			

	Attendance		
	2010	2011	2012
Total Attendance			
Total Paid Admissions			
Total school groups or tours			

On no more than one (1) separate sheet, please address the following questions. List the question first; followed by your response.

1. What steps does your organization take to increase membership?
2. What is the percentage free admission of total attendance?

3. How does the organization use new technology?

Financial revenue and expenses

	Total Operating Revenue			
	2010	2011	2012	% of Total Budget
Total City and County Support				
Total Facility Rental Revenue				
Total Admissions Revenue				
Total Membership Revenue				
Total Grant, Foundation, and Corporate Support				
Total Gift Shop Sales				
Total Fundraising and Event Revenue				
Total Revenue from Investment/Endowment				
TOTAL SUPPORT AND REVENUE				

Total Operating Expenses				
	2010	2011	2012	% of Total Expenses
Total Salaries and Benefits				
Total Building Repairs and Maintenance				
Total Utilities				
Total Marketing				
Total Other				
Total Operating Expenses				

Financial Narrative

On no more than three (3) separate sheets, please address the following questions. List the question first; followed by your response.

1. List the successful grants and foundations requests the organization applied for and received in the last 3 years.
2. How many months of operating reserve does your organization currently maintain?
3. Provide a copy of your most current 990.
4. Provide a copy of your annual operating budget for the current year.

Capital Improvements

On a separate sheet please list the Capital Improvements for the next 5 to 10 years with estimated expenditures.

Facility Maintenance

On a separate sheet please list facility maintenance including major systems and grounds maintenance the organization will provide for the next three years. List facility maintenance including major systems and grounds maintenance the organization expects the City to provide service, repair and maintenance.

Exhibit C

Performance Criteria for the Mid-America All-Indian Center, Inc.

Quality of Organizations

- Demonstrates diversity of board members and rotation of members.
- Identifies staffing levels and demonstrates adequate staffing.
- Stewardship of collection (Identifies acquisitions, loans and de-accessions).
- Appropriateness of the program/projects to the organization's core values; mission, audience, community and/or constituency.
- Organization's commitment to programs and activities reflected through attendance data.
- Demonstrates a commitment to youth programming.
- Identifies programs and percentage of cost-recovery.

Community Impact

- Demonstrates an effort to reach wide audiences including underserved populations.
- Demonstrates ability to collaborate and create program partnerships with other organizations, local businesses and schools.
- Demonstrates ability to contribute to the quality of life for the citizens of Wichita through diversity and attendance of audience and participation in programs.
- Rotates offerings/exhibits to enhance the experience of visitors or audience.

Financial Stability

- Identifies different forms of financial support including grants, fundraisers and foundation.
- Demonstrates public commitment to programs and activities reflected through earned income data. (Including total attendance, total paid admissions, total paid memberships and total attendance of school groups/tours.)
- Executes a strategic plan.
- Demonstrates 3 year growth in earned income.
- Maintains a 3 to 6 month operating reserve.
- Demonstrates sustainability.

**OPERATING PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF WICHITA, KS (CITY)
AND THE MID-AMERICA ALL INDIAN CENTER, INC, (MUSEUM)**

Whereas, The Mid-America All Indian Center, Inc., hereafter "Museum" is a not-for-profit Arts and Cultural Organization which provides education and artistic leadership to the public, and does so in part by stewardship of City-owned facilities and City grants toward the operations of Museum; and

Whereas, it is the City's intent, subject to annual City Council appropriation and the availability of funds, to assist Museum to maintain the City-owned facility from which it operates in a manner such that the facility is well maintained and is open, accessible and secure for public use and benefit, while identifying future anticipated funding amounts to assist Museum to create long range plans.

Therefore, the parties agree to the terms of the following Operating Partnership Agreement (the "Agreement"), negotiated and executed annually to address a rolling, three-year operational plan:

1. **Term.** The Term of this Agreement shall commence on January 1, 2014, and shall continue for a period of three years, unless otherwise terminated under provisions agreed to herein. The parties agree to participate in annual performance reviews, the results of which shall be considered during discussions for extension of this Agreement. The parties anticipate entering into successive extensions or renegotiations of this Agreement, unless Museum is in default of this Agreement or its Lease with City. In the event that the parties fail to formalize or conclude negotiations prior to the expiration of the Term, this Agreement shall continue in full force and effect beyond the initial Term unless cancelled under the provision set out in this Agreement or as otherwise amended.
2. **The City Facility.** City has provided to the Museum, by long term leasehold for a fee of \$1.00 per year, the property located at 650 N. Seneca, Wichita Kansas consisting of a multipurpose museum/event facility, surface parking, sidewalks and related landscaping. The entire property is of recognized cultural and/or historical importance and is dedicated through the leasehold granted to be used for museum purposes. The lease between City and Museum is attached as Exhibit A to this Agreement (the "Lease").
3. **Maintenance of the City Facility.** Responsibility for maintenance of this property is allocated between the parties in the following manner:
 - a. **Major Systems Maintenance.** Major systems maintenance items, relating to the building envelope and HVAC systems and other systems as outlined by City staff during a joint inspection of the facility are the responsibility of the City. The City retains discretionary control over the means, manner and timing of that maintenance.
 - b. **Regular Systems Maintenance.** Minor and routine maintenance items relating to interior fit and finish, wear and tear, lighting, plumbing systems, security

systems, housekeeping, etc. are the responsibility of the Museum. The Museum's maintenance regimen shall include observation, inspection and timely notice to the City of actual or impending Major System repair needs. Any failure to perform Regular Systems maintenance or provide notice of Major System repair needs leading to exacerbation of Major System Maintenance will be considered in future operations allocations.

- c. **Landscaping Maintenance.** The improvements to the property may include landscaping, through use of ornamental plantings, lawn, shrubs and trees. The property also includes hardscaping areas such as sidewalks, surfaced parking, and areas used for static exhibition. It shall be Museum's responsibility to maintain all such areas in a manner that is clean and aesthetically pleasing. All organic material shall be appropriately irrigated, fertilized and otherwise maintained in a healthy condition. Debris, leaves, ice, snow and any other material that creates a potentially hazardous or unsightly condition shall be removed by Museum with reasonable haste. To the extent that landscaping maintenance is currently provided by the City's Park Department, that level of service will continue. Museum has ultimate responsibility for the safety of pedestrian path of travel while persons are on the leased property.
- d. **Allocation of Maintenance Responsibility.** Unless otherwise agreed in writing, Museum, as the occupant with continual opportunity to evaluate property conditions, has responsibility for notice to City of all maintenance needs, and should anticipate bearing financial responsibility for that maintenance unless and until it is budgeted by the City. The Museum may negotiate with the City's Public Works and Utilities department through a separate Memorandum of Understanding to establish a different service standard for property maintenance.
- e. **Property Insurance.** The City will procure and pay for an all-risk property insurance policy, providing coverage as it deems appropriate for functional repair or replacement of the City's building and other improvements, and any artifacts or other personal property owned by the City. Museum acknowledges that repair or replacement with identical or similar materials, and with identical or similar levels of skilled labor or craftsmanship may not be available or may not be economically feasible. Museum obtains no right under this Agreement, the Lease, or any insurance policy carried by the City to require repair or replacement of City property to any particular standard or condition. Payment for this policy shall be made from the unallocated portion of the Cultural Arts levy, before distribution to recipients of supplemental operating funding.
- f. **Utilities.** Museum shall pay all costs for utility services (whether for installation, service, administration, connection, or maintenance thereof) used at the facility or upon the premises, with no responsibility or expense accruing or inuring to City, including all permits, licenses or authorizations necessary in connection therewith. Such payments by Museum shall be made directly to the utility supplier or service provider. Unless otherwise agreed upon in writing, if Museum requires utilities beyond that currently provided or that are available to be extended to the premises boundary, Museum agrees to pay the full cost and

expense associated with the upgrade/extension/installation of all such utilities related to its use of the premises, and to comply with all provisions for maintaining such utilities.

- g. **Modifications to the Facility.** The Museum shall obtain prior approval from the Division of Cultural Arts and Services before making any modifications to the City facility, whether such modification is intended for preservation, operational efficiency, aesthetic improvement or other purpose. The City retains unfettered discretion on the approval decision. Any such change, if allowed, shall be for the benefit of the Museum only, and not on behalf of or for the benefit of the City. Any modification shall be secured before commencing the work by a public works bond for both performance and payment from a surety approved by the City Attorney. The Museum indemnifies the City against the imposition of any mechanic's lien for work done on the leasehold property. The parties acknowledge that any such improvement is for the sole benefit of the Museum, and shall be removed and the original condition restored on lease termination, unless this requirement is waived in writing by the City. Upon completion, any modification, other than approved and acknowledged trade fixtures, shall become immediately the property of the City.
- h. **Cooperation with Maintenance.** Museum agrees to work cooperatively and in good faith with City and contractors in facility improvement and maintenance activities to minimize any disruptions. If requested by the City, Museum shall cooperate with and assist City to the greatest extent possible in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such facility development, improvement, and maintenance activities.
- i. **Waste Prohibited.** Museum acknowledges that the facility is itself a significant part of the City's cultural heritage, and must be protected. Museum will guard against and not commit waste of the facility by action or neglect, and will cooperate with City to allow inspections at all reasonable times, and will report all instances of property damage regardless of cause, in a timely fashion. Should Museum fail to so report or allow inspection, or be known to have committed waste, the parties recognize that the facility is unique property of substantial value, and stipulate that injunctive relief is appropriate to enforce the provisions of this Agreement.

4. **Museum Governance and Operation:**

- a. **Governance.** The Museum shall maintain its status as a non-profit organization, and demonstrate at the request of the City that this status is current. The Museum shall establish and maintain a governing board that operates under reasonable procedural standards that promote transparency for both stakeholders and the public. The governing board of the Museum should be comprised of individuals reflecting the interests and perspectives of both stakeholders and the general public. Board service should be subject to reasonable term limits.

- b. **Identity.** Museum must retain its status as a not-for-profit corporation under State of Kansas Law with a specific legal identity and business purpose as registered with the Secretary of State.
- c. **Operation.** Museum shall perform conservation, curation, public education and other activities and duties consistent with its mission and the goals of the City's Cultural Arts Plan. These activities shall be reported to the City for evaluation annually using the Operational Agreement Annual Report form attached as Exhibit B. This form shall be progressively modified as required on a yearly basis to allow current reporting of data.
- d. **Performance Measures:**
- i. Museum shall establish and then annually review and report its identified mission and core goals, which should be supportive of the goals set out in the City's Cultural Arts Plan.
 - ii. Museum shall analyze and demonstrate how its annual programming, activities and functions are appropriate and supportive of its identified mission and core goals.
 - iii. Museum shall maintain the vitality of its governing board by demonstrating how the board attendance and participation requirements has been enforced; how its adherence to established term limits has been met; and how racial, geographical and economic diversity has been sought.
 - iv. Museum shall demonstrate attainment or progress satisfactory to the City toward attainment of its Agreed Performance Measures, attached at Exhibit C. These Performance Measures are to be reviewed and adjusted after completion and filing of the Operating Agreement Annual Report.
- e. **Employment of Staff and Corporate Independence:**
- i. **Personnel.** Museum employs no City personnel, but City employees under City direction may be employed to work at the Museum facility. These City employees, if they exist, are provided at the direction and request of the Museum Board of Trustees based upon agreed positions, duties, and staffing levels. The Museum is obligated to reimburse the City for the full personnel costs of the City employees provided in this manner, except that the Museum will not be obligated to reimburse the City for the personnel costs of the City employees for any time spent working for any department or facility of the City unless said time is for the direct benefit of the Museum.
 - ii. **Employment of the Director.** The City is responsible for the hiring and/or termination of all employees of the City working at Museum, including the Director of the Museum, but shall consult with the Board of Trustees of the Museum regarding such hirings and/or terminations. The Director will supervise the overall operation of the Museum. The City shall establish the Director's

compensation and other terms and conditions of employment, but shall consult with the Museum regarding such compensation and conditions.

iii. **Consultation.** The Director shall take guidance and direction from the Board of Trustees of the Museum, but shall conduct all work under the direct supervision from the Director of Arts & Cultural Services. Museum and the City agree that the City Manager or Director of Arts & Cultural Services shall consult and will work in cooperation to determine and establish the appropriate levels of staffing for the facility.

iv. **Corporate Independence.** Nothing in this Agreement shall be deemed to create an agency or joint venture relationship. Both parties are, and shall remain, separate, independent corporate entities. No employee of either shall be deemed to be the employee or agent of the other. Should any corporate officer or elected official of either body participate as a member of the governing body of the other, that officer or elected official shall only be deemed to be acting on behalf of the individual deliberative body for which he or she is then currently engaged.

f. **Nondiscrimination.** The Museum agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The Museum agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.

5. **Financial Stability.** Museum recognizes that one of its key obligations is to demonstrate the ability to achieve, separate from City support, growth in its direct fundraising capacity or in other financial assets that allow it to provide increasingly independent continuity of services for all Wichita citizens and visitors.

a. **Planning.** The Museum shall include in its Operational Agreement Annual Report (the template for which is shown as Exhibit B to this Agreement) a five (5) year maintenance and operating forecast and a ten (10) year capital improvement forecast, prepared after a careful premises inventory. These forecasts should clarify the needs of the Museum for both premises and program, and include statements of the anticipated revenue sources for operations and capital. The Museum should seek input from City Cultural Arts and Services staff when preparing these documents, and anticipate that they may be subject to change upon annual renewal of the Operating Partnership Agreements.

b. **Capital Expenditure Funding.** Museum agrees to prepare, as part of its annual report to City, and City agrees to review and evaluate an updated evaluation and needs assessment for capital improvements for the facility. However, Museum agrees to pay all costs incurred in connection with the construction of the new structures, facilities and improvements, unless otherwise expressly agreed to in writing by the Museum and City. In any case of construction, Museum agrees to make direct payment to all materials, product and service providers for all such costs as they are incurred. Museum shall have no right, authority, or power to

bind City for the payment of any claim for labor or material or for any charge or expense incurred in the erection, construction, operation, or maintenance of said improvements. Museum agrees to require contractors to name the City as beneficiary of the required original performance bond and the City as additional insured in any comprehensive accident or general liability insurance; builder's risk insurance; or any other policies obtained by the Museum relating to the approved construction.

- c. **City Indirect Support.** The City provides to Museum a City facility at nominal rent, and major systems maintenance of that facility. Through its planning process, Museum will work with City staff to identify work that will be provided by the City for the benefit of Museum. The value of these services will be included in the evaluation of Museum's total City support.
- d. **Direct Support.** Through this Agreement, the City will provide to Museum direct payment of funds that may be used by Museum for its operations. This funding is tied to the fraction of the Cultural Arts mill levy that is allocated to Museum by City Council. The allotment fraction will remain fixed for the three years covered by this Agreement. The absolute dollar amount provided to Museum will fluctuate from year to year during this Agreement, as do the revenues obtained by the applicable tax mill levy. However, the annual direct support provided by the City to Museum for the three years of this Agreement can be approximated at \$ 172,654.00.
- e. **Rent Adjustment.** To the extent that Museum has an existing lease with the City for its facility that calls for rent at an amount greater than \$1.00 per year, this Agreement serves as formal written waiver of the rent due in excess of \$1.00 per year, effective as of January 1, 2014, through the term of this Agreement, and any renewal hereof unless modified by City and Museum through amendment to this Agreement.. All other terms and conditions of the existing lease shall remain in effect during the term of this Agreement.

6. **Assignment.** Museum shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of City. Any assignment or delegation so made and so permitted shall be subject to all terms, conditions and other provisions of this Agreement.

7. **Indemnification.** Each party shall protect, defend and hold the other, its officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, or other liability loss, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to the use or occupancy of the facility or premises or the acts or omissions of that party's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death, damage or liability loss may occur, except to the extent such injury, death, damage or liability loss is caused by the negligence of the indemnified party. Each party shall give the other reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or termination of this

Agreement to the extent that they relate to liabilities, losses, suits, claims, judgments, fines or demands arising from or incident to events occurring during the effective term of this Agreement or an extension or modification thereof.

8. **Insurance Requirements.** Museum shall procure, maintain and carry, at its sole cost in accordance with this Agreement, all insurance as required per the amounts as set forth below. Insurance shall be furnished by a company meeting with the reasonable approval of the City Attorney. The requirements, procurement and carrying of the required insurance shall not limit any of the Museum's obligations or liability under this Agreement or as a matter of law. Where "minimum limits" of insurance are specified, such minimum insurance limits are required and considered by City to be the lowest insured amounts acceptable under this Agreement. The Museum is not limited or restricted whatsoever in securing additional insurance coverage and higher insured limits than those specified herein if, at Museum's determination and discretion and commensurate with the type of activity and associated business and operational risk, additional coverage and higher limits are necessary and appropriate.

Insurance shall include the following terms, conditions and minimum limits:

a. **WORKERS' COMPENSATION**

Museum shall maintain Workers' Compensation insurance to cover the statutory requirements of the Workers' Compensation laws of the State of Kansas for its operations on the Premises, and when applicable, to Federal Laws and Voluntary Compensation and Employer's Liability (including occupational disease) coverage.

b. **AUTOMOBILE LIABILITY**

Museum shall maintain automobile insurance, which shall include all owned, non-owned and hired automobiles used on the premises, and shall have minimum bodily injury and property damage limits as outlined herein.

Combined Single Limit	\$500,000 Each Accident
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c. **COMMERCIAL GENERAL LIABILITY**

Museum shall maintain Commercial General Liability insurance on an occurrence form. Minimum limits, as outlined herein, shall be:

Annual Aggregate	\$500,000
Each Occurrence	\$500,000

The City of Wichita shall be added as a primary and non-contributory additional insured, and Museum acknowledges the contractual responsibility to respond in defense and indemnity for any claims raised by third parties resulting from the negligent acts or omissions of Museum's officers, employees, agents or invitees.

d. **UMBRELLA/EXCESS LIABILITY COVERAGE**

The Museum shall provide minimum Umbrella/Excess liability limits (excess of all automobile and commercial general liability) of:

Each Occurrence Limit	\$1,000,000
Annual Aggregate Limit	\$1,000,000

The City of Wichita shall be added as primary and non-contributory additional insured covered under this umbrella/excess liability coverage.

Museum agrees that in the event of future changes in the law or upon notice by the City, the minimum levels of insurance required by this section may be increased within the bounds of commercial reasonableness.

9. **Personal Property.** Any personal property of Museum or others placed in or upon the premises shall be at the sole risk of the Museum, and City shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the Museum waives all rights of recovery from or subrogation against the City for such loss or damage unless such loss or damage is the result of the City's negligence. Museum shall be solely responsible for obtaining insurance policies that provide coverage for losses of Museum-owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Museum's cost for such insurance.

10. **Cancellation.** The City, in addition to any other rights to which it may be entitled by law or otherwise, may cancel this Agreement by giving Museum sixty (60) days written notice, in order to assure compliance with Kansas Cash Basis and Budget law requirements. During this notice period, management from both parties shall confer in an attempt to determine if the dispute may be mitigated sufficiently or resolved prior to expiration of the sixty (60) day period. Barring such satisfactory resolution, the termination shall be effective at the end of the originally noticed sixty (60) day period. Additionally, this Agreement shall terminate in conjunction with termination of the underlying Lease, when accomplished by either party.

11. **Waste Management.** Museum shall be responsible for the removal and disposal of garbage, debris, contaminants and any other waste material (whether solid or liquid) arising out of its occupancy of the facility or out of its operation. Such removal shall conform to all governmental requirements and regulations. Such removal and disposal of garbage, debris, contaminants, or other waste material is understood to include routine clean-up of the facility and premises. Museum shall immediately react and take prompt corrective actions to remove and dispose of any paper, garbage and debris on the premises upon demand of City. Museum shall provide, and screen from public view, suitable covered receptacles for all garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets or other similar items in an unsightly or unsafe manner on or about the premises is forbidden. In the event Museum shall fail to perform its upkeep, maintenance and repair responsibilities, City may, but is not obligated to, perform maintenance and make repairs thereon and thereto which it determines to be necessary, charging the same cost to the expense of Museum, to include a twelve percent (12%) administrative fee, upon thirty (30) days prior written notice of its intent to do so.

12. **Severability and Invalid Provisions.** In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the City or the Museum in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this Agreement.

13. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provision of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-29350), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the reasoned opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

14. **Non-Waiver of Rights.** No waiver or default by either party of any of the terms, covenants and conditions to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.

This Agreement is executed and effective this 19th day of July, 2014.

CITY OF WICHITA, KANSAS

Mid-America All-Indian Center, Inc

Carl Brewer, Mayor

Michelle I. Sutton
Michelle I. Sutton, Chair

ATTEST:

Witnessed:

Karen Sublett, City Clerk

Print Name: _____

Approved as to Form:

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Permanent Street Closures at Railroad Crossings on Boston and Clark at Mead Street (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the permanent street closures and agreements; place the ordinance on first reading.

Background: The Union Pacific Railroad (UPRR) mainline tracks run adjacent to Mead Street between Lincoln and Pawnee. Within the corridor are 12 at-grade railroad crossings, making it one of the densest corridors in the City of Wichita. The Mead Corridor is one of the locations identified in the 2012-2013 Railroad Crossing Improvement Program, which was approved by the City Council on August 27, 2013. As part of the improvements to this corridor, City staff and the UPRR propose closing Boston and Clark Streets to through traffic at the railroad tracks adjacent to Mead. The District III Advisory Board sponsored a neighborhood hearing on the proposed closures on December 4, 2013. The Board voted six to two in favor of closing the streets.

Analysis: Repetitive crossings increase safety risks, maintenance costs, signal problems, and noise disturbances. These crossings were selected due to low vehicle traffic volumes, the relatively low impact to commercial traffic, the cost of maintenance to the existing gates at Boston, and the high cost of upgrading the crossing at Clark were it to remain open. The closures will require installation of permanent barricades at both crossings, removal of the gates and signal cabinet at Boston, and removal of the crossbucks at Clark. Additionally, some grading work may be required for the affected approaches. Mead would remain open providing access for northbound and southbound traffic to adjacent crossings.

The proposed agreements between the City and the UPRR authorize the City to install permanent barricades at the Boston and Clark crossings and establish the basis for reimbursement by the Railroad. The agreements provide that City staff may complete the work or solicit bids from contractors if needed.

Financial Considerations: The UPRR has agreed to compensate the City \$90,000 for the Boston Street closure and \$50,000 for the Clark Street closure. Additionally, the Kansas Department of Transportation (KDOT) has offered a \$7,500 contribution for each crossing closure. In total, the City will receive \$155,000 in reimbursements, which staff estimates will be sufficient to cover the cost of the required work and materials.

The City Council approved \$300,000 in General Obligation bond funding for the City's contribution to the 2012-2013 Railroad Crossing Improvement Program on August 27, 2013. Authorization to make payments from this budget for work associated with the program was approved by the City Council on January 7, 2014. Any costs incurred by the City as a result of these closures will be paid from the existing approved budget before being reimbursed by the UPRR or KDOT.

Legal Considerations: These street closures are being accomplished by simple ordinance under the City's Home Rule Authority established under Article XII, Sec. 5 of the Constitution of the State of Kansas. It should proceed through the regular process of providing an opportunity for hearing between the first and second readings, in order to be effective.

Recommendation/Actions: It is recommended that the City Council approve the closures and agreements, place the ordinance on first reading, and authorize all necessary signatures for the acquisition or granting of easements, railroad agreements, and all required permits.

Attachment: Map, ordinance and agreements.

(Published in the Wichita Eagle on August 15, 2014)

ORDINANCE NO. 49-808

AN ORDINANCE PERMANENTLY BARRING THE CROSSING OF VEHICLES OVER THE RAILROAD TRACKS ON BOSTON AND CLARK STREETS, AT MEAD STREET, IN THE CITY OF WICHITA, KANSAS, AND REPEALING ALL ORDINANCES OR PARTS THEROF WHICH ARE IN CONFLICT HEREWITH.

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

SECTION 1. That it is hereby declared to be in the interest of the public to permanently bar the crossing of vehicles over the railroad tracks on Boston and Clark Streets, at Mead Street, in the City of Wichita, Kansas. Said prohibition shall be enforced by the placement of permanent barricades.

SECTION 2. That the advisability of said improvements is established and authorized by K.S.A. 13-1024c, as amended by City of Wichita Charter Ordinance No. 156.

SECTION 3: That all ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

SECTION 4. That this ordinance shall take effect and be in force from and after its adoption and publication in the official city newspaper.

PASSED AND ADOPTED at Wichita, Kansas this 12 day of August, 2014.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Approved as to Form:

Karen Sublett, City Clerk

Sharon L. Dickgrafe
Interim Director of Law and City Attorney

AGREEMENT

RAILROAD HIGHWAY GRADE CROSSING CLOSURE
PUBLIC GRADE CROSSING USDOT NO. 595052K
BOSTON STREET
RAILROAD MILEPOST 245.78,
ENID SUBDIVISION,
CITY OF WICHITA, COUNTY OF SEDGWICK, STATE OF KANSAS

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2014 ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"), and **CITY OF WICHITA**, a municipal corporation of the State of Kansas ("Public Authority").

RECITALS

The Public Authority desires to close Boston Street ("Roadway") at the at-grade public road crossing at Railroad Milepost 245.78, DOT No. 595052K in the City of Wichita, State of Kansas on Railroad's Enid Subdivision ("Crossing").

AGREEMENT

NOW THEREFORE, It is mutually agreed by and between the Railroad and the Public Authority as follows:

SECTION 1. The Public Authority, after taking all actions necessary to permanently close the Roadway at the Crossing and install permanent barricades, will submit a billing statement in the amount of NINETY THOUSAND Dollars (\$90,000) to the Railroad.

SECTION 2. The Railroad hereby agrees to pay the Public Authority the sum of NINETY THOUSAND Dollars (\$90,000) upon (i) the receipt of the above mentioned billing statement and (ii) the receipt of a copy of the Ordinance or Resolution duly passed and adopted by the Public Authority that authorizes and directs the closure of the Roadway and Crossing as described in this Agreement.

SECTION 3. The Public Authority retains Roadway right-of-way and easements through the Crossing but does not retain the right to unilaterally remove the barricades or reopen the Crossing. The Railroad is the only party that can direct that the barricades be removed. The Railroad reserves the right to cross the Crossing with such railroad tracks as may be required for its convenience or purposes. The Railroad further reserves the right to use and to grant to others the right to use the Crossing for any purpose not inconsistent with the Public Authority's use, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing with all kinds of equipment.

SECTION 4. The Railroad, at its expense, further agrees to remove the railroad crossing surface and warning devices (crossbuck signs, etc.) which currently exist at the Crossing, upon the receipt of the above mentioned statement and copy of the Ordinance or Resolution.

SECTION 5.

A. Prior to the Railroad's removal of the crossing surface and warning devices, the Public Authority, at its expense, shall install, maintain, repair and renew permanent barricades on both sides of the Crossing with such barricades to be in compliance with the plans marked **Exhibit A**, attached hereto and hereby made a part hereof, and also all applicable standards and guidelines contained in the current Manual on Uniform Traffic Control Devices ("MUTCD").

B. The Public Authority, at its expense, shall also (i) provide new advance street signs and pavement markings to indicate that the Roadway at the Crossing is closed, with such signage to be in compliance with applicable current MUTCD standards and guidelines, (ii) remove all Roadway approach surfaces up to the track tie ends, and (iii) require its contractor to execute the Railroad's Contractor's Right of Entry Agreement marked **Exhibit B**, attached hereto and hereby made a part hereof, and for the contractor to provide to Railroad the insurance policies, certificates and endorsements required therein before allowing any contractor to commence any work at the Crossing.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date first herein written.

CITY OF WICHITA

UNION PACIFIC RAILROAD COMPANY

Carl Brewer, Mayor

John Hovanec, AVP Engineering

Attest:

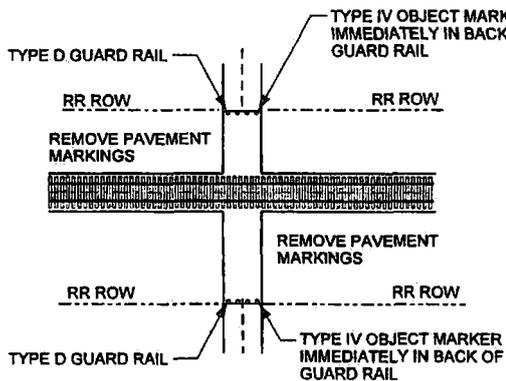
Attest:

Karen Sublett, City Clerk

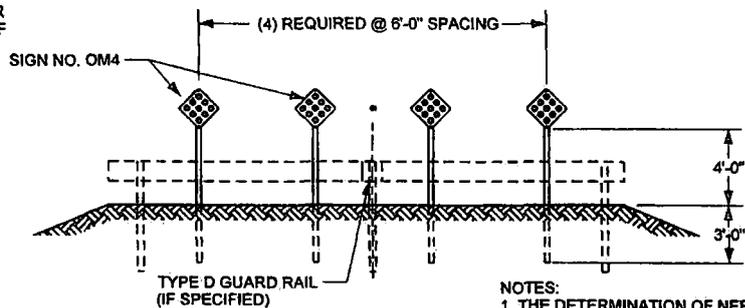
Melinda DuBay, Manager Public Projects

Approved as to form:

Gary E. Rebenstorf, City Attorney



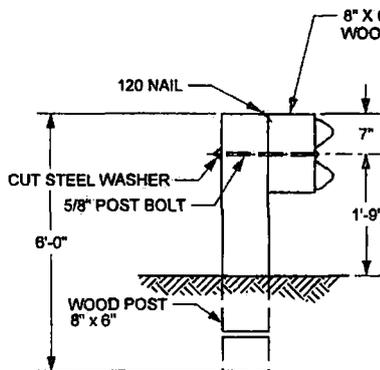
TYPICAL ROAD CLOSED



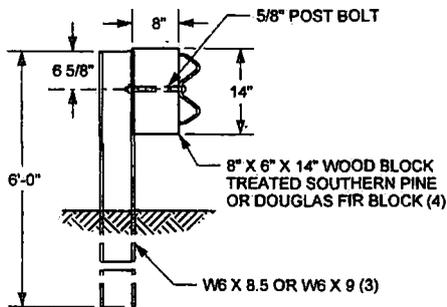
MOUNTING DETAILS
TYPE IV OBJECT MARKER - SIGN OM4
(END OF ROAD OR STREET)

NOTES:

1. THE DETERMINATION OF NEED OF ANY BARRICADES ASSOCIATED WITH THE CLOSURE OF A PUBLIC ROADWAY WILL BE MADE BY THE STATE REGULATORY AGENCY OR THE PUBLIC ROAD AUTHORITY.
2. TYPE IV BARRICADES ARE TO ONLY BE USED WHEN A PUBLIC ROADWAY IS PERMANENTLY CLOSED TO ROADWAY USERS.
3. IT IS PERMISSIBLE TO UTILIZE A TYPE III BARRICADE WHEN SPECIFIED BY THE STATE REGULATORY AGENCY OR THE PUBLIC ROAD AUTHORITY.
4. WHEN SITE CONDITIONS WARRANT, BARRICADES CAN BE LOCATED OTHER THAN AT RIGHT OF WAY LINE WHEN SPECIFIED BY THE STATE REGULATORY AGENCY OR THE PUBLIC ROAD AUTHORITY.
5. POST MAY BE WOOD OR STEEL WITH ONLY ONE MATERIAL ALLOWED WITHIN A SINGLE PROJECT, EXCEPT FOR END TREATMENTS.
6. ALL DIMENSIONS ARE SUBJECT TO MANUFACTURER'S TOLERANCES EXCEPT WHERE ALLOWABLE TOLERANCES ARE SHOWN.
7. SEE PAGE 2 AND 3 FOR MORE DETAILS.



WOOD POST & BLOCK



STEEL POST & WOOD BLOCK

WOOD POST & BLOCK

UNION PACIFIC RAILROAD
ENGINEERING STANDARDS

TYPE IV BARRICADE FOR
ROAD CROSSING CLOSURE

APPROVED: *[Signature]*
VP ENGINEERING
ADOPTED: AUG. 14, 2009
REVISED:
FILE NO.: 0310

STD DWG
0310
PAGE 1 OF 3

STD DWG
0310
PAGE 1 OF 3

EXHIBIT A

EXHIBIT B

**CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and _____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating _____ to _____ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost _____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____] located at or near _____, in _____ County, State of _____, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, which work is the subject of a contract dated _____ between Railroad and _____.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the (i) insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____

Folder No. _____

ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 9- ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$_____) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 11.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____

Title: _____

(Name of Contractor)

By: _____

Title: _____

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY E. REBENSTORF
DIRECTOR OF LAW

EXHIBIT B
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even

though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

b. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

b. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

c. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

d. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

e. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. **Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. **Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. **Workers' Compensation and Employers' Liability** insurance. Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. Railroad Protective Liability insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.
- E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance.** Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G.** All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.

- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
 - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
 - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers

- 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
-
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

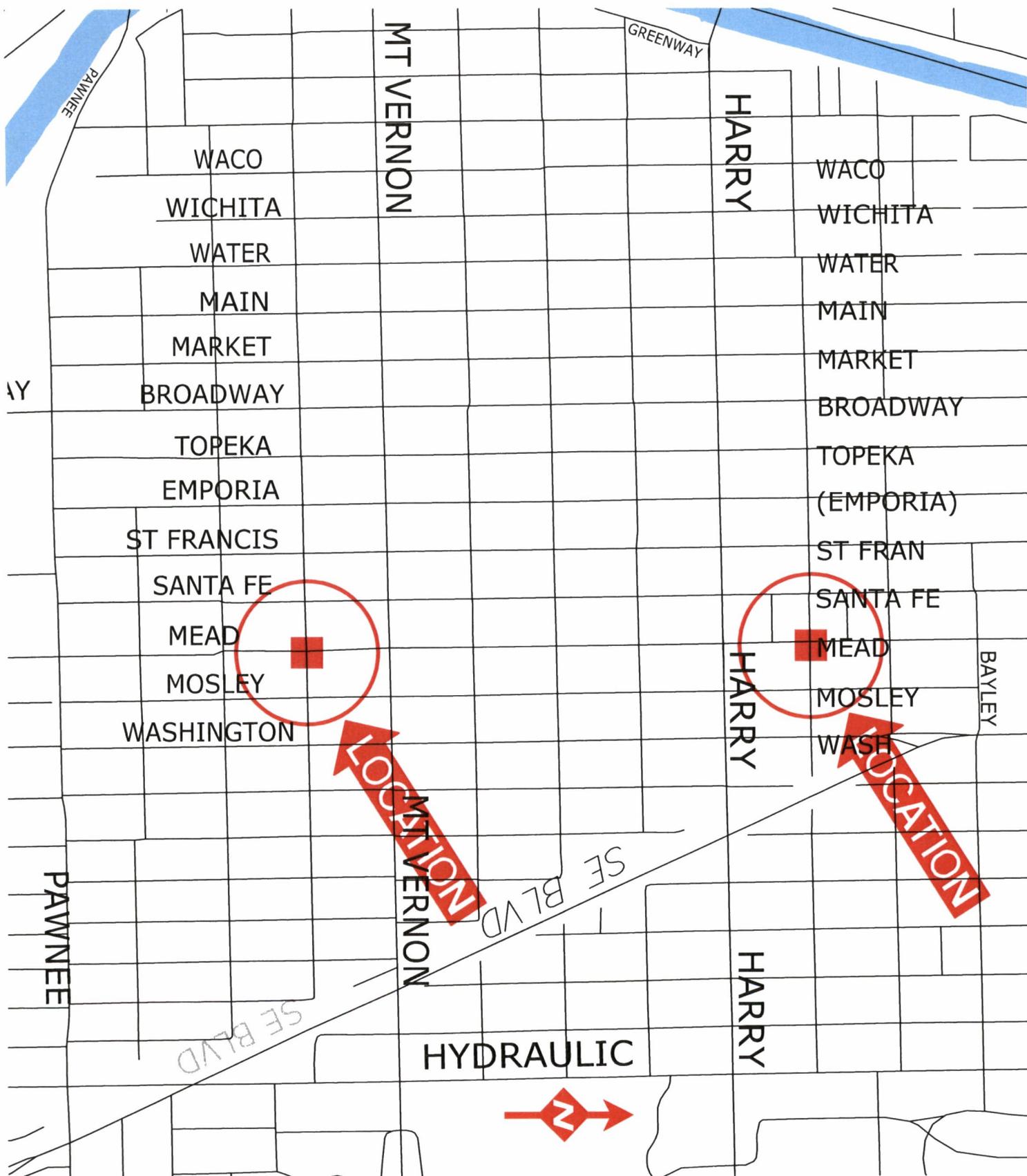
- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as

conditions, work procedures, or personnel change.

- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
 - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.



AGREEMENT

RAILROAD HIGHWAY GRADE CROSSING CLOSURE
PUBLIC GRADE CROSSING USDOT NO. 595058B
CLARK STREET
RAILROAD MILEPOST 246.57,
ENID SUBDIVISION,
CITY OF WICHITA, COUNTY OF SEDGWICK, STATE OF KANSAS

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2014 ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"), and **CITY OF WICHITA**, a municipal corporation of the State of Kansas ("Public Authority").

RECITALS

The Public Authority desires to close Clark Street ("Roadway") at the at-grade public road crossing at Railroad Milepost 246.57, DOT No. 595058B in the City of Wichita, State of Kansas on Railroad's Enid Subdivision ("Crossing").

AGREEMENT

NOW THEREFORE, It is mutually agreed by and between the Railroad and the Public Authority as follows:

SECTION 1. The Public Authority, after taking all actions necessary to permanently close the Roadway at the Crossing and install permanent barricades, will submit a billing statement in the amount of FIFTY THOUSAND Dollars (\$50,000) to the Railroad.

SECTION 2. The Railroad hereby agrees to pay the Public Authority the sum of FIFTY THOUSAND Dollars (\$50,000) upon (i) the receipt of the above mentioned billing statement and (ii) the receipt of a copy of the Ordinance or Resolution duly passed and adopted by the Public Authority that authorizes and directs the closure of the Roadway and Crossing as described in this Agreement.

SECTION 3. The Public Authority retains Roadway right-of-way and easements through the Crossing but does not retain the right to unilaterally remove the barricades or reopen the Crossing. The Railroad is the only party that can direct that the barricades be removed. The Railroad reserves the right to cross the Crossing with such railroad tracks as may be required for its convenience or purposes. The Railroad further reserves the right to use and to grant to others the right to use the Crossing for any purpose not inconsistent with the Public Authority's use, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing with all kinds of equipment.

SECTION 4. The Railroad, at its expense, further agrees to remove the railroad crossing surface and warning devices (crossbuck signs, etc.) which currently exist at the Crossing, upon the receipt of the above mentioned statement and copy of the Ordinance or Resolution.

SECTION 5.

A. Prior to the Railroad's removal of the crossing surface and warning devices, the Public Authority, at its expense, shall install, maintain, repair and renew permanent barricades on both sides of the Crossing with such barricades to be in compliance with the plans marked **Exhibit A**, attached hereto and hereby made a part hereof, and also all applicable standards and guidelines contained in the current Manual on Uniform Traffic Control Devices ("MUTCD").

B. The Public Authority, at its expense, shall also (i) provide new advance street signs and pavement markings to indicate that the Roadway at the Crossing is closed, with such signage to be in compliance with applicable current MUTCD standards and guidelines, (ii) remove all Roadway approach surfaces up to the track tie ends, and (iii) require its contractor to execute the Railroad's Contractor's Right of Entry Agreement marked **Exhibit B**, attached hereto and hereby made a part hereof, and for the contractor to provide to Railroad the insurance policies, certificates and endorsements required therein before allowing any contractor to commence any work at the Crossing.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date first herein written.

CITY OF WICHITA

UNION PACIFIC RAILROAD COMPANY

Carl Brewer, Mayor

John Hovanec, AVP Engineering

Attest:

Attest:

Karen Sublett, City Clerk

Melinda DuBay, Manager Public Projects

Approved as to form:

Gary E. Rebenstorf, City Attorney

EXHIBIT B

CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and _____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating _____ to _____ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost _____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____] located at or near _____, in _____ County, State of _____, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, which work is the subject of a contract dated _____ between Railroad and _____.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the (i) insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____
Folder No. _____

ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 9- ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$_____) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 11.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____

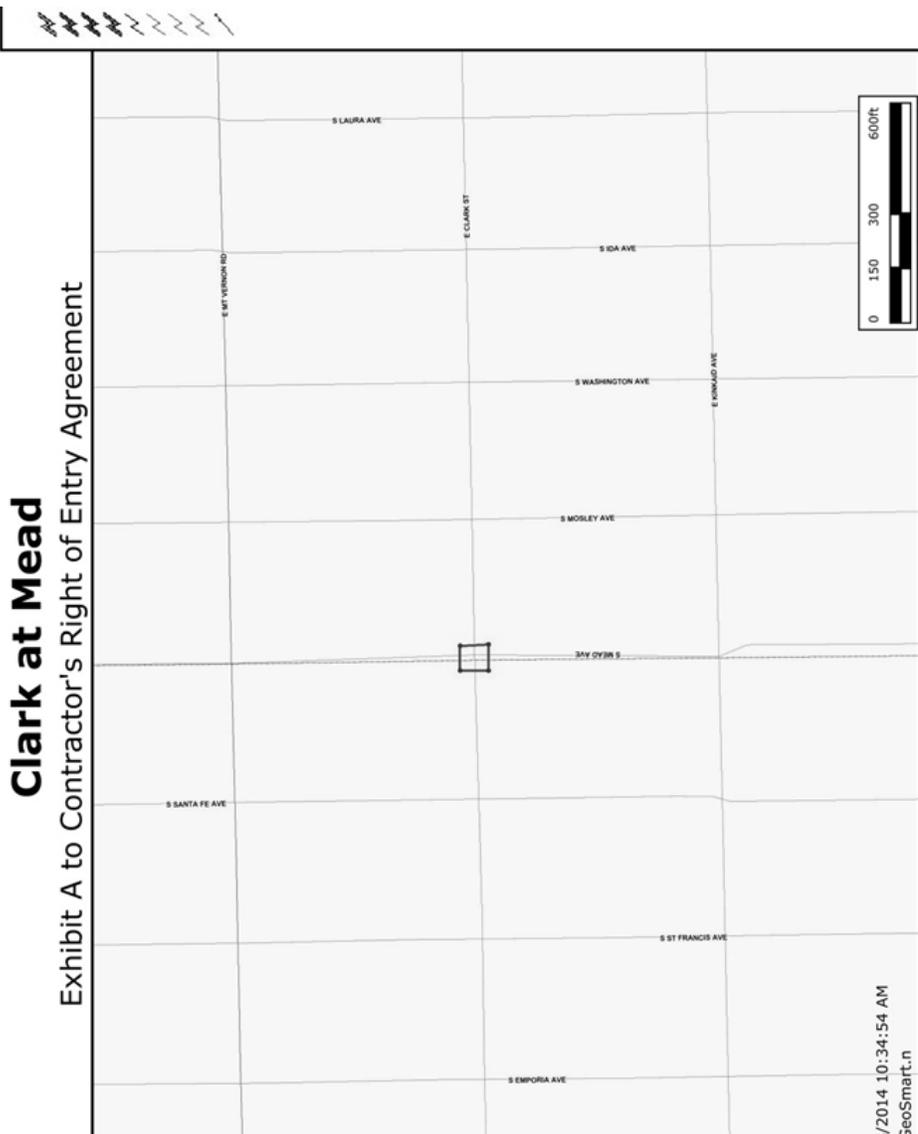
Title: _____

(Name of Contractor)

By: _____

Title: _____

EXHIBIT A
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT



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 inaccuracy drawn from such information as 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 information 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 & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

EXHIBIT B

TO

CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even

though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

b. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

b. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

c. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

d. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

e. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. Workers' Compensation and Employers' Liability insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. Railroad Protective Liability insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.
- E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance.** Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G.** All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.

- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
 - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
 - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers

- 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
-
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as

conditions, work procedures, or personnel change.

- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
 - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council Members
SUBJECT: 2015 Annual Operating Budget
INITIATED BY: City Manager's Office
AGENDA: New Business

Recommendation: Receive public comment.

Background: The 2015 Proposed Budget has been developed over the past several months based on input from the public and direction from the City Council. Community engagement has been emphasized, using neighborhood meetings and social media town halls. On July 15, 2014, the City Manager's Proposed Budget was presented to the City Council and the official budget adoption date (as required by State statute) was set for August 12, 2014.

Analysis: The local operating budget totals \$578 million (which does not include internal service funds, capital projects, grant funds, trust funds or interfund transfers). The General Fund totals slightly more than \$218 million of that amount. The budget is formulated to adhere to the City's mission by allocating resources in strategic priority areas. Although only legally required to produce a budget for 2015, the City budget also includes recommendations for 2016, to enhance planning processes. The highlights of the 2015 Proposed Budget include:

- **The mill levy rate is unchanged.** The budget is based on an estimated mill levy rate equal to last year. This is the 21st consecutive year that the mill levy has remained flat.
- **Reserves are maintained at appropriate levels.** The budget includes General Fund reserves of \$25 million, which is greater than 10% of projected expenditures, in accordance with City Council policy.
- **Strategic priority areas are funded.** In 2009, the City Council identified four strategic priorities: protecting life, protecting property, investing in infrastructure and ensuring a growing and sustainable community. Funding levels in the budget focus on these strategic priority areas.

Financial Considerations: The Proposed Budget would require a mill levy estimated at 32.509 mills (24.009 for the General Fund and 8.500 for the Debt Service Fund), based on the estimated assessed valuation provided by the Sedgwick County Clerk and the taxes levied in the budget. The total estimated mill levy is unchanged from the 2014 mill levy.

Legal Considerations: To comply with State law, the City of Wichita must hold two public hearings, one to set the maximum levy and to set the official budget hearing date (which occurred on July 15, 2014) and one to adopt the budget (scheduled for August 12, 2014).

Recommendation/Action: It is recommended that the City Council receive public comment on the 2015 Proposed Budget.

Wichita, Kansas
July 28, 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, Zack Daniel, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated July 21, 2014, were read and on motion approved.

Bids were opened July 25, 2014, pursuant to advertisements published on:

2014 Sanitary Sewer Reconstruction Phase 8 (north of Harry, east of Seneca) (468-84974/620710/ 664015) Traffic to be maintained during construction using flagpersons and barricades. (District I, II, IV)

Stannard Construction dba WB Carter - \$139,492.50

2014 CIP/Contract Maintenance Thermal Crack Repairs Phase 5 (Various Locations) (472-85138/ 707063/132726/211527/132726) Traffic to be maintained during construction using flagpersons and barricades. (District IV)

PP&J Construction* – 716,060.00 * Engineer's Estimate

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:
Rubber Track Snow Pusher.**

Professional Turf Products LP - \$21,973.00

**PUBLIC WORKS AND UTILITIES DEPARTMENT/WATER DISTRIBUTION DIVISION:
Restrained Joint Pipe and Accessories.**

HD Supply Waterworks Ltd* - \$168,100.00

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

**PARK AND RECREATION DEPARTMENT/MAINTENANCE DIVISION: Park, ROW and
Public Ground Maintenance Group 1- 13.**

Commercial Lawn Management of Wichita Inc.* - \$110,560.00 Group Total

Redirect Group 12

*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 Supervisor, Department of Public Works reported that Pearson Construction, LLC. , submitted an Annual Bid Bond, written by the Western Surety Company in the amount of 5 percent not to exceed \$37,500.00, and dated July 15, 2014, as bid security for items bid on by the Principal. In the event the total of such bid or bids exceeds the maximum amount which the bond will cover in accordance with the specifications at any one time, then sufficient bid security will be required. The bond was approved as to form by the Legal Department.

On motion the Board recommended that the annual bid bond be approved.

On motion the Board of Bids adjourned.

Marty Strayer, Administrative Assistant
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

Wichita, Kansas
August 4, 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, Zack Daniel, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated July 28, 2014, were read and on motion approved.

Bids were opened August 1, 2014, pursuant to advertisements published on:

Morris from the southwest property line of Lot 24, Block 9, Clear Creek Addition to Morris Circle; Spring Hollow Drive from the north property line of Lot 1, Block 9, Clear Creek Addition to Morris Circle to serve Clear Creek Addition (south of Kellogg, west of 143rd Street East) (472-85132/ 766306/490324) Does not affect existing traffic. (District II)

Conspec Inc. dba Kansas Paving - \$217,167.00*
*Subject to Budget Approval by City Council

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.

WICHITA TRANSIT/Janitorial Services- Transit Center/ Bus Interior.

EH Technical Solutions Inc.* - \$34,225.00 Redirect 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.

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: August 4, 2014

ENGINEERING BIDS – GARY JANZEN, CITY ENGINEER**July 25, 2014**

2014 Sanitary Sewer Reconstruction Phase 8 (north of Harry, east of Seneca) – Public Works & Utilities

Department/Engineering Division

Stannard Construction dba W. B. Carter Construction Company **\$139,492.50**

2014 CIP/CM Thermal Crack Repairs Phase 5 (Various Locations) – Public Works & Utilities

Department/Engineering Division

PP&J Construction (Engineer's Estimate) **\$716,060.00****August 1, 2014**

Morris/Spring Hollow Drive Clear Creek Addition – Public Works & Utilities Department/Engineering Division

Conspec, Inc. dba Kansas Paving (Subject to Budget Approval by City Council) **\$217,167.00****PURCHASING BIDS – MELINDA A. WALKER, PURCHASING MANAGER****July 25, 2014**

Rubber Track Snow Pusher – Public Works & Utilities Department/Fleet & Facilities Division

Professional Turf Products, LP **\$21,973.00**

Restrained Joint Pipe and Accessories – Public Works & Utilities Department/Water Distribution Division

HD Supply Waterworks, Ltd (See Exhibit C for Itemized Pricing in **\$168,100.00**

the Formal Bid Report)

Park, ROW and Public Facility Grounds Maintenance Group 12 – Park & Recreation Dept./Maintenance Div.

Commercial Lawn Management of Wichita, Inc. Redirect Award – Group 12 **\$110,560.00**

(See Exhibit B for Itemized Pricing in the Formal Bid Report)

August 1, 2014

Janitorial Services for Transit Center & Bus Interior – Wichita Transit

EH Technical Solutions, Inc. Redirect Award – Group 2 **\$34,225.00**

(See Exhibit D for Itemized Pricing in the Formal Bid Report)

ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.

Clarence Rose
for Melinda A. Walker
Purchasing Manager

SANITARY SEWER BID TABULATION SUMMARY

BOARD OF BIDS - July 25, 2014

RQ440768

FB440127		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction
2014 Sanitary Sewer Reconstruction Phase 8		\$216,125.00			
(north of Harry, east of Seneca)	BID BOND				
468-84974	ADDENDA	0			
(620710)					
		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Utilities Plus
2014 Sanitary Sewer Reconstruction Phase 8		\$216,125.00			\$257,183.00
(north of Harry, east of Seneca)	BID BOND				
468-84974	ADDENDA	0			
(620710)					
		Engineer's Construction Estimate	Wildcat Construction	Stannard Construction d/b/a WB/Carter	Danco Enterprises
2014 Sanitary Sewer Reconstruction Phase 8		\$216,125.00		\$139,492.50	\$196,386.00
(north of Harry, east of Seneca)	BID BOND			X	X
468-84974	ADDENDA	0			
(620710)					
		Engineer's Construction Estimate	Visual Systems d/b/a Brad Dody Construction		
2014 Sanitary Sewer Reconstruction Phase 8		\$216,125.00	\$222,840.00		
(north of Harry, east of Seneca)	BID BOND		X		
468-84974	ADDENDA	0			
(620710)					

CHECKED BY: *JH*

REVIEWED BY: *SM*

PAVING BID TABULATION SUMMARY

BOARD OF BIDS - July 25, 2014

RQ440769

FB440128		Engineer's Construction Estimate	APAC - Kansas Inc	Barkley Construction	Cornejo & Sons, LLC
2014 CIP/CM Thermal Crack Repairs Phase 5		\$716,060.00		\$732,768.25	
	BID BOND				
(Various Locations)	ADDENDA	0			
472-85138 (707063/132726)					
		Engineer's Construction Estimate	Dondlinger & Sons	Kansas Paving Company	PP&J Construction
2014 CIP/CM Thermal Crack Repairs Phase 5		\$716,060.00		\$1,339,325.00	\$640,001.50
	BID BOND				
(Various Locations)	ADDENDA	0			
472-85138 (707063/132726)					
		Engineer's Construction Estimate			
2014 CIP/CM Thermal Crack Repairs Phase 5		\$716,060.00			
	BID BOND				
(Various Locations)	ADDENDA	0			
472-85138 (707063/132726)					
		Engineer's Construction Estimate			
2014 CIP/CM Thermal Crack Repairs Phase 5		\$716,060.00			
	BID BOND				
(Various Locations)	ADDENDA	0			
472-85138 (707063/132726)					
CONTRACT AWARDED FOR THE ENGINEER'S ESTIMATE OF \$716,060.00					

CHECKED BY: *Jd*
 REVIEWED BY: *sm*

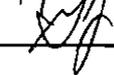
PAVING BID TABULATION SUMMARY

BOARD OF BIDS - August 1, 2014

RQ440659

FB440131		Engineer's Construction Estimate	CONSPEC INC DBA KANSAS PAVING	CORNEJO & SONS LLC	
Morris/Spring Hollow Drive		\$217,259.00	\$217,167.00	\$220,852.66	
	BID BOND				
Clear Creek Addition	ADDENDA	0			
472-85132 (766306)					
		Engineer's Construction Estimate			
Morris/Spring Hollow Drive		\$217,259.00			
	BID BOND				
Clear Creek Addition	ADDENDA	0			
472-85132 (766306)					
		Engineer's Construction Estimate			
Morris/Spring Hollow Drive		\$217,259.00			
	BID BOND				
Clear Creek Addition	ADDENDA	0			
472-85132 (766306)					
		Engineer's Construction Estimate			
Morris/Spring Hollow Drive		\$217,259.00			
	BID BOND				
Clear Creek Addition	ADDENDA	0			
472-85132 (766306)					
Subject to Budget Approval by City Council 08-05-14					

CHECKED BY: 

REVIEWED BY: 



BID RESULTS

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

Vendor Group Line

Solicitation: FB440121 **Rubber Track Snow Pusher** **Close Date/Time:** 7/25/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Aggregate Cost

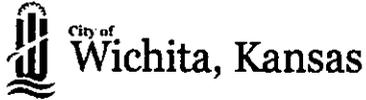
Department: Public Works & Utilities

Responses: 1

Vendors	Complete	Bid Total	City Comments
PROFESSIONAL TURF PRODUCTS LP	Complete	\$21,973.00	Award 08/05/2014 Public Works & Utilities Department/Fleet & Facilities Division

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BID RESULTS

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

Vendor Group Line

Solicitation: FB440126 **Restrained Joint Pipe & Accessories** **Close Date/Time:** 7/25/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Aggregate Cost

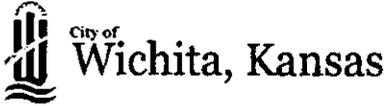
Department: Public Works & Utilities

Responses: 2

Vendors	Complete	Bid Total	City Comments
HD SUPPLY WATERWORKS LTD	Complete	\$168,100.00	Award 08/05/2014 Public Works & Utilities Department/Water Distribution Division
WICHITA WINWATER WORKS CO	Complete	\$197,640.00	

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

Vendor Group Line
Solicitation: FB440126 **Restrained Joint Pipe & Accessories** **Close Date/Time:** 7/25/2014 10:00 AM CST
Solicitation Type: Formal Bid **Return to the Bid List**
Award Method: Aggregate Cost
Department: Public Works & Utilities **Responses:** 2
Go to: 001

Line 001 | Restrained Joint PVC Pipe, Class 150 (DR18), Size 8, T-600, NSF-61, Cast Iron Pipe Size 9.05" Diameter with coupling, splines, and pipe lubricant as per specifications. Certain Teed Certa-Lok C900/RJ or Approved Equal. Specify Manufacturer/Model: _____

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HD SUPPLY WATERWORKS LTD	5000	Feet	\$17.1800	\$85,900.00	Complete	CertainTeed/Certa-Lok
WICHITA WINWATER WORKS CO	5000	Feet	\$20.2000	\$101,000.00	Complete	

Line 002 | Restrained Joint PVC Pipe, Class 150 (DR18), Size 6, T-600, NSF-61, Cast Iron Pipe Size 6.90" Diameter with coupling, splines, and pipe lubricant as per specifications. Certain Teed Certa-Lok C900/RJ or Approved Equal. Specify Manufacturer/Model: _____

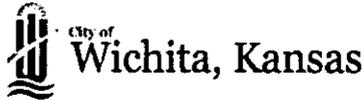
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HD SUPPLY WATERWORKS LTD	7000	Feet	\$10.1400	\$70,980.00	Complete	CertainTeed/Certa-Lok
WICHITA WINWATER WORKS CO	7000	Feet	\$11.9200	\$83,440.00	Complete	

Line 003 | Restrained Joint PVC Pipe, Class 150 (DR18), Size 4, T-600, NSF-61, Cast Iron Pipe Size 4.8" Diameter with coupling, splines, and pipe lubricant as per specifications. Certain Teed Certa-Lok C900/RJ or Approved Equal. Specify Manufacturer/Model: _____

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HD SUPPLY WATERWORKS LTD	2000	Feet	\$5.6100	\$11,220.00	Complete	CertainTeed/Certa-Lok
WICHITA WINWATER WORKS CO	2000	Feet	\$6.6000	\$13,200.00	Complete	

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

Vendor Group Line
Solicitation: Park, ROW & Public Ground Main Grp 1-13 **Close Date/Time:** 2/15/2013 10:00 AM CST
 FB340016
Solicitation Type: Formal Bid **Return to the Bid List**
Award Method: Group
Department: Parks **Responses:** 8

Vendors	Complete	Bid Total	City Comments
SUPERIOR LANDSCAPE MANAGEMENT INC	Partial	\$115,984.00	
COMPLETE LANDSCAPING SYSTEMS INC	Partial	\$228,093.00	
LOT MAINTENANCE OF OK., INC.	Partial	\$325,156.50	Bid Withdrawn
ECO OUTDOOR MANAGEMENT, INC.	Partial	\$730,615.00	Redirect Award 3/19/2013 Grp 4 Park & Rec Dept/Maint Division
JM LAWN SERVICE	Partial	\$768,386.00	Award 3/5/2013 Grps 1, 2, 4, 5, 6, 10, & 13 Park & Rec Dept/Maint Division
MICHAELS COMPLETE LAWN CARE INC	Partial	\$907,818.50	Award 3/5/2013 Grps 8 - \$85,333.00 & Grp 9 - \$16,650.00
COMMERCIAL LAWN MANAGEMENT OF WICHITA IN	Partial	\$997,074.00	Redirect Award 08/05/14 Group 12, 3/19/2013 Grp 7 Park & Rec Dept/Maint Division
LANDSCAPES INC	Partial	\$1,099,962.00	

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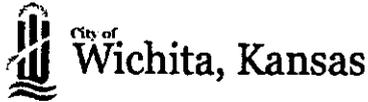
Group 12:**EXHIBIT B**

Description	Qty Quoted	UOM	Price	Extended Cost
GROUP 12: PARK - Barrington Park 2010 N. Tee Time	30	Each	\$51.0000	\$1,530.00
GROUP 12: PARK - Brownthrush Park Athletic Fields 533 N. Country Acres	30	Each	\$150.0000	\$4,500.00
GROUP 12: PARK - Buffalo Park and Pond 10201 Hardtner	10	Each	\$950.0000	\$9,500.00
GROUP 12: PARK - Buffalo Park Athletic Fields 10201 Hardtner	15	Each	\$150.0000	\$2,250.00
GROUP 12: PARK - Country Acres Park 754 N. Country Acres	15	Each	\$153.0000	\$2,295.00
GROUP 12: PARK - Evergreen Library 2601 N. Arkansas	15	Each	\$30.0000	\$450.00
GROUP 12: PARK - Evergreen Park and ROW 2700 N. Woodland	15	Each	\$1,125.0000	\$16,875.00
GROUP 12: PARK - Kiwanis Park 5101 W. 2nd	15	Each	\$306.0000	\$4,590.00
GROUP 12: PARK - Minisa Park 704 W. 13th St N.	15	Each	\$522.0000	\$7,830.00
GROUP 12: PARK - Orchard Park 4808 W. 9th	15	Each	\$793.0000	\$11,895.00
GROUP 12: PARK - Riverview - 52nd and Sullivan	15	Each	\$10.0000	\$150.00
GROUP 12: PARK - Schell Park Soccer Fields - 1000 W 24th St N	15	Each	\$90.0000	\$1,350.00
GROUP 12: PARK - Sunset Park Athletic Fields 1851 N. Keith	15	Each	\$160.0000	\$2,400.00
GROUP 12: PARK - 18th and Arkansas SWC and Riverbank south to 15th	10	Each	\$824.0000	\$8,240.00
GROUP 12: PARK - Big Arkansas River Park 3900 W. 21st N.	10	Each	\$163.0000	\$1,630.00
GROUP 12: PARK - Columbine Park 2319 Columbine	10	Each	\$547.0000	\$5,470.00
GROUP 12: PARK - Dunbar Park 11th and Indiana (SE corner)	10	Each	\$104.0000	\$1,040.00

Group 12**EXHIBIT B**

Description	Qty Quoted	UOM	Price	Extended Cost
GROUP 12: PARK - Edgebrook Park 3338 N Jackson	10	Each	\$47.0000	\$470.00
GROUP 12: PARK - Emporia Park 1143 N. Emporia	10	Each	\$110.0000	\$1,100.00
GROUP 12: PARK - Hope Park 1457 N. Emporia	10	Each	\$30.0000	\$300.00
GROUP 12: PARK - Meridian Park 2127 N. Meridian	10	Each	\$410.0000	\$4,100.00
GROUP 12: PARK - Midtown Linear Pathway 11th to 15th	10	Each	\$379.0000	\$3,790.00
GROUP 12: PARK - Midtown Linear Pathway Murdock to 11TH	10	Each	\$104.0000	\$1,040.00
GROUP 12: PARK - N. Woodland North Park 841 W. 21st	10	Each	\$800.0000	\$8,000.00
GROUP 12: PARK - Woodland South Park 1900 Heiserman Ave	10	Each	\$280.0000	\$2,800.00
GROUP 12: PARK - Otis Park 1403 N. Market	10	Each	\$30.0000	\$300.00
GROUP 12: PARK - Pat Garcia Veterans Park 2610 N. Wellington & 2633 N. Park Place	10	Each	\$91.0000	\$910.00
GROUP 12: PARK - Prospect Park 1330 N. Main	10	Each	\$30.0000	\$300.00
GROUP 12: PARK - Schell Park 1000 W. 24th St. N.	10	Each	\$408.0000	\$4,080.00
GROUP 12: PARK - Victoria Park 101 W 17th ST N	10	Each	\$55.0000	\$550.00
GROUP 12: RIGHT OF WAYS - North Court Medial, East of Arkansas & North of 27th Street North	15	Each	\$55.00	\$825.00

Group 12 Total: \$110,560.00



BID RESULTS

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

Vendor Group Line

Solicitation: FB440101 **Janitorial Serv-Transit Ctr/Bus Interior** **Close Date/Time:** 6/20/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Group

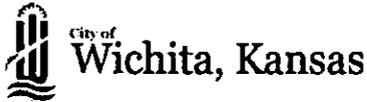
Department: Wichita Transit

Responses: 8

Vendors	Complete	Bid Total	City Comments
IMPERIAL SERVICES	Complete	\$74,180.00	Nonresponsive bid
EH TECHNICAL SOLUTIONS INC	Complete	\$79,129.00	<u>Redirect Award 08/05/14, Group 2, Wichita Transit</u>
ABLE JANITORIAL INC	Complete	\$85,678.04	
HEAVENLY CLEANING SERVICES LLC	Complete	\$88,585.00	Bid Withdrawn, Group 2
BEST CORPORATION INC	Complete	\$96,980.00	
CROWDERS CLEANING SERVICE	Partial	\$41,880.00	Award 07/15/14, Group 1, Wichita Transit
TRIPLE L CLEANING	Partial	\$42,193.00	
ELITE FRANCHISING INC	Partial	\$101,799.12	

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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: FB440101 **Janitorial Serv-Transit Ctr/Bus Interior** **Close Date/Time:** 6/20/2014 10:00 AM CST
Solicitation Type: Formal Bid **Return to the Bid List**
Award Method: Group
Department: Wichita Transit **Responses:** 8
Go to:

Group 1

Vendors	Complete	Group Total Net Bid
IMPERIAL SERVICES	Complete	\$36,360.00
CROWDERS CLEANING SERVICE	Complete	\$41,880.00
ABLE JANITORIAL INC	Complete	\$43,440.00
EH TECHNICAL SOLUTIONS INC	Complete	\$44,904.00
ELITE FRANCHISING INC	Complete	\$46,003.20
BEST CORPORATION INC	Complete	\$47,040.00
HEAVENLY CLEANING SERVICES LLC	Complete	\$64,560.00
TRIPLE L CLEANING	In-Complete	\$0.00

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Group 2

Vendors	Complete	Group Total Net Bid
HEAVENLY CLEANING SERVICES LLC	Complete	\$24,025.00
EH TECHNICAL SOLUTIONS INC	Complete	\$34,225.00
IMPERIAL SERVICES	Complete	\$37,820.00
TRIPLE L CLEANING	Complete	\$42,193.00
ABLE JANITORIAL INC	Complete	\$42,238.04
BEST CORPORATION INC	Complete	\$49,940.00
CROWDERS CLEANING SERVICE	In-Complete	\$0.00
ELITE FRANCHISING INC	Partial	\$55,795.92

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Line 003 | GROUP 2 Janitorial Services for the Downtown Transit Center at 214 S. Topeka. Cost per month.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HEAVENLY CLEANING SERVICES LLC	12	Month	\$2,000.0000	\$24,000.00	Complete	
EH TECHNICAL SOLUTIONS INC	12	Month	\$2,850.0000	\$34,200.00	Complete	
IMPERIAL SERVICES	12	Month	\$3,150.0000	\$37,800.00	Complete	
TRIPLE L CLEANING	12	Month	\$3,515.0000	\$42,180.00	Complete	
ABLE JANITORIAL INC	12	Month	\$3,518.6700	\$42,224.04	Complete	
BEST CORPORATION INC	12	Month	\$4,160.0000	\$49,920.00	Complete	
ELITE FRANCHISING INC	12	Month	\$4,649.6600	\$55,795.92	Complete	
CROWDERS CLEANING SERVICE					No Bid.	

Line 004 | GROUP 2 On call service. Cost per hour.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
TRIPLE L CLEANING	1	Hour	\$13.0000	\$13.00	Complete	
ABLE JANITORIAL INC	1	Hour	\$14.0000	\$14.00	Complete	
IMPERIAL SERVICES	1	Hour	\$20.0000	\$20.00	Complete	
BEST CORPORATION INC	1	Hour	\$20.0000	\$20.00	Complete	
HEAVENLY CLEANING SERVICES LLC	1	Hour	\$25.0000	\$25.00	Complete	
EH TECHNICAL SOLUTIONS INC	1	Hour	\$25.0000	\$25.00	Complete	
ELITE FRANCHISING INC					No Bid.	
CROWDERS CLEANING SERVICE					No Bid.	

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**PRELIMINARY ESTIMATES
FOR CITY COUNCIL AUGUST 5, 2014**

- a. Water Distribution System to serve Emerald Bay Estates 2nd Addition (north of 21st Street North, west of West Street) (448-90633/735508/470181) Does not affect existing traffic. (District VI) - \$97,000.00

To be Bid: July 18, 2014

PRELIMINARY ESTIMATE of the cost of:

Water Distribution System to serve Emerald Bay Estates 2nd Addition
(north of 21st Street North, west of West Street)

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	Pipe, WL 6"	389	lf
2	Pipe, WL 8"	2,150	lf
3	Pipe, WL 8", DICL	3	lf
4	Valve Assembly, 8"	3	ea
5	Valve Assembly, 8", Anchored, Special	2	ea
6	Valve Assembly, Blowoff, 2"	2	ea
7	Fire Hydrant Assembly	3	ea
8	Concrete Sidewalk, Removed & Replaced	1	LS
9	Site Clearing	1	LS
10	Site Restoration	1	LS
11	Seeding	1	LS

MEASURED QUANTITY BID ITEMS

12	BMP, Construction Entrance	1	ea
----	----------------------------	---	----

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication
Water Dept

Total Estimated Cost _____ **\$97,000.00**

CITY OF WICHITA)
STATE OF KANSAS) SS

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


Gary Janzer, P.E., City Engineer

Sworn to and subscribed before me this _____
(DATE)

City Clerk

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in Waterfront Sixth Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the petition and adopt the resolution.

Background: The signature on the petition represents 100% of the improvement district. The petition is a requirement for a lot split and is valid per Kansas Statute 12-6a01.

Analysis: The project will provide sanitary sewer service required for a new commercial development located north of 13th Street North, east of Webb Road.

Financial Considerations: The petition total is \$49,000 and the funding source is special assessments.

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

Recommendations/Actions: It is recommended that the City Council approve the petition, adopt the resolution, and authorize the necessary signatures.

Attachments: Map, budget sheet, petition, and resolution.

First Published in the Wichita Eagle on August 8, 2014

RESOLUTION NO. 14-218

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 61, MAIN 24, WAR INDUSTRIES SEWER (NORTH OF 13TH, EAST OF WEBB) 468-84976** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 61, MAIN 24, WAR INDUSTRIES SEWER (NORTH OF 13TH, EAST OF WEBB) 468-84976** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 61, Main 24, War Industries Sewer (north of 13th, east of Webb) 468-84976**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Forty-Nine Thousand Dollars (\$49,000)** exclusive of interest on financing and administrative and financing costs, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **August 1, 2014**, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

TRACT 1

A portion of Lot 3, Block 1 the Waterfront Sixth Addition
as described on the attached Lot Split

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: TRACT "1" shall pay 100/100 of the total cost of the improvements.

Where the ownership of Tract "1" is divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

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

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

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

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 5th day of August, 2014.

CARL BREWER, MAYOR

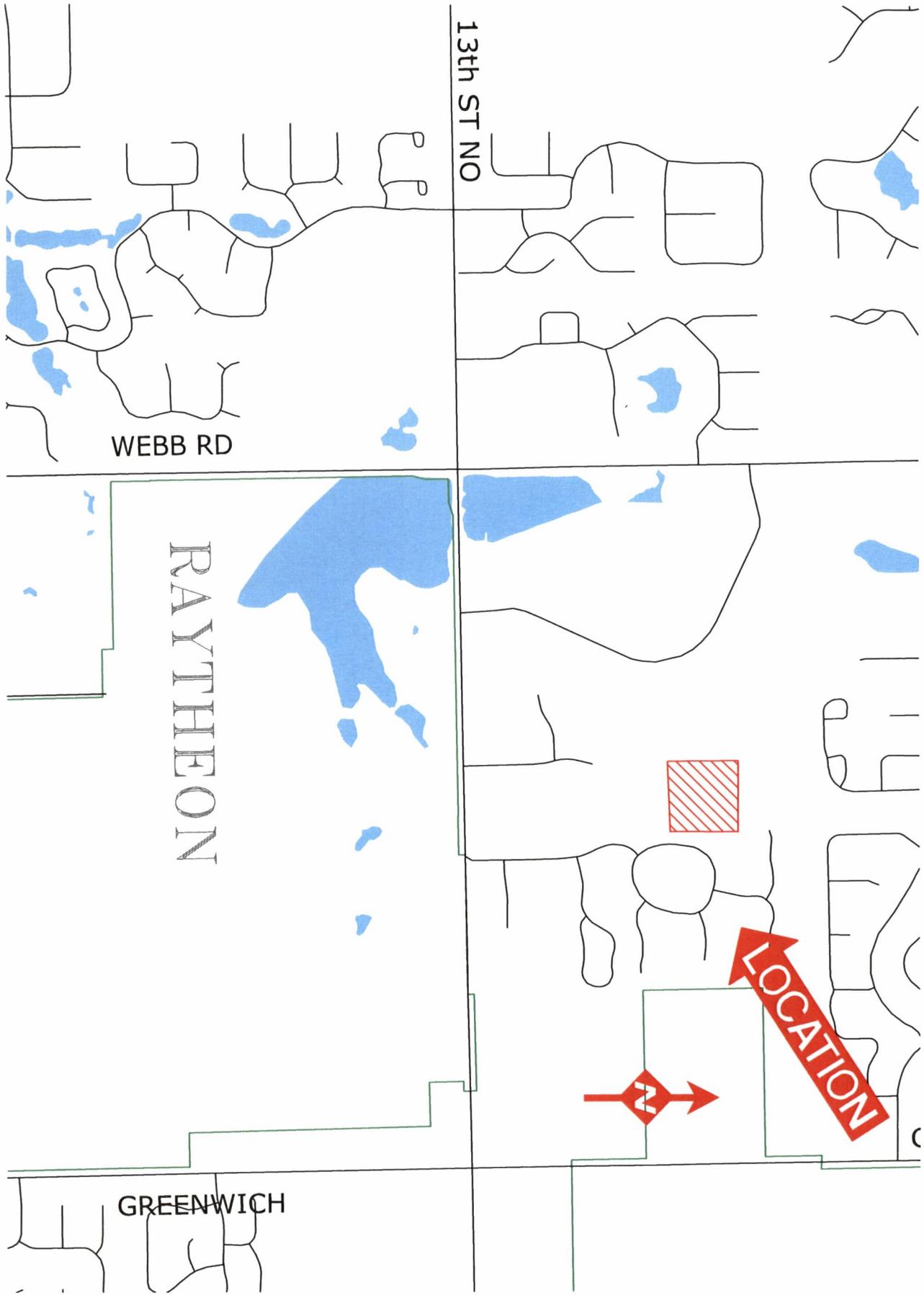
ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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



Project Request

CIP Non-CIP

NEIGHBORHOOD IMPROVEMENT ORDERED BY WCC PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 14-

FUND: 480 Sewer Improvements N.I. SUBFUND: 480 Sanitary Sewers N.I. ENGINEERING REFERENCE #: 468-84976

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Aug 5, 2014 REQUEST DATE: _____

PROJECT #: _____ PROJECT TITLE: Lat 61, M 24, WIS for Waterfront 6th Addition

PROJECT DETAIL #: 01 PROJECT DETAIL DESCRIPTION: Lat 61, M 24, WIS for Waterfront 6th Addition

OCA #: _____ OCA TITLE: Lat 61, M 24, WIS for Waterfront 6th Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

NEW BUDGET REVISED BUDGET

REVENUE

EXPENSE

Object Level 3	Budget	Object Level 3	Budget
9730 S.A. Bonds	\$49,000.00	2999 Contractuals	\$49,000.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00

REVENUE TOTAL: \$49,000.00

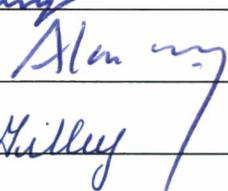
EXPENSE TOTAL: \$49,000.00

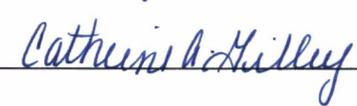
NOTES: HOLD FOR LOC

SIGNATURES REQUIRED

Print Form

DIVISION HEAD: 

DEPARTMENT HEAD: 

BUDGET OFFICER: 

CITY MANAGER: _____

DATE: 07/16/14

DATE: 7/17/14

DATE: 7/21/2014

DATE: _____

7

SANITARY SEWER PETITION

To the Mayor and City Council
Wichita, Kansas

Lateral 61, Main 24, WIS

Dear Council Members:

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

468-84976

Tract "1" described as follows:

A portion of Lot 3, Block 1 The Waterfront Sixth Addition as described on the attached Lot Split

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

- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements being **FOURTY NINE THOUSAND DOLLARS (\$49,000)**, exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after August 1, 2014.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

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

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

Tract "1" shall pay 100/100 of the total cost of the improvements.

Where the ownership of Tract "1" is divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

Tract "1"
A Portion of Lot 3, Block 1
The Waterfront Sixth Addition

March 01, 2013
Waterfront Holding Co. LLC



Name: Johnny Stevens
Title:

LOT SPLIT

TRACT 1:
 THAT PART OF LOT 3, BLOCK 1, WATERFRONT SIXTH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER THEREOF; THENCE S01°00'39"E ALONG THE EAST LINE OF SAID LOT 3, 405.50 FEET; THENCE S89°00'49"W PARALLEL WITH THE SOUTH LINE OF SAID LOT 3, 279.00 FEET; THENCE S01°00'39"E PARALLEL WITH SAID EAST LINE, 104.86 FEET TO THE NORTH LINE OF LINDBERG STREET; THENCE NORTHEASTELY ALONG SAID LINDBERG STREET, 29.47 FEET TO THE WEST LINE OF SAID LOT 3, THENCE N01°00'39"W ALONG THE WEST LINE OF SAID LOT 3, 316.45 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE N69°45'25"E ALONG THE NORTHERLY LINE OF SAID LOT 3, 152.16 FEET; THENCE N00°59'50"W CONTINUING ALONG SAID WEST LINE, 96.76 FEET; THENCE N77°04'54"E CONTINUING ALONG SAID NORTHERLY LINE, 164.86 FEET TO THE POINT OF BEGINNING.

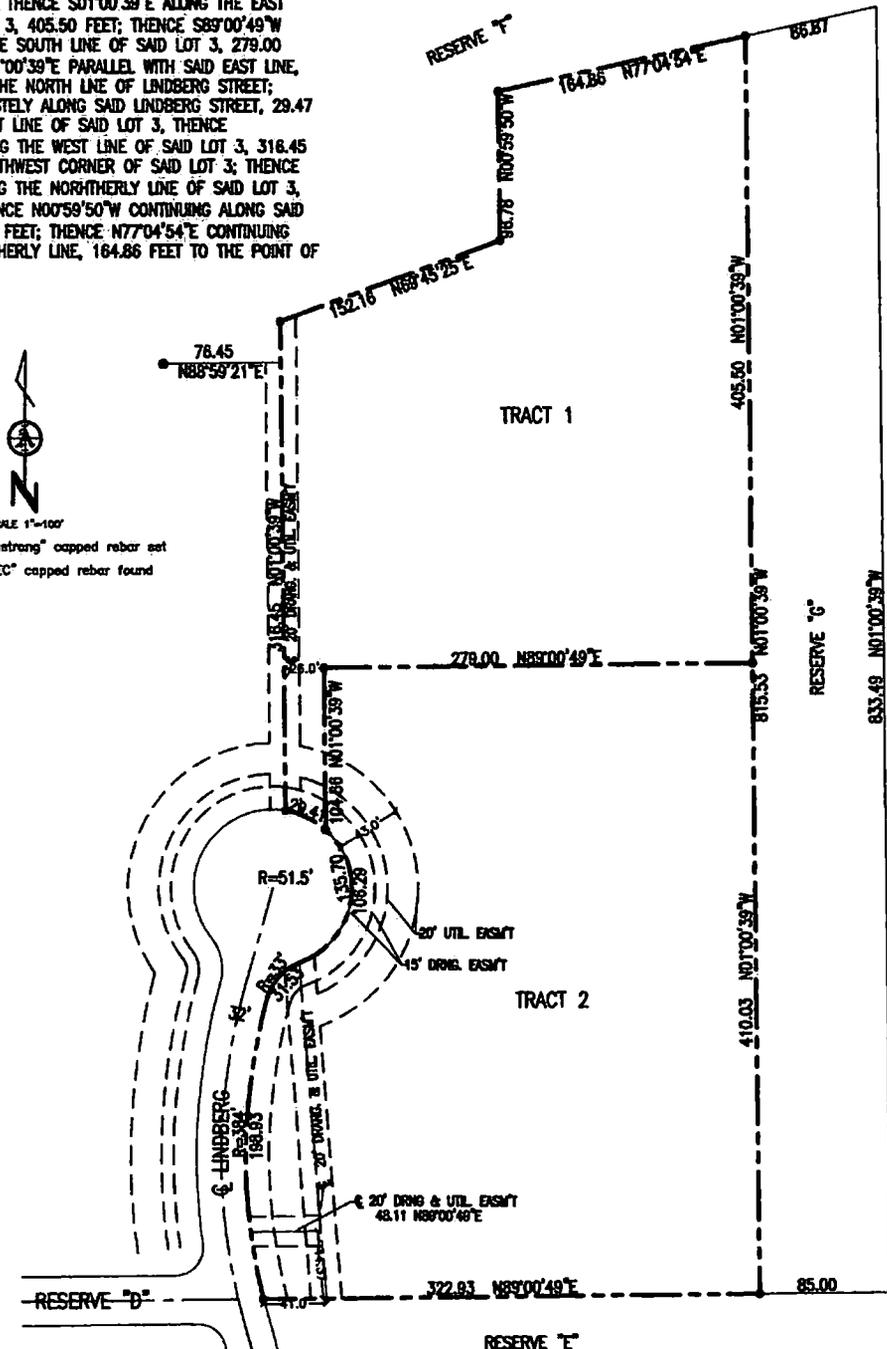
City of Wichita)
 County of Sedgwick) Lot Split No. _____
 State of Kansas) Copy _____ of 2

I, John L. Schlegel, Director of Planning, Wichita-Sedgwick County Metropolitan Area Planning Department, do hereby certify under the authority granted in the Subdivision Rules and Regulations that the lot split to which this stamp affixed has been approved.

Given under my hand and seal this _____ day of _____, 2014.

 John L. Schlegel

TRACT 2:
 LOT 3, BLOCK 1, WATERFRONT SIXTH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS, EXCEPT THAT PART OF SAID LOT 2 DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER THEREOF; THENCE S01°00'39"E ALONG THE EAST LINE OF SAID LOT 3, 405.50 FEET; THENCE S89°00'49"W PARALLEL WITH THE SOUTH LINE OF SAID LOT 3, 279.00 FEET; THENCE S01°00'39"E PARALLEL WITH SAID EAST LINE, 104.86 FEET TO THE NORTH LINE OF LINDBERG STREET; THENCE NORTHEASTELY ALONG SAID LINDBERG STREET, 29.47 FEET TO THE WEST LINE OF SAID LOT 3, THENCE N01°00'39"W ALONG THE WEST LINE OF SAID LOT 3, 316.45 FEET TO THE NORTHWEST CORNER OF SAID LOT 3; THENCE N69°45'25"E ALONG THE NORTHERLY LINE OF SAID LOT 3, 152.16 FEET; THENCE N00°59'50"W CONTINUING ALONG SAID WEST LINE, 96.76 FEET; THENCE N77°04'54"E CONTINUING ALONG SAID NORTHERLY LINE, 164.86 FEET TO THE POINT OF BEGINNING.



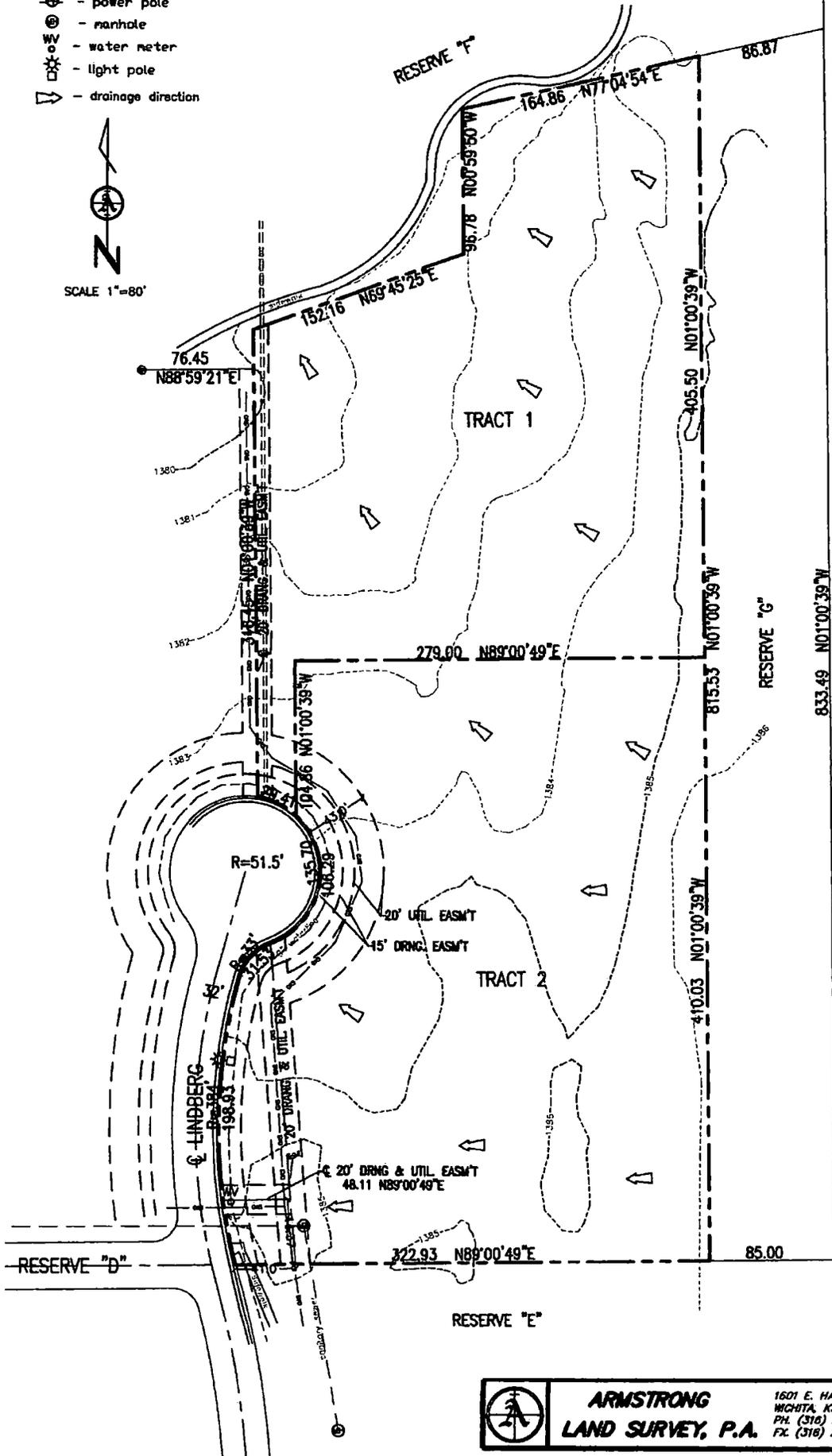
ARMSTRONG

LAND SURVEY, P.A.

1601 E. HARRY
 WICHITA, KS 67211
 PH. (316) 263-0082
 FX. (316) 263-0092

LOT SPLIT

- - "Armstrong" capped rebar set
- ⊙ - "MKEC" capped rebar found
- ⊕ - power pole
- ⊖ - manhole
- ⊗ - water meter
- ⊙ - light pole
- ↘ - drainage direction



City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: Paving Improvements in Clear Creek Addition (District II)
INITIATED BY: Department of Public Works & Utilities
AGENDA: Consent

Recommendation: Approve the revised petition and adopt the amending resolution.

Background: On December 10, 2013, the City Council approved a petition for paving improvements to serve Clear Creek Addition. An attempt to award a construction contract within the budget set by the petition was not successful. The developer has submitted a revised petition with an increased budget. The signature on the petition represents 100% of the improvement district and the petition is valid per Kansas Statute 12-6a01.

Analysis: The project will provide paving of Morris Street and Spring Hollow Drive in a new residential development located south of Kellogg, west of 143rd Street East.

Financial Considerations: The original petition total was \$199,000 and the revised petition total is \$273,000. The funding source is special assessments.

Legal Considerations: The revised petition and amending resolution have been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the revised petition, adopt the amending resolution, and authorize the necessary signatures.

Attachments: Map, budget sheet, revised petition, and amending resolution.

132019

First Published in the Wichita Eagle on August 8, 2014

RESOLUTION NO. 14-220

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **MORRIS FROM THE SOUTHWEST PROPERTY LINE OF LOT 24, BLOCK 9 CLEAR CREEK ADDITION TO MORRIS CIRCLE; SPRING HOLLOW DRIVE FROM THE NORTH PROPERTY LINE OF LOT 1, BLOCK 9 CLEAR CREEK ADDITION TO MORRIS CIRCLE (SOUTH OF KELLOGG, WEST OF 143RD ST. EAST) 472-85132** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **MORRIS FROM THE SOUTHWEST PROPERTY LINE OF LOT 24, BLOCK 9 CLEAR CREEK ADDITION TO MORRIS CIRCLE; SPRING HOLLOW DRIVE FROM THE NORTH PROPERTY LINE OF LOT 1, BLOCK 9 CLEAR CREEK ADDITION TO MORRIS CIRCLE (SOUTH OF KELLOGG, WEST OF 143RD ST. EAST) 472-85132** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 13-245 adopted on December 10, 2013 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct pavement on **Morris from the southwest property line of Lot 24, Block 9 Clear Creek Addition to Morris Circle; Spring Hollow Drive from the north property line of Lot 1, Block 9 Clear Creek Addition to Morris Circle (south of Kellogg, west of 143rd St. East) 472-85132.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Two Hundred Seventy-Three Thousand Dollars (\$273,000)** exclusive of interest on financing and administrative and financing costs, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **July 1, 2014** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CLEAR CREEK ADDITION

Lots 29 through 34, Block 3

Lots 25 through 33, Block 9

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

That the following lots shall each pay 1/15 of the total cost of the improvement district:

CLEAR CREEK ADDITION

Lots 29 through 34, Block 3

Lots 25 through 33, Block 9

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 5th day of August, 2014.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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

Project Request

CIP Non-CIP

NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 14-

FUND: 400 Street Improvements SUBFUND: 490 Paving N.I. ENGINEERING REFERENCE #: 472-85132

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Aug 5, 2014 REQUEST DATE: _____

PROJECT #: 490324 PROJECT TITLE: Morris, Spring Hollow for Clear Creek Addition

PROJECT DETAIL #: 01 PROJECT DETAIL DESCRIPTION: Morris, Spring Hollow for Clear Creek Addition

OCA #: 766306 OCA TITLE: Morris, Spring Hollow for Clear Creek Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

NEW BUDGET REVISED BUDGET

Revenue Object Level 3	Original Budget	Adjustment	New Budget
9730 S.A. Bonds	\$199,000.00	\$74,000.00	\$273,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
	\$199,000.00	\$74,000.00	\$273,000.00

Expense Object Level 3	Original Budget	Adjustment	New Budget
2999 Contractuals	\$199,000.00	\$74,000.00	\$273,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
Total Expense:	\$199,000.00	\$74,000.00	\$273,000.00

NOTES:

SIGNATURES REQUIRED

Print Form

DIVISION HEAD: _____ DATE: _____

DEPARTMENT HEAD: _____ DATE: _____

BUDGET OFFICER: _____ DATE: _____

CITY MANAGER: _____ DATE: _____

\$

RECEIVED

JUL 8 '14

CITY CLERK OFFICE

PAVING PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

CLEAR CREEK ADDITION

472-85132

Lots 29 - 34, Block 3
Lots 25 - 33, Block 9

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

- (a) That there be constructed pavement on MORRIS from the southwest property line of Lot 24, Block 9 Clear Creek Addition to Morris Cir; SPRING HOLLOW DRIVE from the north property line of Lot 1, Block 9 Clear Creek Addition to Morris Cir.
- (b) That the estimated and probable cost of the foregoing improvement being Two Hundred Seventy Three Thousand Dollars (\$273,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after July 1, 2014.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

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

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

That the following lots shall each pay 1/15 of the total cost of the improvement district:

CLEAR CREEK ADDITION

Lots 29 - 34, Block 3

Lots 25 - 33, Block 9

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis, or by the terms of a res-spread agreement submitted to the City of Wichita, Kansas.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

CLEAR CREEK ADDITION

Lots 29 - 34, Block 3

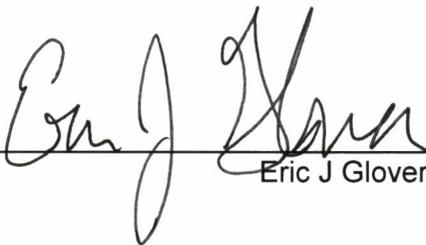
Lots 25 - 33, Block 9



Clear Creek Development, Inc.
Stephen G. Miller, President

AFFIDAVIT

The undersigned, being duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

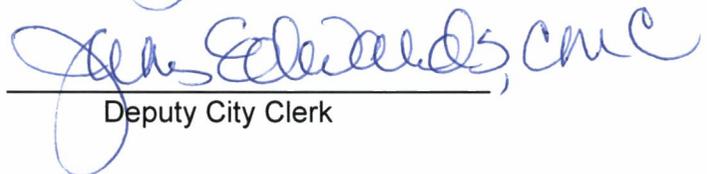

Eric J Glover

924 N. Main _____
Address

264-8008 _____
Telephone number

Sworn to and subscribed before me this 8th day of July, 2014.




Deputy City Clerk

Approved /Accepted by City Council

Wichita, Kansas

August 5, 2014

This _____

City Clerk
Wichita, Kansas

OCA#
Project# 435468

Dear City Clerk:

Following is the cost of constructing:
Fairfield Inn Project

Lump Sum Contract Amount	<u>\$2,499,995.67</u>
Construction Cost	\$2,499,995.67
Temporary Finance Cost	\$18,545.44
Finance Administration/ Cost of Issuance	<u>\$47,858.89</u>
TOTAL COST	\$2,566,400.00

Respectfully Submitted,

Allen Bell, Urban Development Director

City At Large \$2,566,400.00

Oct-14

Approved /Accepted by City Council

Wichita, Kansas

August 5, 2014

This _____

City Clerk
Wichita, Kansas

OCA# 792494
Project# 435425

Dear City Clerk:

Following is the cost of constructing:

Douglas and Hillside Redevelopment

Lump Sum Contract Amount	\$3,862,040.54
Publication	\$112.54
Abstract	\$20.00
Construction Cost	<u>\$3,862,173.08</u>
Finance Administrator	<u>\$74,526.92</u>
TOTAL COST	\$3,936,700.00

Respectfully Submitted,

Allen Bell, Urban Development Director

Tax Increment Bond	\$3,685,000.00
TIF Cash	\$135,489.00
City At Large	\$116,211.00

Oct-14

Assumptions:

Administration	2%
Temporary Financing	2%
Cost of Issuance	2%
Idle funds	0.230%
Months from cost	9
Monthly temp note cost	NA
Months of temp notes	NA

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Race for Freedom (District VI)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Trevor Darmstetter, goracetiming.com is coordinating the Race for Freedom with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Race for Freedom September 6, 2014 8:00 am – 10:00 am

- Meridian Street, 13th Street North to 17th Street North
- 17th Street North, Meridian Avenue to St. Paul Street
- St. Paul Street, 17th Street North to North McLean Street
- North McLean Street, Richmond Street to St. Paul Street
- 17th Street North, Charles Street to Meridian 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 of 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 Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Community Events – Black Top Nationals (Districts I and VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Jim Petty, Black Top Nationals Director is coordinating the Black Top Nationals with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Black Top Nationals August 21, 2014 5:30 am – August 22, 2014 6:00 pm

- Water Street, Waterman Street to Dewey Street
- Lewis Street, Water Street to Wichita Street

Black Top Nationals August 21, 2014 9:00 am – August 24, 2014 6:00 pm

- Douglas Avenue, Main Street to Water Street
- Douglas Avenue, Water Street to Waco Street
- Douglas Avenue, Waco Street to McLean Boulevard
- McLean Boulevard, Maple Street to Douglas Avenue
- Tlalnepantla Drive, Century II Drive to Cancun Drive
- Cancun Drive, Century II Drive to English Street
- Waco Street, Second Street to Douglas Avenue, with access to Drury Plaza Hotel Broadview, Century II and Hyatt Regency Wichita at all times.
- Waterman Street, Main Street to Water Street, east bound Waterman access to Hyatt Regency Wichita hotel and parking garage at all times.

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Kidzcope Good Grief 5K (District VI)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Jerry Jones, is coordinating the Kidzcope Good Grief 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Kidzcope Good Grief 5K August 31, 2014 5:00 pm – 9:00 pm

- First Street, Mosley Street to McLean Boulevard
- Mosley Street, Second Street to Douglas 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 of 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 Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: Community Events – PedalFest (District II)
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 Jill Taylor, Heartspring Community Involvement Coordinator is coordinating the PedalFest bike race with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

PedalFest August 23, 2014 6:00 am – 2:00 pm

- 37th Street North, Webb Road to Greenwich Road

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Boots and Daisy Dukes 5K (District VI)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Caleb Teague, Kansas City Running Company is coordinating the Boots and Daisy Dukes 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Boots and Daisy Dukes 5K August 16, 2014 6:30am-10:00am

- Museum Boulevard, Stackman Drive to Sim Park Drive
- Sim Park Drive, Museum Boulevard to Amidon Street
- Amidon Street, West Murdock Avenue to West Murdock 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 of 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 Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Agreement for Design Services for USD 259 Fourth Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the agreement.

Background: On November 9, 2010, the City Council approved a petition for paving improvements to serve USD 259 Fourth Addition, located south of Pawnee, west of 127th Street East.

Analysis: The proposed agreement between the City and Ruggles & Bohm, P.A. provides for design of the improvements. In accordance with Administrative Regulation 1.10, Ruggles & Bohm is an engineering consultant upon whom the City and developer mutually agree for this work, and, as this firm provided the preliminary engineering services for the platting of the subdivision, can expedite plan preparation.

Financial Considerations: Payment to Ruggles & Bohm will be on a lump sum basis of \$28,500 and will be paid by special assessments.

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

Recommendation/Action: It is recommended that the City Council approve the agreement and authorize the necessary signatures.

Attachments: Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

USD 259 4TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2014, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

127th STREET EAST from the south line of Pawnee Road to the south line of USD 259 4th Addition, including a turn lane from 127th Street East into USD 259 4th Addition serving Lot 1, Block 1 and Un-platted Property of USD 259 4th Addition (south of Pawnee, west of 127th St E) (Project No. 472-84941).

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in USD 259 4th Addition and to perform the project tasks outlined in the SCOPE OF SERVICES (**Exhibit "A"**).

II. IN ADDITION, THE ENGINEER AGREES:

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in **Exhibit "A"**.
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in **Exhibit "B"** which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with **Exhibit "A"**; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the project now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the project; however, reproduction costs are the responsibility of the ENGINEER, except as specified in **Exhibit "A"**.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 84941

\$ 28,500.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the project such as, but not limited to:
 - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the project.
 - 2. Additional design services not covered by the scope of this agreement.
 - 3. Construction staking, material testing, inspection and administration related to the project.
 - 4. A major change in the scope of services for the project.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the project is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the project shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the project.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

Carl Brewer, Mayor

SEAL:

ATTEST:

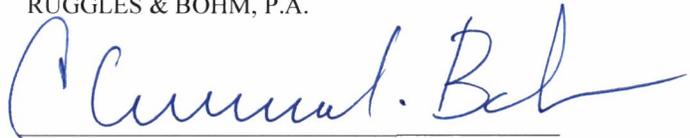
Karen Sublett, City Clerk

APPROVED AS TO FORM:



Gary Rebenstorf, Director of Law
By JRM

RUGGLES & BOHM, P.A.



(Name/Title)
Christopher M. Bohm
Partner

ATTEST:



EXHIBIT "A"

SCOPE OF SERVICES
USD 259 4th Addition
(south of Pawnee, west of 127th St E)
(Project No. 472-84941)

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per **Attachment No. 1 to Exhibit "A"**.

In connection with the services to be provided, the ENGINEER shall:

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. **Field Surveys.** Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the project limits prior to the ENGINEER conducting the field survey for the project. Utility information shall be clearly noted and identified on the plans.
2. **Storm Water Pollution Prevention.** On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per **Attachment No. 1 to Exhibit "A"**.
3. **Soils and Foundation Investigations.** The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the project, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. **Review Preliminary Design Concepts.** Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. **Drainage Study.** When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the project. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. **Plans & Specifications.** Prepare engineering plans, plan quantities and supplemental specifications as required. Pay items of work shall conform to the CITY'S Master Bid Item List. Engineering plans will include incidental drainage where required and permanent traffic signing. The project's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A"**. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. **Landscaping.** Where landscaping may be required along arterial streets, ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the Consultants' Design Team.
8. **Property Acquisition.** Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform

all necessary survey work associated with marking the additional right-of-way or easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

9. **Utility Coordination.** Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**, also available on the City's FTP site) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
10. **Staking Information.** All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
11. **Shop Drawings.** All shop drawings submitted by the contractor for the project shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the project.
12. **Public Meeting.** The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
13. **New Right-of-Way Monumentation.** The ENGINEER shall complete permanent monumentation of all new right-of-way, and complete and submit all necessary legal documentation for same.
14. **Section Corner Monuments.** The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.
15. **Permits.** The ENGINEER shall prepare any and all necessary permits for this project, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
16. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
 - (a) Field check plans of the project for distribution to utilities by Oct. 1, 2014
 - (b) Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by Dec. 1, 2014).

Attachment No. 1 to Exhibit "A" – Scope of Services

Plan Submittal

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Storm Water Division
455 N. Main 8th Floor
Wichita, KS 67202

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must also include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate. Bidding erosion control as "1 LS" is not allowed.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

Attachment No. 2 to Exhibit "A" – CIP Scope of Services

Required Plan Coordinate Information

Arterial Street Projects & Infill (Existing Neighborhoods)

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

II. WATER LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

IV. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.

Sub-Division Projects

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

II. WATER DISTRIBUTION SYSTEM

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. WATER SUPPLY LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

IV. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

V. MASS GRADING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
 - centerline @ 100' Sta on tangent sections
 - pc/pt points & 50' along curves
- special drainage swales
 - pc/pt points, pi's & 50' Sta in between
- ponds
 - any grades breaks between pond bottom and rear property line
 - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

VI. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
ELEVATION SHALL BE TO TOP OF ROCK BASE.
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

Attachment No. 3 to Exhibit "A" – Scope of Services

Project Name

Utility Location Verification Non-CIP Project

Projected Bid Date:

UTILITY: _____ **Checked by** _____ **on** _____

Utility Location:

- None in Project Limits In Project Limits, No Relocation Necessary
 Utility will need to relocate Other (please describe)

Briefly Describe Type and Location of Facilities within Project:

Estimate Time for Relocation: < 3 months 3-6 months 6-9 months > 9 months

Weather Sensitive: Yes No If yes, please explain: _____

Utility Plan Review:

- Correct as Shown Corrections needed Attachments provided for Consultant

Corrections necessary on plan sheets:

Additional Information requested from Consultant: _____

Please email this form on or before to:

If relocation is necessary:

Estimated clear date: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Upon completion of relocation:

Relocation complete on: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Attachment No.4 to Exhibit "A" - Scope of Services

Individual Project Name (i.e., Amidon, 21st to 29th Street North)											
Current Date	KDOT Proj. NO City Proj. NO	City Design Manager	Consultant	Date of First ULCC	Date of Second ULCC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date Utilities notified of R/W completion	Project Proposed Bid Date	Proposed Utility Clear Date (project)
2/21/2013	1113111/ 222222	Kallman	Ken Lee/ Ruggles & Bohm	2/21/2013	2/21/2013			No			
				Utility needs to relocate	Utility in Private Easement	Utility Contact	Utility needs PROPOSED R/W to relocate (Y/N)	Relocation Weather Sensitive	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
Westar (Distribution)											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
Westar (Transmission)											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

KGS
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Black Hills
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
AT&T
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

Coat
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Water
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Sewer
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

Stormwater
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Other
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

EXHIBIT "B"

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, suppli-

er, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**City of Wichita
City Council Meeting
August 5, 2014**

TO: Mayor and City Council

SUBJECT: Supplemental Design Agreement No. 2 for Improvements to Mt. Vernon and Oliver Intersection (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Approve the supplemental agreement.

Background: On August 28, 2012, the City entered into an agreement with Baughman Company for the development of design concepts for the intersection of Mt. Vernon and Oliver. The design concept fee was \$23,540. The following agreements with Baughman have been approved by the City Council to date:

Agreement	Date Approved	Services Provided	Cost
Original	August 28, 2012	Original concept design services agreement.	\$23,540
SA 1	December 4, 2012	Full design services based on selected concept.	\$93,500

Total design fee to date: \$117,040

Analysis: Additional services are requested of Baughman for surveying and coordination with the Kansas State Historical Society regarding the preservation of section corner monuments within the project area. The State of Kansas requires the expertise of a licensed surveyor for the monument preservation. The City does not have a licensed surveyor on staff, so a supplemental agreement is required to obtain the services and meet State requirements.

Financial Considerations: The cost of the additional services is \$400. The addition of Supplemental Agreement No. 2 brings the design contract total to \$117,440. Funding is available within the existing budget, which was approved by the City Council on August 28, 2012, and is funded by General Obligation bonds.

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

Recommendation/Actions: It is recommended that the City Council approve the supplemental agreement and authorize the necessary signatures for the acquisition or granting of easements, utility relocation agreements, and required permits.

Attachments: Supplemental Agreement No. 2.

SUPPLEMENTAL AGREEMENT NO. 2
TO THE
AGREEMENT FOR PROFESSIONAL SERVICES DATED AUGUST 28, 2012
BETWEEN
THE CITY OF WICHITA, KANSAS
PARTY OF THE FIRST PART, HEREINAFTER CALLED THE
"CITY"
AND
BAUGHMAN COMPANY, P.A.
PARTY OF THE SECOND PART, HEREINAFTER CALLED THE
"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated August 28, 2012) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to **MT. VERNON & OLIVER INTERSECTION** (Project No. 472 85042)

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

**Reset section corner monuments
(see Attachment A for details)**

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee amount of \$400.

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by _____

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2014.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf
Gary Rebenstorf, Director of Law
GR

BAUGHMAN COMPANY

Tim Aziere

Tim Aziere, P.E.
Director of Transportation
Engineering

ATTEST:

Koosy Thomas



July 10, 2014

Gary Janzen, P.E.
City of Wichita
Department of Engineering
455 N. Main, 7th Floor
Wichita, KS 67202

**RE: Mount Vernon and Oliver
Supplemental Fee Request**

Dear Mr. Janzen:

Baughman Company has recently completed the design of the intersection of Mount Vernon and Oliver. Since completion of the project, we have been asked to provide services to reset section corner monuments that will be disturbed by roadway construction. This will include preliminary ties prior to construction, all required reports and documentation, and replacement of the monument after construction.

For this additional work we are requesting a Total of \$400 to be added to our original contract. Should you have any questions or need more clarification on this request, please email me at taziere@baughmanco.com or give me a call me at 262-7271. Thank you.

ENGINEERING
SURVEYING
PLANNING
LANDSCAPE
ARCHITECTURE

Respectfully,
Baughman Co. P.A.

Tim Azlere, P.E., PTOE
Director of Transportation Engineering

cc: File

Baughman Company, P.A.
315 E 111 S
Wichita, Kansas 67211
P 316-262-7271 F 316-262-0149

CITY OF WICHITA
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Acquisition of a Portion of 4300 West 37th Street North for the K-96 and Hoover Road Interchange Project (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On January 28, 2014, the City Council approved the design concept to develop an interchange at K-96 and Hoover Road. The project will require the partial acquisition of four properties, together with the full taking of one additional tract. The proposed full acquisition is a residential property with all the other tracts being undeveloped. The project includes a partial interchange at Hoover and K-96, improvements to Hoover between the ramps, and the paving of 37th Street North from Hoover to one-half mile west where the paving will connect to existing paving. The tract being acquired is undeveloped and is part of a large assemblage used as a transfer station.

Analysis: The proposed acquisition was valued at \$310. This amount was offered to the owner and accepted.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of \$360 is requested. This includes \$310 for the acquisition and \$50 for title work, closing costs and other administrative fees.

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

Recommendation/Action: It is recommended that the City Council 1) approve the real estate agreement; 2) approve the budget; and 3) authorize the necessary signatures.

Attachments: Real estate agreement, tract map and aerial map.

PROJECT: Hoover/K96 Interchange

DATE:

CITY/COUNTY: Wichita/Sedgwick

TRACT NO.: 3

CITY OF WICHITA, KANSAS
A MUNICIPAL CORPORATION

CONTRACT FOR CONVEYANCE
OF REAL ESTATE BY WARRANTY DEED
AND TEMPORARY EASEMENT

THIS AGREEMENT made and entered into this ___ day of _____, 2014 by and between:

Cornejo and Sons, L.L.C., "Landowner(s)", and the City of Wichita, State of Kansas, "City"

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

See Exhibit Tract # 3 – PK-207-C Right of Way and Control of Access

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City.

The City agrees to purchase the above described real estate, and to pay therefore, below described amount on or before July 31, 2014. Landowner shall surrender possession at closing.

Landowner shall remove all personal property prior to closing. Any personal property remaining in or upon said property after closing shall be considered abandoned. The City may dispose of any remaining personal property in any way it deems without further compensation to Landowner.

All taxes, rents, insurance premiums, etc. shall be prorated at closing. All closing fees and costs are to be paid by the City.

Real property to be acquired as right of way: 5,227.99 Sq. Ft.	\$	310.00
Temporary construction easement: None		NA
Cost to cure items: None		NA
TOTAL	\$	310.00

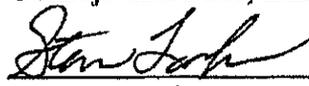
It is understood and agreed that the above stated consideration for said real estate is in full payment

of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out including claims that Landowners may assert pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C.A. 4601, et. Seq.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNER:

Cornejo and Sons, L.L.C,



Steven Lawler VP

BUYER:

City of Wichita, KS, a municipal corporation

Carl Brewer, Mayor

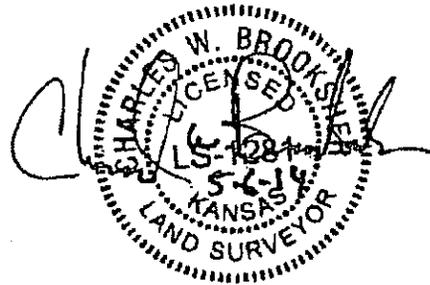
ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Tract #3 - PK-207-C
Cornejo & Sons, L.L.C.
RIGHT-OF-WAY and CONTROL OF ACCESS:

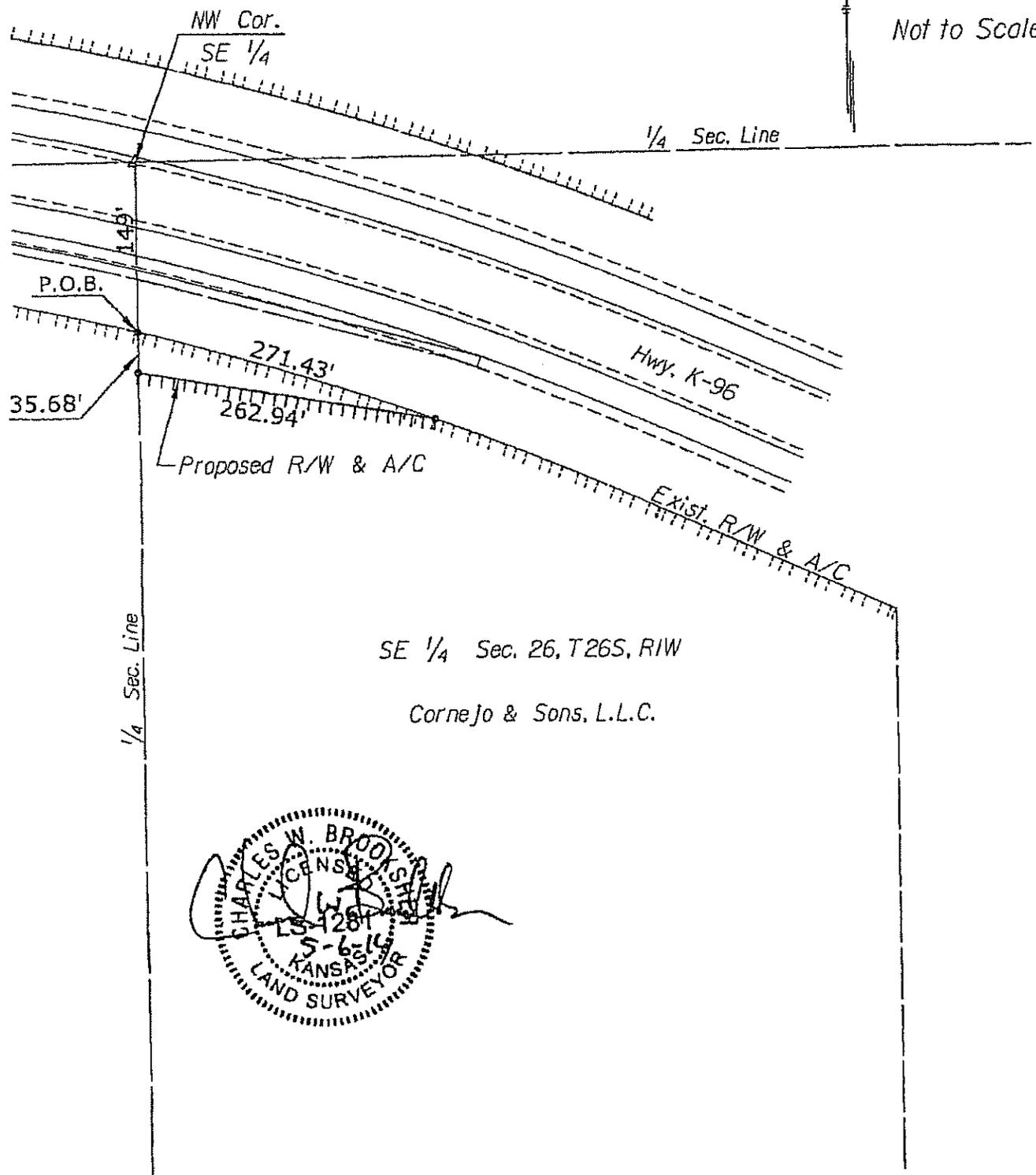
Commencing from the Northwest corner of the Southeast Quarter of Section 26, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 0°10'09" W, along the West line of said Quarter, a distance of 149.00 feet to the point of beginning, said point being on the Southerly right-of-way line of Highway K-96, as conveyed to the State of Kansas in Deed Book 1396, Page 175; FIRST COURSE, thence Southeasterly, along said Southerly right-of-way line and along a curve to the right having a radius of 2,745.37 feet, a chord bearing S 72°32'50" E, a chord distance of 271.32 feet, through a central angle of 5°39'53" for a distance of 271.43 feet; SECOND COURSE, thence N 79°59'28" W for a distance of 262.94 feet to a point on said West line; THIRD COURSE, thence N 0°10'09" E, along said West line, a distance of 35.68 feet to the point of beginning, containing 0.120 acres (5,227.99 sq. ft.), more or less. Together with all right of access to and from the abutting public roadway over and across said "SECOND COURSE".



Tract #3 - PK-207-C
Right of Way and Control of Access

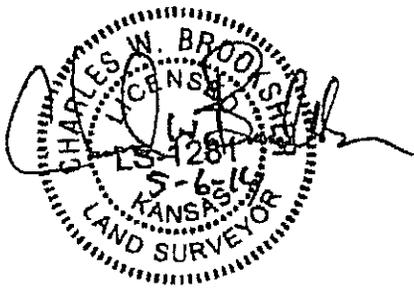


Not to Scale



SE 1/4 Sec. 26, T26S, R1W

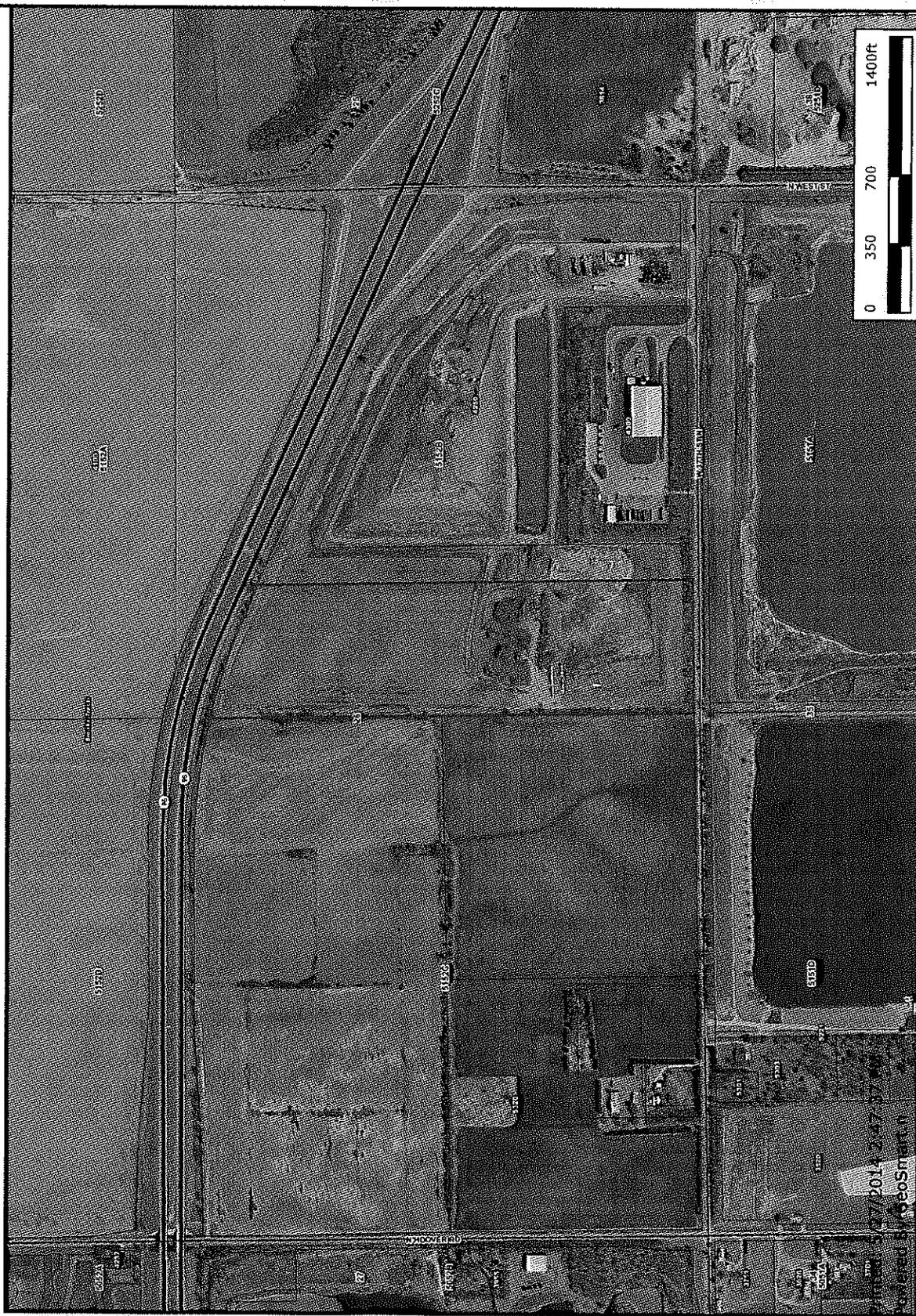
Cornejo & Sons, L.L.C.



May 2, 2014



Tract 3 - Cornejo



	Identified Features
	Property Parcels
Roads	
	State Highway
	US Federal Highway
	Interstate
	KTA
	Arterial
	Collector
	Minor
	Ramp
Railroads	
	Township and Range
Section	
	Quarter Section
Waterways	
	Streams
	Parks
	Airports
	SDEASTER-S-DEDATA.ORTH-01F1
	SDEASTER-S-DEDATA.ORTH-0
City Limits	
	Andale
	Bel Aire
	Bentley
	Cheney
	Clearwater
	Colwich
	Derby
	Eastborough
	Garden Plain
	Goddard
	Haysville



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Notice of Intent to Use Debt Financing
Roof Replacements 2014
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Consent

Recommendation: Adopt the Resolution.

Background: The Airport Authority relies on the City of Wichita for the issuance of general obligation bonds and/or notes for capital projects. In order to use debt financing for a project, it is necessary to declare the intent to utilize general obligation bond funding for expenditures made on or after the date which is 60 days before the notice of said intent. The actual issuance of the bonds/notes will require a separate authorization from the City Council. Debt financing can be in the form of temporary notes for durations as short as six months for timing considerations or in the form of general obligation bonds for long term financing.

Analysis: In a concurrent agenda item, the City Council, sitting as the Wichita Airport Authority, will approve a capital budget for the roof replacement and maintenance to certain facilities on Mid-Continent Airport. To correspond with that action, this Resolution reflects the estimated project cost to be financed through the issuance of general obligation debt.

Financial Considerations: The project budget approved is \$500,000 (exclusive of interest on financing and administrative and financing costs) which will be financed with the proceeds of general obligation bonds/notes. If the debt is issued, the source of repayment for the bonds/notes will be Airport revenues.

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

Recommendation/Action: It is recommended that the City Council adopt the Resolution and authorize the necessary signatures.

Attachments: Resolution.

RESOLUTION NO. 14-213

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

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. 3-162, created the Wichita Airport Authority (the “Authority”); and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1348a, as amended by Charter Ordinance No. 78 of the City (collectively, the “Act”) to issue general obligation bonds of the City without an election for the purpose of purchasing land for airport purposes or for the construction, enlargement, reconstruction, repair or addition to or of any improvements to said land used for airport purposes; and

WHEREAS, the outstanding principal amount of general obligation bonds issued pursuant to the Act shall not: (a) exceed three percent (3%) of the assessed value of all taxable tangible property within the City, and (b) be subject to or within the limitations prescribed by any other law limiting the amount of indebtedness of the City; and

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

Roof Replacements 2014

for use by the Authority at the Wichita Mid-Continent Airport (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 \$500,000 in accordance with specifications prepared or approved by the Authority.

Section 2. Project Financing. All or a portion of the costs of the Project, interest on financing and administrative and financing costs shall be payable by the Authority and 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 August 5, 2014.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Sharon L. Dickgrafe, Interim City Attorney & Director of Law

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Contract Amendments with Catholic Charities, Inc.

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the contract amendments and authorize the necessary signatures.

Background: On December 18, 2012, the City of Wichita allocated homeless assistance funds from the 2012-2013 Emergency Solutions Grant (ESG) to Catholic Charities, Inc. for the operation of Harbor House (\$15,000) and St. Anthony Family Shelter (\$25,000). Additional homeless assistance funds from a supplemental allocation of 2011-2012 Emergency Solutions Grant were allocated to Harbor House (\$15,125). On January 1, 2013, contracts were executed with Catholic Charities, Inc. for each of these three allocations, for the period of January 1, 2013 through June 30, 2013. Under the terms of the original contracts, all requests for reimbursement were to be submitted to the City of Wichita by July 31, 2013, which was subsequently extended through September 30, 2013, at the request of Catholic Charities, Inc.

On August 20, 2013, the City of Wichita allocated homeless assistance funds from the 2013-2014 Emergency Solutions Grant (ESG) to Catholic Charities, Inc. for the operation of Harbor House (\$12,600) and St. Anthony Family Shelter (\$21,000). On July 1, 2013, contracts were executed with Catholic Charities, Inc. for these allocations, for the period of July 1, 2013 through June 30, 2014. Under the terms of the contracts, all requests for reimbursement were to be submitted to the City of Wichita by July 31, 2014.

Analysis: The approved activities were implemented by Catholic Charities, Inc. during the performance periods as required under the terms of the contracts. In order to fully expend all Emergency Solutions grant funds, staff has recommended extending the contract period for the contracts executed on January 1, 2013 through July 26, 2014, in order to allow expenditures charged to the 2013-14 grant year to be transferred to the 2012-13 grant year.

Financial Considerations: All funds associated with this action are federal. No general funds will be involved in the contracts.

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

Recommendations/Actions: Approve the contract amendments, and authorize the necessary signatures.

Attachments: Contract amendment, Catholic Charities (Harbor House)
Contract amendment, Catholic Charities (St. Anthony Family Shelter)

**Second Amendment to the
Contract Agreement between
The City of Wichita Housing and Community Services Department and
Catholic Charities, Inc. Diocese of Wichita (St. Anthony Family Shelter)**

THIS CONTRACT AMENDMENT is executed this 6th day of August, 2014 by and between the City of Wichita Housing and Community Services Department (hereinafter called the City) and Catholic Charities, Inc. – Diocese of Wichita (hereinafter the “Subrecipient”).

WITNESSETH THAT:

WHEREAS, on December 18, 2012 the City of Wichita allocated \$25,000 from the 2012-2013 annual allocation of Emergency Solutions Grant funds for the execution of an approved homeless assistance shelter activity; and

WHEREAS, on January 1, 2013 the above named entities were parties to a Contract Agreement with budget detail in the amount of \$25,000, and a contract period ending June 30, 2013; and

WHEREAS, on August 20, 2013 the contract was amended to extend the contract ending date to September 30, 2013; and

WHEREAS, the above named parties now wish to modify and amend said Contract for the purposes of extending the contract period;

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of January, 2013 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

- **Part A, Section 2, Commencement and Completion**: Time of Performance, Close-out period, and contract completion date shall all end on **July 26, 2014**.
- **Part A, Section 3.8**. Close-out billings must be submitted by July 26, 2014.
- **Part B, Subrecipient information**: Performance period and Contract period shall be January 1, 2013 – July 26, 2014

SUBRECIPIENT

Michael Burrus, Executive Director

Catholic Charities, Inc. – Diocese of
Wichita

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

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

**Second Amendment to the
Contract Agreement between
The City of Wichita Housing and Community Services Department and
Catholic Charities, Inc. Diocese of Wichita (Harbor House, Supplemental allocation)**

THIS CONTRACT AMENDMENT is executed this 5th day of August, 2014 by and between the City of Wichita Housing and Community Services Department (hereinafter called the City) and Catholic Charities, Inc. – Diocese of Wichita (hereinafter the “Subrecipient”).

WITNESSETH THAT:

WHEREAS, on December 18, 2012 the City of Wichita allocated \$15,125 from the 2011-2012 supplemental allocation of Emergency Solutions Grant funds for the execution of an approved homeless assistance shelter activity; and

WHEREAS, on January 1, 2013 the above named entities were parties to a Contract Agreement with budget detail in the amount of \$15,125, and a contract period ending June 30, 2013; and

WHEREAS, on August 20, 2013 the contract was amended to extend the period to end September 30, 2013; and

WHEREAS, the above named parties now wish to modify and amend said Contract for the purposes of extending the contract period;

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of January, 2013 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

- **Part A, Section 2. Commencement and Completion:** Time of performance, close-out period, and contract completion dates shall be extended through **July 26, 2014**.
- **Part A, Section 3.8. Close-out Reimbursement:** Close-out billings are to be submitted by July 26, 2014.
- **Part B, Subrecipient Information:** Performance Period and Contract Period shall be January 1, 2013 – July 26, 2014

SUBRECIPIENT

Michael Burrus, Executive Director

Catholic Charities, Inc. – Diocese of
Wichita

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Contract Amendments with Center of Hope, Inc., Inc.

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the contract amendments, and authorize the necessary signatures.

Background: The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 created the Emergency Solutions Grant (ESG). Eligible activities in the ESG program include homeless assistance, homeless prevention, rapid re-housing, and homeless management information system administration. On October 1, 2013, the City of Wichita allocated \$15,232 from the 2013-14 ESG allocation for prevention activities, and entered into a contract with Center of Hope, Inc. for the implementation of the ESG homeless prevention program. Under the terms of the contract the performance period is October 1, 2013 to July 30, 2014. Center of Hope, Inc. has requested an amendment to the contract to extend the performance period through December 31, 2014.

Analysis: Homeless prevention is a required component of the Emergency Solutions Grant program, and Center of Hope is the sole-source provider of this service in our community. Extending the contract period will allow Center of Hope to fully utilize the funding allocated for this activity.

Financial Considerations: All funds associated with this action are federal. No general funds will be involved in the contracts.

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

Recommendations/Actions: Approve the contract amendment, and authorize the necessary signatures.

Attachments: Center of Hope Contract Amendment

**First Amendment to the
Contract Agreement between
The City of Wichita Housing and Community Services Department and
Center of Hope, Inc.**

THIS CONTRACT AMENDMENT is executed this 5th day of August, 2014 by and between the City of Wichita Housing and Community Services Department (hereinafter called the City) and the Center of Hope, Inc., (hereinafter called the Subrecipient).

WITNESSETH THAT:

WHEREAS, on October 1, 2013, the City of Wichita allocated \$15,232 from the 2013-14 annual ESG allocation for the purpose of homeless prevention activities; and

WHEREAS, Center of Hope, Inc. was determined to meet sole source standards for administering the ESG homeless prevention program; and

WHEREAS, on October 1, 2013, the above named entities were parties to a Contract Agreement with the caption as above set out and which details an award in the amount of \$15,232; and

WHEREAS, on August 25, 2014, the above named parties now wish to amend said Contract for the purposes of extending the performance period through December 31, 2014; and

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of October, 2013 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

- Part A, Section 2.1, Time of Performance: The services of the Subrecipient are to commence as soon as practicable on or after the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract through a period ending **December 31, 2014**.
- Part A, Section 2.2, Close-out period: Final accomplishment and outcome reports are due to the City by **January 1, 2015**.
- Part A, Section 2.3, Contract Completion Date: Unless an extension has been approved by the City in advance, OR unless this Agreement is terminated earlier in accordance with other provisions herein, this agreement will end on **January 31, 2015**.
- Part A, Section 3.8, Closeout Reimbursement: Closeout billings are to be submitted by **January 31, 2015**.
- Part A, Section 10.5, Final Accomplishment Reports: The final report will be due **January 31, 2015**, or the date of final reimbursement, whichever is sooner
- Part B, Performance Period: October 1, 2013 through **December 31, 2014**.
Contract Period: October 1, 2013, through **January 31, 2015**.

SUBRECIPIENT

George Dinkel
Center of Hope, Inc.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

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

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Amended Resolution Establishing Number of Directors for
NBC Baseball Foundation

INITIATED BY: City Manager's Office and Law Department

AGENDA: Consent

Recommendation: Approve the Resolution increasing the number of Directors for the NBC Baseball Foundation.

Background: On May 20, 2014, the City Council transferred assets of the National Baseball Congress to the NBC Baseball Foundation. The Foundation is a non-profit corporation established to organize and manage the NBC Tournament and promote youth baseball within the City of Wichita.

At that time, the City Council, by Resolution, established the total number of Foundation Directors at no more than nine. Seven individuals from the community have been appointed to serve as directors. Two City Council members additionally serve as Foundation Directors.

On July 21, 2014, the Foundation Board voted unanimously to request the City Council to pass a revised Resolution increasing the total number of Foundation Directors to no more than eleven directors. Additional directors are necessary to allow the appointment of individuals with finance or accounting backgrounds to assist the Board with fundraising and financing of tournament operations.

Analysis: The proposed Resolution would increase the total number of Foundation Directors to no more than eleven directors. The two new additional directors would be elected by current Foundation Directors.

Financial Considerations: None.

Legal Considerations: The Law Department has drafted the Resolution and it has been approved as to form.

Recommendations/Actions: Approve the Resolution increasing the number of Directors for the NBC Baseball Foundation.

Attachment: Resolution.

RESOLUTION NO. 14-214

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA
INCREASING THE NUMBER OF BOARD OF DIRECTORS
FOR THE NBC BASEBALL FOUNDATION

WHEREAS, on September 11, 2013, the City of Wichita authorized the creation and formation of a not-for-profit corporation, the NBC Baseball Foundation, for the purpose of sustaining operation of the NBC Tournament; and

WHEREAS, the Bylaws of the NBC Baseball Foundation require the City Council to determine, by Resolution, the total number of Directors of the Foundation; and

WHEREAS, on May 20, 2014, the City Council, by Resolution, established the total number of Directors of the NBC Baseball Foundation to be no more than nine members; and

WHEREAS, on July 21, 2014, the Foundation Board of Directors voted unanimously to request the City Council adopt a Resolution increasing the total number of Directors to eleven.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wichita that:

1. The total number of Directors of the NBC Baseball Foundation shall not exceed eleven members.
2. The Mayor will be authorized to appoint no more than two City Council members to serve as Directors and successor Directors for the NBC Baseball Foundation.
3. All additional Directors or successor Directors to those originally appointed by the City Council pursuant to the Resolution adopted on May 20, 2014, shall be nominated and elected by the Board of Directors in accordance with the Foundation's Bylaws.

4. All Directors elected or appointed shall be residents of Sedgwick County who have strong values, personal integrity, and substantial interest in continued operation of the NBC Tournament and the expansion and development of baseball within the City of Wichita.

Adopted by the City Council of the City of Wichita this 5th day of August, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett
City Clerk

APPROVED AS TO FORM:

Sharon L. Dickgrafe, Interim Director of Law

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Summer Youth Employment Program Grant Award

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Authorize staff to receive a grant from Spirit AeroSystems in support of the savings incentive component of The Way to Work program.

Background: The Way to Work program is in its third year of operation. The objective of the program is to provide youth with employment and to impart to them life lessons which will be helpful as they approach adulthood. One of the components of the program is a savings incentive. First implemented in 2013 in partnership with the U.S. Conference of Mayors Dollar Wise campaign, the incentive was a one-time cash payment to youth who opened a savings account with at least \$10 and a second payment at the end of the summer if they kept the account open.

Analysis: The 2013 program was successful with 16 youth opening and maintaining savings accounts in the summer. Consequently the 2014 program was planned with this component however remaining funds from 2013 were not sufficient to support the new program. Local support was considered for the 2014 program and Spirit AeroSystems agreed to fund that component.

Financial Considerations: The Way to Work program is funded with Community Development Block Grant and Community Services Block Grant funds. General Funds are not a part of program funding.

Legal Considerations: The Law Department has approved this action.

Recommendations/Actions: It is recommended that the City Council authorize staff to receive a grant from Spirit AeroSystems in support of the savings incentive component of The Way to Work program.

Attachments: None.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Acceptance of a State Historic Preservation Grant to Conduct a Window Repair Workshop at Linwood Park Greenhouse. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Staff recommends that City Council accept the State Historic Preservation Grant and authorize the Mayor to sign the project agreement.

Background: The Historic Preservation Office applied for and has been notified that the City has been awarded a grant in the amount of \$25,000 to hire a preservation trades consultant to conduct a five-day, hands-on window repair workshop at the City's historic Linwood Greenhouse in South Linwood Park.

Analysis: The window repair workshop will provide training to approximately 46 participants and will result in the complete repair and re-installation of 24 single wood sash windows in the greenhouse. The project will be completed by June 30, 2015.

Financial Consideration: Total project costs are \$45,510, of which the grant covers \$25,000. The remaining \$20,510, which provides the local match, includes the Historic Preservation Planner's time to administer the program and participate in the workshop plus cash donations from local businesses and individuals. Paid staff time is counted as a cash match under this program. No other cash match is needed from the City. The City will receive a \$1,176 administrative fee.

Legal Consideration: Federal and State assurances required by the Historic Preservation Fund Grant program have been included in the project agreement. The project implementation will not negatively impact local development plans, zoning, land use or licensing requirements. The project agreement has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council accept the award of the grant and authorize the necessary signatures.

Attachment: Kansas State Historical Society FY2014 Historic Preservation Fund Grant Project Agreement for Linwood Greenhouse Window Repair Workshop.

PROJECT AGREEMENT

THIS AGREEMENT is hereby entered into this _____ day of _____, 2014 by and between the **City of Wichita, Kansas**, (hereinafter Subgrantee”), and the State of Kansas, Kansas Historical Society, State Historic Preservation Office, (hereinafter “SHPO”).

WHEREAS, the Subgrantee has applied for and been awarded a **\$25,000** Historic Preservation Fund grant from SHPO to undertake a project to **host a five-day workshop educating attendees about the repair of historic awning windows on the South Linwood Park Greenhouse in the Subgrantee’s community;**

WHEREAS, the Historic Preservation Fund grant is funded by federal historic preservation funds appropriated by Congress for the purpose of carrying out its National Historic Preservation Act, as amended; and,

WHEREAS, in order to receive the grant funds, the Subgrantee must carry out its project activities in accordance with the Secretary of the Interior’s *Standards and Guidelines for Archeology and Historic Preservation*; and,

WHEREAS, the Subgrantee shall follow all requirements in the “Historic Preservation Grants Manual” prepared by the National Park Service, and the “Historic Preservation Fund (HPF) Grant Guide” prepared by SHPO; and

WHEREAS, the Subgrantee shall follow the conditions and requirements governing National Park Service grants as outlined herein; and,

WHEREAS, the parties desire to enter into an Agreement setting forth these and other requirements relating to the grant.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

I. WORK TO BE PERFORMED

a. Schedule

Subgrantee shall not begin work under the terms of this Agreement prior to **June 1, 2014**, and Subgrantee shall complete, expend funds, submit products, and request final reimbursement by **July 31, 2015**. Requests for extensions must be made thirty days prior to that end date. The following dates shall be used as a guideline for submission of products:

June 30, 2014	Seek out and contact workshop provider(s)
July 15, 2014	Set dates for workshop / Finalize agreement with provider(s)
July 31, 2014	Complete brochure text and outline web-based promotions
August 31, 2014	Registration begins / promotions underway
October 31, 2014	Host five-day workshop
February 28, 2015	Submit draft article for <i>Kansas Preservation</i> newsletter
July 31, 20145	Submit completion report and all final products to SHPO

b. Scope of Work

The Subgrantee shall use grant funds to implement the preservation activities identified below. The Subgrantee shall advise SHPO immediately of any problems that arise that impair its ability to meet its obligations under this Agreement.

The scope of work identified in this Agreement shall not be changed by the Subgrantee without prior written approval from SHPO. The Subgrantee shall conduct the project in following manner:

- (1) **The Subgrantee will hire Bob Yapp, a qualified consultant / presenter to conduct a five-day workshop to teach attendees about the appropriate methods of repairing and restoring historic awning windows utilizing windows existing in the South Linwood Park Greenhouse (NR);**
- (2) **The Subgrantee shall provide photographs in digital JPG format documenting the conditions of the building's windows before, during, and after the project;**
- (3) **The Subgrantee shall provide regular monthly reports and a Completion Report as outlined in SHPO's State of Kansas "HPF Grant Guide." This final report shall accompany a brief article suitable for possible publication in the *Kansas Preservation* newsletter outlining the results of the project.**

c. Monthly Reports and Draft Submissions

The Subgrantee shall submit monthly reports to SHPO on the forms supplied by SHPO. Such reports shall be due on the tenth of the following month. Repeated failure to return monthly reports in a timely manner will jeopardize future grant funding. The Subgrantee shall provide a draft copy of any reports or publications to review before the final copy is prepared for submission or publication.

d. Project Spanning Two Fiscal Years

If parts of the grant project will be carried out during two federal fiscal years, the Subgrantee shall prepare a one-page progress report as of September 30 that covers both the project work and fiscal expenditures. Subgrantees are required to request reimbursement for all expenditures incurred in the first federal fiscal year no later than the following October 31.

II. PROJECT ACCOUNTING AND PAYMENT

a. Total Project Cost

The total project cost is estimated to be **\$45,510.00**. Subgrantee shall be reimbursed 60% of project costs with grant funds, up to **\$25,000.00** ("federal share"). Subgrantee shall pay for the remaining 40% of project costs, and Subgrantee's match shall not be less than **\$16,667.00** ("Subgrantee's share").

b. Reimbursement Procedure

The federal funds shall be obtained by the Subgrantee by completing a discrete part of the project with its own funds, providing the products to SHPO and then requesting reimbursement for 60% of the cost. However, 10% of the federal funds requested will be withheld until satisfactory completion of all the Project Agreement conditions. No billing may be reimbursed at greater than 60%. The National Park Service requires that the costs of products which do not meet the relevant Secretary of Interior's *Standards* cannot be reimbursed.

c. Project Budget

	Match	In-Kind	Federal	Total
Salaries				
Administrator	\$ 18,204.00	\$ 0.00	\$ 0.00	18,204.00
Consultant	2,306.00	0.00	23,824.00	26,130.00
City Administrative Fee	0.00	0.00	1,176.00	1,176.00
Total	\$ 20,510.00	\$ 0.00	\$ 25,000.00	\$ 45,510.00

No billing will be reimbursed without completion of one or more of the specific products described below along with documentation of the expenditures associated. The project products include:

1. **Four copies of the workshop program and/or registration materials (two of these may be in electronic format submitted on two separate compact discs);**
2. **One set of electronic images documenting the workshop in progress as well as the before and after condition of the windows impacted by the project;**
3. **A completion report accompanying an article suitable for possible publication in the *Kansas Preservation* newsletter.**

A maximum of **twenty five thousand dollars (\$25,000.00)** in federal funds shall be reimbursed upon SHPO receipt and approval of all products noted above.

d. Billing Frequency

Billing shall be done as required by SHPO and must be directly related to the completion of a specified part or parts of the project with those products as listed above. Final payment will not be made by SHPO until the project reports and products have been turned in, examined, and found to meet the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*.

e. Request for Reimbursement

The Subgrantee shall file requests for reimbursement on forms furnished by SHPO and accompanied by copies of the vouchers, payroll records, and whatever other documents such as canceled checks, toll call records, copy records, etc., that are necessary to substantiate the costs. (See HPF Grant Guide, Part 4.)

f. Documentation Required

The Subgrantee shall furnish copies of all project source documents, such as contracts, vouchers, payroll records, time sheets, invoices, canceled checks, etc., to SHPO. This includes supporting documentation for the Subgrantee's share, including in-kind services, as well as for the expenditures of the federal share.

g. SHPO's Responsibility

SHPO assumes no fiscal responsibility to the Subgrantee other than to pass through historic preservation funds as available for the performance of the project work.

III. PROJECT REPORTS

a. Copies of Publications

If any published documents are produced under the terms of this Agreement (such as public information pamphlets or walking tour brochures), the Subgrantee shall submit four copies of each to SHPO. Some of these may be provided in electronic format with SHPO approval.

b. Right of SHPO Use

SHPO reserves the non-exclusive right to use and reproduce maps, survey forms, photographs, and other materials submitted by the Subgrantee in carrying out SHPO's survey, planning, and public education responsibilities.

c. Acknowledgment of Federal Assistance

The assistance of the National Park Service, Department of the Interior, will be acknowledged in any reports, publications, audiovisual productions, project literature, and at all public meetings and programs where the project is discussed or explained. The acknowledgment may be written as follows:

The (activity) which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, a division of the United States Department of the Interior, and administered by the Kansas Historical Society. The contents and opinions, however, do not necessarily reflect the view or policies of The United States Department of the Interior or the Kansas Historical Society.

d. Copyright

The Subgrantee is free to copyright any books, publications, audiovisual productions or other copyrightable materials developed as a result of this Agreement. However, any such copyrightable materials will be subject to a royalty free, nonexclusive, and irrevocable license throughout the world to SHPO and/or the United States Government to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

IV. RECORD RETENTION AND AUDIT EXAMINATION

a. Right of Access to Subgrantee's Records

The Subgrantee shall provide the right of access to any books, documents, papers, or other records which are pertinent to the Historic Preservation Fund grant to the Department of the Interior, the Comptroller General of the United States, the Kansas Historical Society or any of their duly authorized representatives to make an audit, examination, excerpts, or transcript.

b. Single Audit

The Subgrantee shall ensure that the federal funds received through this grant will be included in an audit base subject to the single audit requirements if required of the Subgrantee. Two copies of the audit results pertaining to this grant will be made available to SHPO upon completion of the audit.

c. Responsibility to Repay Improperly Used Funds

If an audit or other examination should produce findings that funds were improperly expended by the Subgrantee, the Subgrantee has the sole responsibility for repaying those funds.

d. Subgrantee to Provide Needed Fiscal Data

The Subgrantee shall provide SHPO such fiscal information as it may need for federal or state budgetary or reporting purposes.

e. Approval of Expenditures

The Subgrantee shall not incur expenses on this project other than those included in the project budget approved by SHPO. Budget amendments may be requested by the subgrantee, but all proposed changes must be approved in writing by SHPO before the expenses are incurred.

f. Financial Management System

The Subgrantee shall have in place a financial management system, which meets the standards of the relevant OMB Circulars, A-21, A-87, A-102, A-110, A-122, A-128, or A-133.

g. Record Retainage

All project records must be retained by the Subgrantee for three (3) years from the date of submission of the final project completion report per 43 CFR 12.82.

V. PROHIBITION OF LOBBYING

a. Federal Requirements

The Subgrantee shall comply with the provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall; in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or its Departments or agencies from communicating to Members of Congress at the request of any Member, or to Congress through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to HPF-assisted grants, either on a direct or indirect cost basis.

VI. HIRING OF CONSULTANTa. SHPO Approval Required

Any consultant or other person or entity hired for the purpose of performing work under this grant shall be subject to the approval of SHPO and shall be qualified to do the work. Sub-contracting of any work performed under this Agreement must be approved in writing by SHPO.

b. Competitive Procurement

The Subgrantee shall provide SHPO with evidence that competitive procurement requirements for professional services and subcontracts have been met. The awarding of any contract to fulfill work under this grant shall be done competitively as required by OMB Circulars A-102 and A-110. Reference also the HPF Grant Guide.

VII. TERMINATION OF CONTRACTa. Basis of Termination

Failure on the part of the Subgrantee to observe the conditions of this agreement, and by reference, the requirements of the grants manuals of the National Park Service and SHPO, shall constitute just cause for terminating the project and reassigning the federal funds to other projects. A complete stoppage of work without prior approval by SHPO shall be grounds for termination of the project.

b. Process for Close Out

Under either circumstance, the project would be closed out in accordance with the requirements of the "HPF Grant Guide."

VIII. CIVIL RIGHTS ACT COMPLIANCEa. Required Form

The Subgrantee shall sign and return to SHPO one copy of form DI-1350, "Assurance of Compliance, Title VI, Civil Rights Act of 1964."

b. Subgrantee's Obligations

The Subgrantee shall make available to the public Title VI and Section 504 nondiscrimination information. The following language shall be used:

This program receives Federal funds from the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally Assisted programs on the basis of race, color, national origin, age or handicap. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of federal assistance should write to: Director, Office of Equal Opportunity, National Park Service, 1849 C Street, NWS, Washington, D.C. 20240.

IX. KANSAS HISTORICAL SOCIETY HELD HARMLESS FROM CLAIMS AGAINST SUBGRANTEE

a. Claims are Responsibility of Subgrantee

The Subgrantee agrees that the SHPO and all of their officers, agents and employees shall not be liable for claims on account of personal bodily injuries or death or on account of property damages arising out of the work to be performed by the Subgrantee hereunder and resulting solely from the negligent acts or omissions of the Subgrantee, its agents, employees and subcontractors. Such claims may be pursued in accordance with the provisions of the Kansas Tort Claims Act, K.S.A. 75-6101 et. seq.

X. AMENDMENT

a. Request

Either party may make a written request for changes to this Agreement.

b. Approval

Changes must be agreed to in writing by both parties.

XI. CONTRACTURAL PROVISIONS ATTACHMENT

The Provisions found in Contractural Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

STATE HISTORIC PRESERVATION
OFFICER

Signature of Authorized
Representative of Subgrantee

Date

Typed name and title of signatory

Date

Approved as to form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Acceptance of a State Historic Preservation Grant for a Building Condition Report and Maintenance Plan for Old City Hall. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Staff recommends that City Council accept the State Historic Preservation Grant and authorize the Mayor to sign the project agreement.

Background: The Historic Preservation Office applied for and has been notified that the City has been awarded a grant in the amount of \$18,900 to hire a preservation forensic investigator to write a building condition report and develop a maintenance plan for the Wichita-Sedgwick County Historical Museum (Old City Hall).

Analysis: The building condition report and maintenance plan is needed to develop a budget to complete needed repairs to the Old City Hall building. Since the building is listed in the Register of Historic Kansas Places and the National Register of Historic Places, the condition report and maintenance plan must be written and developed according to the Secretary of the Interior's Standards for Rehabilitation. The project will be completed by June 30, 2015.

Financial Consideration: Total project costs are \$35,900, of which the grant covers \$18,900. The remaining \$17,000 provides the local match, includes a contribution of \$12,600 from the Wichita-Sedgwick County Historical Museum plus the Historic Preservation Planner's time to manage the grant and provide input to the report. No other cash match is needed from the City. The City will receive a \$1,500 administrative fee.

Legal Consideration: Federal and State assurances required by the Historic Preservation Fund Grant program have been included in the project agreement. The project implementation will not negatively impact local development plans, zoning, land use or licensing requirements. The project agreement has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council accept the award of the grant and authorize the necessary signatures.

Attachment: Kansas State Historical Society FY2014 Historic Preservation Fund Grant Project Agreement for Old City Hall Building Condition Report and Maintenance Plan.

PROJECT AGREEMENT

THIS AGREEMENT is hereby entered into this ____ day of _____, 2014 by and between the **City of Wichita, Kansas**, (hereinafter Subgrantee”), and the State of Kansas, Kansas Historical Society, State Historic Preservation Office, (hereinafter “SHPO”).

WHEREAS, the Subgrantee has applied for and been awarded a **\$18,900** Historic Preservation Fund grant from SHPO to undertake a project to **evaluate the structural and material conditions of the Old City Hall Building at 204 S. Main Street in Wichita, KS and produce a building condition report and maintenance plan for that building;**

WHEREAS, the Historic Preservation Fund grant is funded by federal historic preservation funds appropriated by Congress for the purpose of carrying out its National Historic Preservation Act, as amended; and,

WHEREAS, in order to receive the grant funds, the Subgrantee must carry out its project activities in accordance with the Secretary of the Interior’s *Standards and Guidelines for Archeology and Historic Preservation*; and,

WHEREAS, the Subgrantee shall follow all requirements in the “Historic Preservation Grants Manual” prepared by the National Park Service, and the “Historic Preservation Fund (HPF) Grant Guide” prepared by SHPO; and

WHEREAS, the Subgrantee shall follow the conditions and requirements governing National Park Service grants as outlined herein; and,

WHEREAS, the parties desire to enter into an Agreement setting forth these and other requirements relating to the grant.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

I. WORK TO BE PERFORMEDa. Schedule

Subgrantee shall not begin work under the terms of this Agreement prior to **May 29, 2014**, and Subgrantee shall complete, expend funds, submit products, and request final reimbursement by **April 30, 2015**. Requests for extensions must be made thirty days prior to that end date. The following dates shall be used as a guideline for submission of products:

July 15, 2014	Submit draft RFP to SHPO for review
August 15, 2014	Release RFP to solicit bids for consultant services
September 15, 2014	RFPs are due / consultant is selected
October 31, 2014	Contract with consultant finalized
December 31, 2014	Building investigation is complete
February 28, 2015	Draft condition report and maintenance plan submitted to SHPO
April 30, 2015	Submit final report, grant completion report and all final products

b. Scope of Work

The Subgrantee shall use grant funds to implement the preservation activities identified below. The Subgrantee shall advise SHPO immediately of any problems that arise that impair its ability to meet its obligations under this Agreement.

The scope of work identified in this Agreement shall not be changed by the Subgrantee without prior written approval from SHPO. The Subgrantee shall conduct the project in following manner:

- (1) **The Subgrantee shall hire Mark Liebman, a qualified forensic preservation consultant, to perform an investigation of the structural and material conditions of the Old City Hall Building;**
- (2) **The Consultant shall utilize his findings to produce a report documenting the building's condition and proposing a maintenance plan for the building;**
- (3) **All proposals in the report and plan shall meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties*;**
- (4) **The Subgrantee shall provide regular monthly reports and a Completion Report as outlined in SHPO's "2014 Historic Preservation Fund Grant Guide." The report shall be submitted within 30 days after the project work is completed. This final report shall accompany a brief article suitable for possible publication in the *Kansas Preservation* newsletter outlining the results of the project.**

c. Monthly Reports and Draft Submissions

The Subgrantee shall submit monthly reports to SHPO on the forms supplied by SHPO. Such reports shall be due on the tenth of the following month. Repeated failure to return monthly reports in a timely manner will jeopardize future grant funding. The Subgrantee shall provide a draft copy of any reports or publications to review before the final copy is prepared for submission or publication.

d. Project Spanning Two Fiscal Years

If parts of the grant project will be carried out during two federal fiscal years, the Subgrantee shall prepare a one-page progress report as of September 30 that covers both the project work and fiscal expenditures. Subgrantees are required to request reimbursement for all expenditures incurred in the first federal fiscal year no later than the following October 31.

II. PROJECT ACCOUNTING AND PAYMENT

a. Total Project Cost

The total project cost is estimated to be **\$35,900.00**. Subgrantee shall be reimbursed 60% of project costs with grant funds, up to **\$18,900.00** ("federal share"). Subgrantee shall pay for the remaining 40% of project costs, and Subgrantee's match shall not be less than **\$12,600.00** ("Subgrantee's share").

b. Reimbursement Procedure

The federal funds shall be obtained by the Subgrantee by completing a discrete part of the project with its own funds, providing the products to SHPO and then requesting reimbursement for 60% of the cost.

However, 10% of the federal funds requested will be withheld until satisfactory completion of all the Project Agreement conditions. No billing may be reimbursed at greater than 60%. The National Park Service requires that the costs of products which do not meet the relevant Secretary of Interior's *Standards* cannot be reimbursed.

c. Project Budget

		Match		In-Kind		Federal		Total
Salaries								
Administrator	\$	4,400.00	\$	0.00	\$	0.00		4,400.00
Consultant		12,000.00		0.00		18,000.00		30,000.00
Administrative fee		600.00		0.00		900.00		1,500.00
Total	\$	17,000.00	\$	0.00	\$	18,900.00	\$	35,900.00

No billing will be reimbursed without completion of one or more of the specific products described below along with documentation of the expenditures associated. The project products include:

- 1. Four copies of the final condition report / maintenance plan (two of these shall be in electronic format submitted on two separate compact discs);**
- 2. A Completion Report accompanying an article suitable for possible publication in the *Kansas Preservation* newsletter.**

A maximum of **eighteen thousand nine hundred dollars (\$18,900)** in federal funds shall be reimbursed upon SHPO receipt and approval of the final project report and all completion report materials.

d. Billing Frequency

Billing shall be done as required by SHPO and must be directly related to the completion of a specified part or parts of the project with those products as listed above. Final payment will not be made by SHPO until the project reports and products have been turned in, examined, and found to meet the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*.

e. Request for Reimbursement

The Subgrantee shall file requests for reimbursement on forms furnished by SHPO and accompanied by copies of the vouchers, payroll records, and whatever other documents such as canceled checks, toll call records, copy records, etc., that are necessary to substantiate the costs. (See HPF Grant Guide, Part 4.)

f. Documentation Required

The Subgrantee shall furnish copies of all project source documents, such as contracts, vouchers, payroll records, time sheets, invoices, canceled checks, etc., to SHPO. This includes supporting documentation for the Subgrantee's share, including in-kind services, as well as for the expenditures of the federal share.

g. SHPO's Responsibility

SHPO assumes no fiscal responsibility to the Subgrantee other than to pass through historic preservation funds as available for the performance of the project work.

III. PROJECT REPORTS

a. Copies of Publications

If any published documents are produced under the terms of this Agreement (such as public information pamphlets or walking tour brochures), the Subgrantee shall submit four copies of each to SHPO. Some of these may be provided in electronic format with SHPO approval.

b. Right of SHPO Use

SHPO reserves the non-exclusive right to use and reproduce maps, survey forms, photographs, and other materials submitted by the Subgrantee in carrying out SHPO's survey, planning, and public education responsibilities.

c. Acknowledgment of Federal Assistance

The assistance of the National Park Service, Department of the Interior, will be acknowledged in any reports, publications, audiovisual productions, project literature, and at all public meetings and programs where the project is discussed or explained. The acknowledgment may be written as follows:

The (activity) which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, a division of the United States Department of the Interior, and administered by the Kansas Historical Society. The contents and opinions, however, do not necessarily reflect the view or policies of The United States Department of the Interior or the Kansas Historical Society.

d. Copyright

The Subgrantee is free to copyright any books, publications, audiovisual productions or other copyrightable materials developed as a result of this Agreement. However, any such copyrightable materials will be subject to a royalty free, nonexclusive, and irrevocable license throughout the world to SHPO and/or the United States Government to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

IV. RECORD RETENTION AND AUDIT EXAMINATION

a. Right of Access to Subgrantee's Records

The Subgrantee shall provide the right of access to any books, documents, papers, or other records which are pertinent to the Historic Preservation Fund grant to the Department of the Interior, the Comptroller General of the United States, the Kansas Historical Society or any of their duly authorized representatives to make an audit, examination, excerpts, or transcript.

b. Single Audit

The Subgrantee shall ensure that the federal funds received through this grant will be included in an audit base subject to the single audit requirements if required of the Subgrantee. Two copies of the audit results pertaining to this grant will be made available to SHPO upon completion of the audit.

c. Responsibility to Repay Improperly Used Funds

If an audit or other examination should produce findings that funds were improperly expended by the Subgrantee, the Subgrantee has the sole responsibility for repaying those funds.

d. Subgrantee to Provide Needed Fiscal Data

The Subgrantee shall provide SHPO such fiscal information as it may need for federal or state budgetary or reporting purposes.

e. Approval of Expenditures

The Subgrantee shall not incur expenses on this project other than those included in the project budget approved by SHPO. Budget amendments may be requested by the subgrantee, but all proposed changes must be approved in writing by SHPO before the expenses are incurred.

f. Financial Management System

The Subgrantee shall have in place a financial management system, which meets the standards of the relevant OMB Circulars, A-21, A-87, A-102, A-110, A-122, A-128, or A-133.

g. Record Retainage

All project records must be retained by the Subgrantee for three (3) years from the date of submission of the final project completion report per 43 CFR 12.82.

V. PROHIBITION OF LOBBYING

a. Federal Requirements

The Subgrantee shall comply with the provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall; in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or its Departments or agencies from communicating to Members of Congress at the request of any Member, or to Congress through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to HPF-assisted grants, either on a direct or indirect cost basis.

VI. HIRING OF CONSULTANT

a. SHPO Approval Required

Any consultant or other person or entity hired for the purpose of performing work under this grant shall be subject to the approval of SHPO and shall be qualified to do the work. Sub-contracting of any work performed under this Agreement must be approved in writing by SHPO.

b. Competitive Procurement

The Subgrantee shall provide SHPO with evidence that competitive procurement requirements for professional services and subcontracts have been met. The awarding of any contract to fulfill work under this grant shall be done competitively as required by OMB Circulars A-102 and A-110. Reference also the HPF Grant Guide.

VII. TERMINATION OF CONTRACT

a. Basis of Termination

Failure on the part of the Subgrantee to observe the conditions of this agreement, and by reference, the requirements of the grants manuals of the National Park Service and SHPO, shall constitute just cause for terminating the project and reassigning the federal funds to other projects. A complete stoppage of work without prior approval by SHPO shall be grounds for termination of the project.

b. Process for Close Out

Under either circumstance, the project would be closed out in accordance with the requirements of the "HPF Grant Guide."

VIII. CIVIL RIGHTS ACT COMPLIANCE

a. Required Form

The Subgrantee shall sign and return to SHPO one copy of form DI-1350, "Assurance of Compliance, Title VI, Civil Rights Act of 1964."

b. Subgrantee's Obligations

The Subgrantee shall make available to the public Title VI and Section 504 nondiscrimination information. The following language shall be used:

This program receives Federal funds from the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally Assisted programs on the basis of race, color, national origin, age or handicap. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of federal assistance should write to: Director, Office of Equal Opportunity, National Park Service, 1849 C Street, NWS, Washington, D.C. 20240.

IX. KANSAS HISTORICAL SOCIETY HELD HARMLESS FROM CLAIMS AGAINST SUBGRANTEE

a. Claims are Responsibility of Subgrantee

The Subgrantee agrees that the SHPO and all of their officers, agents and employees shall not be liable for claims on account of personal bodily injuries or death or on account of property damages arising out of the work to be performed by the Subgrantee hereunder and resulting solely from the negligent acts or omissions of the Subgrantee, its agents, employees and subcontractors. Such claims may be pursued in accordance with the provisions of the Kansas Tort Claims Act, K.S.A. 75-6101 et. seq.

X. AMENDMENT

a. Request

Either party may make a written request for changes to this Agreement.

b. Approval

Changes must be agreed to in writing by both parties.

XI. CONTRACTURAL PROVISIONS ATTACHMENT

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

STATE HISTORIC PRESERVATION
OFFICER

Signature of Authorized
Representative of Subgrantee

Date

Typed name and title of signatory

Date

Approved as to form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Ordinance to Amend City Code Regarding Payment of Connection Fees
(All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Place the ordinance on first reading.

Background: On May 6 and June 3, 2014, the City Council approved projects to construct new water lines and provide service connections to existing water lines in an area of groundwater contamination identified by the Kansas Department of Health and Environment (KDHE).

Analysis: There are additional properties requesting connection to City water that are ineligible for KDHE assistance due to being located adjacent to, rather than within, the contaminated area. To assist these properties with connecting to the new water mains, staff proposes allowing payment of all required tap and equity fees over a five-year period. An ordinance amending Sections 17.12.040 and 17.12.061 of City Code has been prepared to allow this payment option in cases where applicants are seeking connection to City water due to the proximity of a contaminated groundwater area.

Financial Considerations: Existing tap and equity fee rate schedules will not be affected and there is no cost to the City associated with the adoption of this ordinance.

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

Recommendation/Actions: It is recommended that the City Council approve the payment option, place the ordinance on first reading, and authorize the necessary signatures.

Attachments: Ordinance.

(Published in The Wichita Eagle on August 15, 2014)

ORDINANCE NO. 49-806

A ORDINANCE OF THE CITY OF WICHITA, KANSAS (THE "CITY"), AMENDING SECTIONS 17.12.040 AND 17.12.061 OF THE CODE OF THE CITY OF WICHITA, KANSAS, TO ALLOW PAYMENT OF PLANT EQUITY FEES AND CONNECTION FEES BY RESIDENTIAL CUSTOMERS WITH ONE-INCH METERS IN FIVE ANNUAL INSTALLMENTS IN CERTAIN CIRCUMSTANCES.

WHEREAS, the City of Wichita, Kansas (the "City") has recently taken steps to provide for the emergency extension of water mains to serve residents in an environmentally contaminated area in west Wichita; and,

WHEREAS, several residents who are located near, but not actually within, the said environmentally contaminated area have expressed interest in connecting to the new water mains via service lines and one-inch meters, but would like to be allowed to pay the plant equity fees and connection fees required as a condition of establishing service over a period of several years; and,

WHEREAS, the City's Governing Body is willing to accommodate such requests by the new residential customers connecting to the new water mains extended into the contaminated area, provided the owners of the benefited properties are willing to consent to appropriate liens on the property to secure the payment of the future installments;

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

SECTION 1. Section 17.12.040 of the Code of the City of Wichita, Kansas shall be amended to read as follows:

Sec. 17.12.040. Requirements of applicants for new service.

If an application is for water service to premises not previously served, the following requirements shall be met:

- (a) Meter Settings and Service Lines in Areas Served by Existing Water Mains. In areas where water mains exist adjacent to property to be served, the applicant, upon submission of information to the department as to the location and nature of the premises, will be provided with information as to the proposed location of the meter setting. If the customer's service line has been installed prior to the application for service, it shall be the applicant's responsibility to clearly mark the location thereof. The department shall have sole jurisdiction, however, to determine the location of the department service line, and the feasibility of a connection to the customer's service line. It shall be the applicant's responsibility at his/her own expense to run his/her service line from the premises being served to the meter setting at or near the curb line. The department service line meter setting and meter shall be placed within public right-of-way or such other locations as determined by the Director of Public Works & Utilities, and will be installed and maintained by the department and kept within its exclusive control.
- (b) Areas Not Served by Existing Water Mains. Applications for service in areas not served by existing water mains shall be governed by the provisions of Section 17.12.270.
- (c) Installation and Maintenance of Customer's Service Line. The customer shall be responsible for the maintenance, repair, and any leakage in the piping from the meter to place of use. Installation of the customer's service line shall be done by a master plumber and in accordance with the building code and the plumbing code of the city.
- (d) Size of Meters. The department shall determine the size of the meter to be installed, based upon information furnished by the applicant. Any change in meter size requested by a customer after the initial meter installation shall be granted insofar as is reasonable but the entire cost shall be borne by the customer unless determined otherwise by the Director of Public Works & Utilities. In cases of dispute as to meter size, the department shall have sole jurisdiction.
- (e) Size of Department Service Line. The size of the department service line shall be determined by the department, based upon information furnished by the applicant. However, in no case shall the department service line be the same size or any greater size than the water main to which it is connected. Any change in size or location of the department service line after the original installation shall be done at customer's expense unless determined otherwise by the Director of Public Works & Utilities.
- (f) Special Vaults to House Meters—Cost of Construction; Location of Meter Settings and Vaults. In cases where the size of the meter is one and one-half inches or larger, or other special circumstances make it necessary to construct a special vault in which to house the meter, all costs of construction of such vault shall be borne by the applicant. Outside building meter settings and vaults shall be installed whenever possible and inside building meter installations must be approved in writing by the Director of Public Works & Utilities or his/her representative.
- (g) Same—Responsibility of Customer for Installation, Maintenance, etc. With respect to all premises served by the department, whether located within or without the corporate limits of the city, it shall be the responsibility of the customer to install or have installed thereon, such special vaults as are prescribed by the department according to and in conformity with specifications and drawings which shall be furnished the applicant by the department. All such special vaults so constructed and installed on the customer premises, adjacent to the property line shall be the property of the customer. The customer shall be responsible for all maintenance and adjustment to grade of the special vault.

In instances where circumstances necessitate the location of special vaults in a public right-of-way for street, alley or similar public uses, the construction and installation of the special vault shall be accomplished by the customer at locations approved by the city engineer. All such special vaults, however, located in public rights-of-way shall be wholly and exclusively owned by the city through its water department and it shall be solely responsible for all maintenance, repair and relocation as may be necessary.

- (h) Connection Fees. Except as otherwise provided in (i), below, prior to the installation of a standard service, the applicant shall pay in advance a connection fee for the installation by the department of the standard service line. The connection fee shall be determined by the Director of Public Works & Utilities, and shall be based on the actual costs of similar installation work.

For a standard service line four inches or larger, the connection fee will be based upon an estimate of cost prepared by the department.

- (i) In cases where the applicant is seeking to establish service through a one-inch meter, by connecting to a new water main the City has extended into a contaminated area to address problems with groundwater quality due to the proximity of the contamination, the applicant may be permitted to pay the connection fee in five (5) equal annual installments, to be billed on the March water bill, provided the owner of the property to be served shall execute and deliver a note and mortgage in favor of the City, with a due-on-sale provision, to secure payment of the annual installments.

SECTION 2. Section 17.12.061, of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 17.12.061. Payment of plant equity fees for connection of water service.

Each customer requesting a new service connection to the water distribution system shall pay a plant equity fee prior to connection (or shall agree, prior to connection, to pay such fee as otherwise provided below) as part of the approval process for new service connections.

Such plant equity fees shall be determined on the basis of the equity existing system customers have accumulated in the system as determined on the basis of a detailed analysis of plant assets and shall constitute a system buy in fee assessed to new connections. The meter size on which the fee schedule is based shall be in reference to the associated water meter size.

The schedule of said plant equity fees shall be as follows:

Meter Size	2007 & Beyond
1" or less	\$1,520
1½"	3,040
2"	4,860
3"	9,120
4"	15,200
6"	30,400
8"	48,640
10"	69,920
12"	130,720

Given the variations in uses which may accrue to services eight inches or larger in size, fees charged in relation to such service sizes may be adjusted by the Director of Utilities upon receipt of detailed estimates of projected usage characteristics supplied by the applicant for service.

At the discretion of the City Council, the above fees may be waived and/or modified in relation to economic development projects, which, due to their unusual nature or magnitude, offer extraordinary benefits to the community. Further, in cases where the applicant is seeking to establish service through a one-inch meter, by connecting to a new water main the City has extended into a contaminated area to address problems with groundwater quality due to the proximity of the contamination, the applicant may be permitted to pay the plant equity fee in five (5) equal annual installments, to be billed on the March water bill, provided the owner of the property to be served shall execute and deliver a note and mortgage in favor of the City, with a due-on-sale provision, to secure payment of the annual installments.

Property owners required to make a payment for connecting to the water system as provided above may apply for a deferral of such payment on the basis that such payment would work an economic hardship on the owner(s). The criteria for the granting of such a deferral shall be the same as described in Sections 2.24.070 and 2.24.075 of the Code. All other terms and conditions of any deferral hereunder shall be governed by the provisions of [Sections] 2.24.070 and 2.24.075 except as otherwise noted herein. A deferral hereunder may be granted to owners of property located outside the City limits.

SECTION 3. Sections 17.12.040 and 17.12.061 of the Code of the City of Wichita, as they hitherto existed, are hereby repealed and replaced with the amended versions set forth above.

SECTION 4. This Ordinance shall take effect and be in force from and after its passage and publication one time in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2014.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

(Published in The Wichita Eagle on: _____)

ORDINANCE NO. _____

A ORDINANCE OF THE CITY OF WICHITA, KANSAS (THE “CITY”), AMENDING SECTIONS 17.12.040 AND 17.12.061 OF THE CODE OF THE CITY OF WICHITA, KANSAS, TO ALLOW PAYMENT OF PLANT EQUITY FEES AND CONNECTION FEES BY RESIDENTIAL CUSTOMERS WITH ONE-INCH METERS IN FIVE ANNUAL INSTALLMENTS IN CERTAIN CIRCUMSTANCES.

WHEREAS, the City of Wichita, Kansas (the “City”) has recently taken steps to provide for the emergency extension of water mains to serve residents in an environmentally contaminated area in west Wichita; and,

WHEREAS, several residents who are located near, but not actually within, the said environmentally contaminated area have expressed interest in connecting to the new water mains via service lines and one-inch meters, but would like to be allowed to pay the plant equity fees and connection fees required as a condition of establishing service over a period of several years; and,

WHEREAS, the City’s Governing Body is willing to accommodate such requests by the new residential customers connecting to the new water mains extended into the contaminated area, provided the owners of the benefited properties are willing to consent to appropriate liens on the property to secure the payment of the future installments;

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

SECTION 1. Section 17.12.040 of the Code of the City of Wichita, Kansas shall be amended to read as follows:

Sec. 17.12.040. Requirements of applicants for new service.

If an application is for water service to premises not previously served, the following requirements shall be met:

- (a) Meter Settings and Service Lines in Areas Served by Existing Water Mains. In areas where water mains exist adjacent to property to be served, the applicant, upon submission of information to the department as to the location and nature of the premises, will be provided with information as to the proposed location of the meter setting. If the customer's service line has been installed prior to the application for service, it shall be the applicant's responsibility to clearly mark the location thereof. The department shall have sole jurisdiction, however, to determine the location of the department service line, and the feasibility of a connection to the customer's service line. It shall be the applicant's responsibility at his/her own expense to run his/her service line from the premises being served to the meter setting at or near the curb line. The department service line meter setting and meter shall be placed within public right-of-way or such other locations as determined by the Director of Public Works & Utilities, and will be installed and maintained by the department and kept within its exclusive control.
- (b) Areas Not Served by Existing Water Mains. Applications for service in areas not served by existing water mains shall be governed by the provisions of Section 17.12.270.
- (c) Installation and Maintenance of Customer's Service Line. The customer shall be responsible for the maintenance, repair, and any leakage in the piping from the meter to place of use. Installation of the customer's service line shall be done by a master plumber and in accordance with the building code and the plumbing code of the city.
- (d) Size of Meters. The department shall determine the size of the meter to be installed, based upon information furnished by the applicant. Any change in meter size requested by a customer after the initial meter installation shall be granted insofar as is reasonable but the entire cost shall be borne by the customer unless determined otherwise by the Director of Public Works & Utilities. In cases of dispute as to meter size, the department shall have sole jurisdiction.
- (e) Size of Department Service Line. The size of the department service line shall be determined by the department, based upon information furnished by the applicant. However, in no case shall the department service line be the same size or any greater size than the water main to which it is connected. Any change in size or location of the department service line after the original installation shall be done at customer's expense unless determined otherwise by the Director of Public Works & Utilities.
- (f) Special Vaults to House Meters—Cost of Construction; Location of Meter Settings and Vaults. In cases where the size of the meter is one and one-half inches or larger, or other special circumstances make it necessary to construct a special vault in which to house the meter, all costs of construction of such vault shall be borne by the applicant. Outside building meter settings and vaults shall be installed whenever possible and inside building meter installations must be approved in writing by the Director of Public Works & Utilities or his/her representative.
- (g) Same—Responsibility of Customer for Installation, Maintenance, etc. With respect to all premises served by the department, whether located within or without the corporate limits of the city, it shall be the responsibility of the customer to install or have installed thereon, such special vaults as are prescribed by the department according to and in conformity with specifications and drawings which shall be furnished the applicant by the department. All such special vaults so constructed and installed on the customer premises, adjacent to the property line shall be the property of the customer. The customer shall be responsible for all maintenance and adjustment to grade of the special vault.

In instances where circumstances necessitate the location of special vaults in a public right-of-way for street, alley or similar public uses, the construction and installation of the special vault shall be accomplished by the customer at locations approved by the city engineer. All such special vaults, however, located in public rights-of-way shall be wholly and exclusively owned by the city through its water department and it shall be solely responsible for all maintenance, repair and relocation as may be necessary.

- (h) Connection Fees. Except as otherwise provided in (i), below, prior to the installation of a standard service, the applicant shall pay in advance a connection fee for the installation by the department of the standard service line. The connection fee shall be determined by the Director of Public Works & Utilities, and shall be based on the actual costs of similar installation work.
For a standard service line four inches or larger, the connection fee will be based upon an estimate of cost prepared by the department.
- (i) In cases where the applicant is seeking to establish service through a one-inch meter, by connecting to a new water main the City has extended into a contaminated area to address problems with groundwater quality due to the proximity of the contamination, the applicant may be permitted to pay the connection fee in five (5) equal annual installments, to be billed on the March water bill, provided the owner of the property to be served shall execute and deliver a note and mortgage in favor of the City, with a due-on-sale provision, to secure payment of the annual installments.

SECTION 2. Section 17.12.061, of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 17.12.061. Payment of plant equity fees for connection of water service.

Each customer requesting a new service connection to the water distribution system shall pay a plant equity fee prior to connection (or shall agree, prior to connection, to pay such fee as otherwise provided below) as part of the approval process for new service connections.

Such plant equity fees shall be determined on the basis of the equity existing system customers have accumulated in the system as determined on the basis of a detailed analysis of plant assets and shall constitute a system buy in fee assessed to new connections. The meter size on which the fee schedule is based shall be in reference to the associated water meter size.

The schedule of said plant equity fees shall be as follows:

Meter Size	2007 & Beyond
1" or less	\$1,520
1½"	3,040
2"	4,860
3"	9,120
4"	15,200
6"	30,400
8"	48,640
10"	69,920
12"	130,720

Given the variations in uses which may accrue to services eight inches or larger in size, fees charged in relation to such service sizes may be adjusted by the Director of Utilities upon receipt of detailed estimates of projected usage characteristics supplied by the applicant for service.

At the discretion of the City Council, the above fees may be waived and/or modified in relation to economic development projects, which, due to their unusual nature or magnitude, offer extraordinary benefits to the community. Further, in cases where the applicant is seeking to establish service through a one-inch meter, by connecting to a new water main the City has extended into a contaminated area to address problems with groundwater quality due to the proximity of the contamination, the applicant may be permitted to pay the plant equity fee in five (5) equal annual installments, to be billed on the March water bill, provided the owner of the property to be served shall execute and deliver a note and mortgage in favor of the City, with a due-on-sale provision, to secure payment of the annual installments.

Property owners required to make a payment for connecting to the water system as provided above may apply for a deferral of such payment on the basis that such payment would work an economic hardship on the owner(s). The criteria for the granting of such a deferral shall be the same as described in Sections 2.24.070 and 2.24.075 of the Code. All other terms and conditions of any deferral hereunder shall be governed by the provisions of [Sections] 2.24.070 and 2.24.075 except as otherwise noted herein. A deferral hereunder may be granted to owners of property located outside the City limits.

SECTION 3. Sections 17.12.040 and 17.12.061 of the Code of the City of Wichita, as they hitherto existed, are hereby repealed and replaced with the amended versions set forth above.

SECTION 4. This Ordinance shall take effect and be in force from and after its passage and publication one time in the official City paper.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Funding for Improvements to 135th Street West, Maple to Central (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Approve the revised budget and adopt the resolution.

Background: On April 22, 2014, the City Council approved a design concept for improvements to 135th Street West, between Maple and Central. Approval of the design concept came after nearly 10 years of revisions to the project scope, funding holds for higher priority projects, and other delays.

Analysis: Currently, 135th Street is a two-lane asphalt mat roadway with drainage ditches. Planned improvements consist of a three-lane roadway with one through lane in each direction and a center two-way left turn lane with landscaped medians. Additionally, a six-foot wide sidewalk will be constructed on the east side of 135th Street, and a 10-foot multi-use path on the west side, with landscaping in the available right-of-way. Off-site drainage improvements are also included to address drainage problems in the area.

The three-lane concept was selected over a previously planned five-lane concept for the estimated \$1.5 million in cost savings it provided. The cost savings was achieved by eliminating \$800,000 in excavation, drainage, and paving costs, and \$700,000 in relocation costs for a Westar utility transmission line. The project was bid on July 11, 2014, and despite these reductions, all bids exceeded the estimated construction cost by at least \$295,000. Higher than expected asphalt and box culvert construction costs were the primary causes of the overage.

Financial Considerations: The existing budget of \$3,745,000 was approved by the City Council on April 22, 2014, and is funded by General Obligation (GO) bonds. The Pawnee Bridge project is currently on hold following a failed bid attempt and is pending reprogramming in the proposed Capital Improvement Program (CIP) for 2015. Of the \$1.5 million in GO bond funding allotted to the Pawnee Bridge project, staff recommends transferring \$400,000 to the 135th Street project to avoid further delaying construction. This transfer would provide a total budget of \$4,145,000 for construction, utility relocation, right-of-way acquisition, and Engineering staff costs for oversight and administration.

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

Recommendation/Actions: It is recommended that the City Council approve the revised budget, *including the redirection of CIP funding from the Pawnee Bridge to this project*, adopt the resolution, and authorize all necessary signatures for the acquisition or granting of easements, utility relocation agreements, and all required permits.

Attachments: Map, budget sheet, and resolution.

RESOLUTION NO. 14-215

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

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 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:

Design, acquisition of right-of-way, utility relocation, administration, and construction of improvements to 135th Street West, between Maple and Central (472-84308).

(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 IS 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 **\$4,145,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; and plans and specification to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or 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 reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 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 August 5th, 2014.

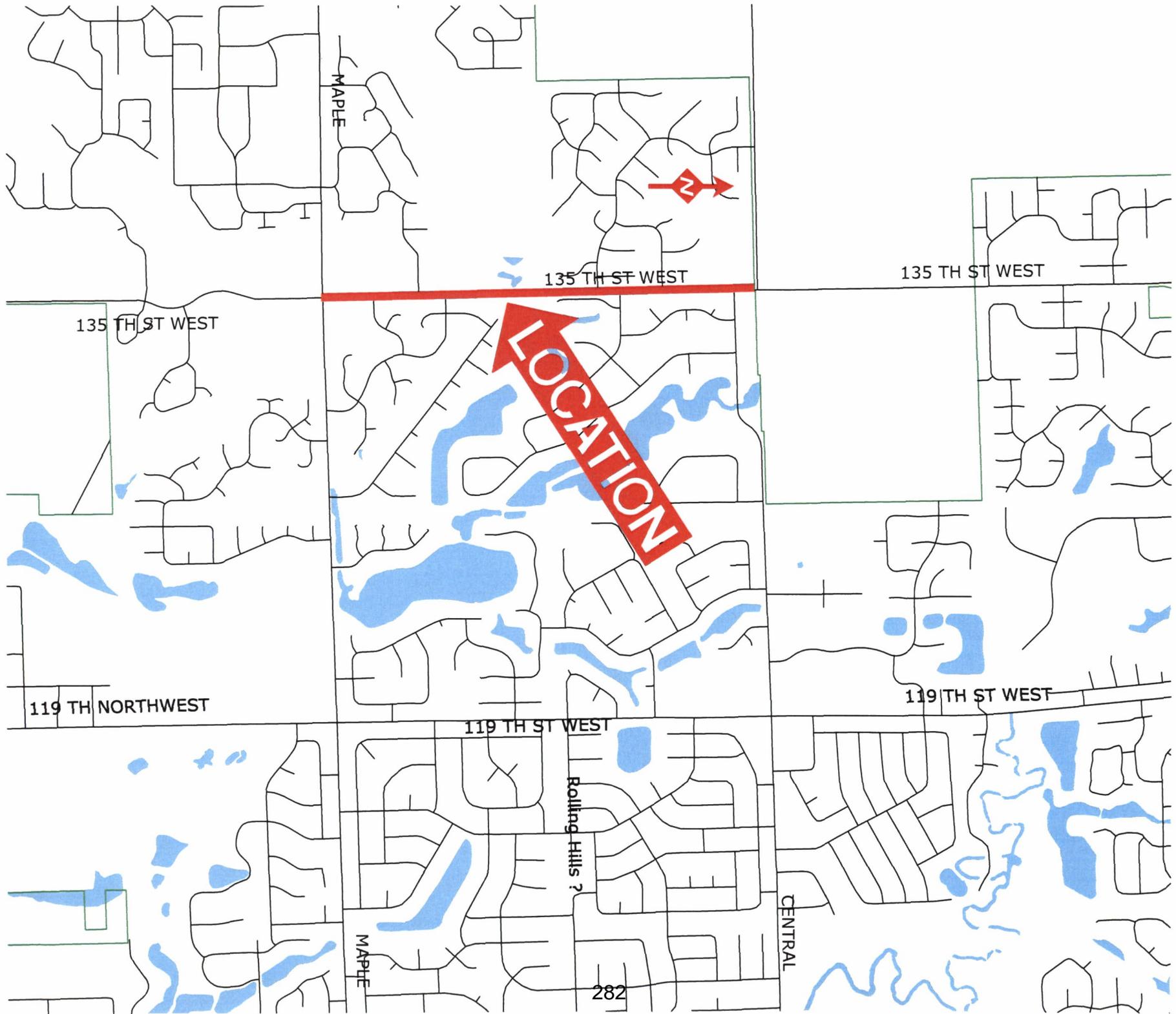
CARL BREWER, MAYOR

(SEAL)

ATTEST:

KAREN SUBLETT, CITY CLERK

APPROVED AS TO FORM:



MAPLE



135 TH ST WEST

135 TH ST WEST

135 TH ST WEST

LOCATION

119 TH NORTHWEST

119 TH ST WEST

119 TH ST WEST

Rolling Hills ?

CENTRAL

MAPLE

282

Project Request

CIP Non-CIP CIP YEAR: 2014 CIP #: _____

NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 14-

ENGINEERING REFERENCE #: 472-84308

FUND: 400 Street Improvements SUBFUND: 405 Arterial Paving

COUNCIL DISTRICT: 05 Council District 5 DATE COUNCIL APPROVED: Aug 5, 2014 REQUEST DATE: _____

PROJECT #: 205404 PROJECT TITLE: 135th St W, Maple to Central

PROJECT DETAIL #: 01 PROJECT DETAIL DESCRIPTION: 135th St W, Maple to Central

OCA #: 706938 OCA TITLE: 135th St W, Maple to Central

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Gary Janzen PHONE #: 268-4450

NEW BUDGET REVISED BUDGET

Revenue Object Level 3	Original Budget	Adjustment	New Budget
<u>9720 G.O. Bonds</u>	\$3,745,000.00	\$400,000.00	\$4,145,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
	\$3,745,000.00	\$400,000.00	\$4,145,000.00

Expense Object Level 3			
<u>2999 Contractuals</u>	\$3,745,000.00	\$400,000.00	\$4,145,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
Total Expense:	\$3,745,000.00	\$400,000.00	\$4,145,000.00

NOTES:

SIGNATURES REQUIRED

Print Form

DIVISION HEAD: _____ DATE: _____

DEPARTMENT HEAD: _____ DATE: _____

BUDGET OFFICER: _____ DATE: _____

CITY MANAGER: _____ DATE: _____

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Funding for Improvements to the Intersection of Mt. Vernon and Oliver (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Approve the revised budget and adopt the resolution.

Background: On December 4, 2012, the City Council approved a design concept and construction budget for improvements to the intersection of Mt. Vernon and Oliver. Improvements include pavement replacement, construction of a left turn lane on all approaches, and upgraded traffic signals.

Analysis: The project was successfully bid on May 30, 2014, and a construction contract was awarded in the amount of \$1,418,069. The project bid and award of contract were based on the total budget of \$1,550,000 stated in the preliminary estimate; however, the approved budget was \$1,300,000. Staff discovered the discrepancy while preparing the purchase order so that construction could begin. A budget increase of \$250,000 is requested to bring the total approved budget to \$1,550,000.

Financial Considerations: The existing budget of \$1,300,000 is funded by \$400,000 in General Obligation (GO) bonds and \$900,000 in Federal grants. The Pawnee Bridge project (over the Arkansas River) is currently on hold following a failed bid attempt and is pending reprogramming in the proposed Capital Improvement Program (CIP) for 2015. Of the \$1.5 million in GO bond funding allotted to the Pawnee Bridge project, staff recommends transferring \$250,000 to the Mt. Vernon and Oliver project to allow construction to begin. This transfer would provide a total budget of \$1,550,000 for construction, utility relocation, right-of-way acquisition, and Engineering staff costs for oversight and administration.

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

Recommendation/Actions: It is recommended that the City Council approve the revised budget, *including the redirection of CIP funding from the Pawnee Bridge to this project*, adopt the resolution, and authorize all necessary signatures for the acquisition or granting of easements, utility relocation agreements, and all required permits.

Attachments: Map, budget sheet, and resolution.

RESOLUTION NO. 14-216

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

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 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:

Design, acquisition of right-of-way, utility relocation, administration, and construction of improvements to Mt. Vernon and Oliver Intersection (472-85042).

(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 IS 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 **\$1,550,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; and plans and specification to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or 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 reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 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 August 5, 2014.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY



Project Request

CIP Non-CIP CIP YEAR: 2015 CIP #: _____

NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 14-

FUND: 400 Street Improvements SUBFUND: 405 Arterial Paving ENGINEERING REFERENCE #: 472-85042

COUNCIL DISTRICT: 03 Council District 3 DATE COUNCIL APPROVED: Aug 5, 2014 REQUEST DATE: _____

PROJECT #: 211502 PROJECT TITLE: Mt Vernon & Oliver Intersection

PROJECT DETAIL #: 01 PROJECT DETAIL DESCRIPTION: Mt Vernon & Oliver Intersection

OCA #: 707037 OCA TITLE: Mt Vernon & Oliver Intersection

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Paul Gunzelman PHONE #: 268-4236

NEW BUDGET REVISED BUDGET

Revenue Object Level 3	Original Budget	Adjustment	New Budget
<u>8062 Federal pass thru State</u>	\$900,000.00	\$0.00	\$900,000.00
<u>9720 G.O. Bonds</u>	\$400,000.00	\$250,000.00	\$650,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$1,300,000.00	\$250,000.00	\$1,550,000.00

Expense Object Level 3			
<u>2999 Contractuals</u>	\$1,300,000.00	\$250,000.00	\$1,550,000.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
_____	\$0.00	\$0.00	\$0.00
Total Expense:	\$1,300,000.00	\$250,000.00	\$1,550,000.00

NOTES:

SIGNATURES REQUIRED

Print Form

DIVISION HEAD: _____ DATE: _____

DEPARTMENT HEAD: _____ DATE: _____

BUDGET OFFICER: _____ DATE: _____

CITY MANAGER: _____ DATE: _____

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: 2014 Traffic Signalization Program (All Districts)
INITIATED BY: Department of Public Works & Utilities
AGENDA: Consent

Recommendations: Approve the project and construction locations; adopt the resolution.

Background: The 2011-2020 Capital Improvement Program (CIP) adopted by the City Council includes an ongoing project to install signalized midblock crosswalks, signalize major intersections, and improve the traffic signals at existing signalized intersections.

Analysis: The Department of Public Works & Utilities receives requests for traffic signals at un-signalized locations throughout the year. Traffic signal warrant analysis is completed for these locations to determine if warrants are met, and if so, designs are initiated.

Designs for the installation of traffic signals were initiated in 2013 for the following locations:

- K-96 and Hillside
- K-96 and Oliver
- 27th Street North at Hillside
- 3300 South Meridian

Funding for construction of these projects is included in the proposed budget.

Staff has been working with Unified School District 259 (USD 259) to determine if midblock crosswalk signals are needed at various locations due to school boundary changes and the addition of new schools. At the request of USD 259, the existing crosswalk at Lawrence Elementary near Maple and Sheridan is currently under design by staff to be relocated to better accommodate students walking to and from school.

Improvements to existing signalized intersections are also considered; these would include: left turn phasing at intersections, audible pedestrian signals, controllers, conflict monitors, communication networking equipment, and maintenance work with Electronic Technology Inc. (ETI) for the radio communication network. In February 2012, the City entered into an agreement with ETI for maintenance of the radio network. The agreement allows the City to extend the service contract for one-year periods as needed. The agreement was last extended on June 24, 2014. The estimated cost to maintain the radio communication network is \$50,000 annually.

Financial Considerations: The programmed CIP budget for 2014 is \$525,000 and the funding source is General Obligation bonds.

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

Recommendation/Actions: It is recommended that the City Council approve the project, approve the locations for construction, adopt the resolution, and authorize the necessary signatures.

Attachments: Budget sheet and resolution.

RESOLUTION NO. 14-217

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

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 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:

Construction of traffic signals at K96 and Hillside, K96 and Oliver, 27th Street and Hillside, and 3300 South Meridian; design of improvements to signalized intersections; completion of traffic studies; and maintenance of the traffic signal radio network.

(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 IS 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 **\$525,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; and plans and specification to be placed on file in the office of the City Engineer.

Section 2. Project Financing. All or 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 reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 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 August 5, 2014.

CARL BREWER, MAYOR

(SEAL)

ATTEST:

KAREN SUBLETT, CITY CLERK

APPROVED AS TO FORM:

GARY E. REBENSTORF,
DIRECTOR OF LAW

Project Request

CIP Non-CIP CIP YEAR: 2014 CIP #: _____

NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 14-

FUND: 400 Street Improvements SUBFUND: 405 Arterial Paving ENGINEERING REFERENCE #: 472-85174

COUNCIL DISTRICT: 07 All Districts DATE COUNCIL APPROVED: Aug 5, 2014 REQUEST DATE: _____

PROJECT #: 211538 PROJECT TITLE: 2014 Traffic Signalization Program

PROJECT DETAIL #: 01 PROJECT DETAIL DESCRIPTION: 2014 Traffic Signalization Program

OCA #: 707074 OCA TITLE: 2014 Traffic Signalization Program

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Paul Gunzelman PHONE #: 268-4393

NEW BUDGET REVISED BUDGET

REVENUE

EXPENSE

Object Level 3	Budget	Object Level 3	Budget
<u>9720 G.O. Bonds</u>	\$525,000.00	<u>2999 Contractuals</u>	\$525,000.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00

REVENUE TOTAL: \$525,000.00

EXPENSE TOTAL: \$525,000.00

NOTES:

SIGNATURES REQUIRED

Print Form

DIVISION HEAD: _____ DATE: _____

DEPARTMENT HEAD: _____ DATE: _____

BUDGET OFFICER: _____ DATE: _____

CITY MANAGER: _____ DATE: _____

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Amending Resolution for Sanitary Sewer Improvements in Sierra Pointe Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Adopt the amending resolution.

Background: On May 6, 2014, the City Council adopted Resolution No. 14-121 for sanitary sewer improvements in Sierra Pointe Addition. A review of the resolution revealed an inadvertent technical error which should be corrected.

Analysis: The sanitary sewer name is Lateral 441, Four Mile Creek Sewer, but was incorrectly called Lateral 441, Northwest Interceptor Sewer on the resolution. An amending resolution has been prepared to correct the name.

Financial Considerations: The project budget remains \$158,000 in special assessments as previously approved.

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

Recommendation/Action: It is recommended that the City Council adopt the amending resolution and authorize the necessary signatures.

Attachments: Amending resolution.

132019

First Published in the Wichita Eagle on August 8, 2014

RESOLUTION NO. 14-218

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 441, FOUR MILE CREEK SEWER (SOUTH OF PAWNEE, WEST OF 127TH) 468-84949** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 441, FOUR MILE CREEK SEWER (SOUTH OF PAWNEE, WEST OF 127TH) 468-84949** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **14-121** adopted on **May 6, 2014** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Lateral 441, Four Mile Creek Sewer (south of Pawnee, west of 127th) 468-84949**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **One Hundred Fifty-Eight Thousand Dollars (\$158,000)** exclusive of interest on financing and administrative and financing costs, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **May 1, 2014**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Sixty Thousand Three Hundred Ninety Five Dollars (\$60,395).

SIERRA POINTE ADDITION

Lots 1 through 12, Block 1

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

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 5th day of August, 2014.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: Wichita Retirement Systems' Comprehensive Annual Financial Report for the Fiscal Year Ended December 31, 2013

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Receive and file the Comprehensive Annual Financial Report.

Background: Since 1998, Pension Management has prepared the Comprehensive Annual Financial Report (CAFR) of the Wichita Employees' Retirement and Police and Fire Retirement Systems. The CAFR is designed to provide information to interested parties regarding the financial position, results of operations, investments and actuarial positions of the Retirement Systems.

Analysis: The financial statements presented in the CAFR for the year ended December 31, 2013 have been audited by the independent certified public accounting firm of Allen, Gibbs & Houlik, L.C. and an unmodified opinion has been issued stating that the financial statements present fairly, in all material respects, the financial position of the Systems and the changes in the Systems' financial position, in accordance with generally accepted accounting principles.

The Government Finance Officers Association (GFOA) of the United States and Canada awarded a Certificate of Achievement for Excellence in Financial Reporting to the Wichita Retirement Systems for the year ended December 31, 2012. In order to be awarded a Certificate of Achievement, a government unit must publish an easily readable and efficiently organized CAFR, with content that conforms to program standards. The 2012 award represents the fourteenth consecutive year in which the Wichita Retirement Systems have earned this award. Staff believes that the 2013 CAFR continues to meet GFOA standards for certification and the City applied for this recognition on June 27, 2014.

Financial Considerations: None

Legal Considerations: None

Recommendations/Actions: It is recommended that the City Council receive and file the Wichita Retirement Systems' Comprehensive Annual Financial Report for the fiscal year ended December 31, 2013.

Attachments: Wichita Retirement Systems, Comprehensive Annual Financial Report for the fiscal year ended December 31, 2013.

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council

SUBJECT: 2015 Funding Contributions for the Cheney Lake Watershed Water Quality Project (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the memorandum of understanding and working agreement, including funding contributions.

Background: Cheney Lake Reservoir provides 60% to 70% of the City's water supply. The reservoir has two significant pollution problems: sedimentation, which displaces stored water and reduces the life of the reservoir, and phosphates from runoff, which contributes to algae and increases taste and odor problems. In 1993, the City Council approved the concept of the City sharing the cost to protect and preserve the reservoir through the implementation of best management practices (BMP). Since 1995, the City has provided financial support to the Cheney Lake Watershed Water Quality Project for expenses and services related to the implementation of BMPs that benefit the reservoir. The City also supports educational outreach efforts and administrative support for approved programs related to the implementation of BMPs.

The original memorandum of understanding (MOU) between the City and Cheney Lake Watershed, Inc. was approved in 1995 and subsequently updated through supplemental agreements. Working agreements were updated annually to accompany the MOU. In fall 2012, the original MOU and all related supplemental agreements were updated and combined, with the final version being approved by the City Council on February 26, 2013. On that date, the City Council also approved a working agreement outlining the supported activities, funding amounts, and responsibilities of each party for the period of January 1, 2013, through December 31, 2014.

Analysis: The MOU and related working agreement have been updated for 2015. The proposed documents establish the basis for reimbursement by the City and outline the supported activities and responsibilities of each party. Staff recommends the City continue to support the Cheney Lake Watershed Water Quality Project by contributing to this joint effort.

The BMPs supported by the project benefit the Cheney Lake Reservoir by reducing sedimentation and slowing the intake of phosphates from runoff. The BMPs related to sedimentation reduction were identified as part of a study completed in 2011 by a Kansas State University Agronomist. The study found that a 40% reduction in sedimentation loading could extend the life of the reservoir by 200 years and identified potential practices and adoption rates that would produce incremental reductions. The study suggested that cumulative incremental reductions totaling 58,972 cubic yards per year would result in the 40% reduction goal if maintained over a 20-year period. This incremental reduction through implementation of BMPs plan was reviewed by the City and the United States Environmental Protection Agency, and approved by the Kansas Department of Health & Environment in 2011.

The alternative method of sediment reduction is dredging operations. The Kansas Water Office estimates dredging costs to be \$8 per cubic yard. The cost to dredge the equivalent amount of sediment reduction achieved through the BMP plan is estimated at nearly \$9,500,000, or just under \$500,000 annually.

Some of the BMPs aimed at slowing the intake of phosphates through runoff include alternative watering systems, filterstrips for small livestock feeding operations, fencing, the enhancement or creation of wetlands, and upgraded wastewater treatment systems in small communities connected to the reservoir. The City spends an estimated average of \$1,000,000 annually to chemically treat the water supply for taste and odor problems caused by the intake of phosphates.

Financial Considerations: The cost of the proactive BMP plan is significantly less than the cost of reactionary treatments. From 1995 to 2013, the City allocated an average of \$222,519 annually for the BMPs. That allocation was reduced in 2014 to \$117,500. The City's actual annual contributions have been significantly less than the allocated amount, ranging from \$44,761 to \$134,368. The average actual annual contribution is \$82,114. The variation in actual contributions is due to participation in the program, changes in cost sharing, and the availability of grants and other funding sources.

Staff proposes the City's total 2015 funding contributions be limited to \$186,700, with \$65,700 for education and administration, and \$121,000 for BMP implementation. Funding of \$186,700 is allocated for the City's portion in the Wichita Public Works & Utilities 2015 Adopted Operations Budget. Allocated funds may not be fully utilized within the fiscal year.

Legal Considerations: The Law Department has reviewed and approved the MOU and working agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the MOU and working agreement, including funding contributions, and authorize the necessary signatures.

Attachments: MOU and working agreement.

MEMORANDUM OF UNDERSTANDING
between the
CHENEY LAKE WATERSHED, INC.
and the
CITY OF WICHITA

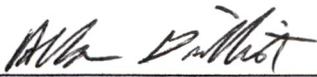
- I. **Purpose:** It is the intent of this agreement to provide funding from the City of Wichita to Cheney Lake Watershed, Inc. for contractual expenses needed to maintain and improve watershed management.

- II. **Background:** The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River which enters Cheney Reservoir. The Cheney Lake Watershed, Inc., is responsible for implementing the Watershed Management Plan accepted by the City of Wichita and the Kansas Department of Health and Environment.

- III **Contractual Expenses:** The City of Wichita agrees to provide funds, not to exceed \$65,700, in the year 2015 for contractual expenses of Cheney Lake Watershed, Inc. Contractual expenses will include professional services. Services rendered may include, but are not limited to:
 - Coordinate Public Education and Outreach within the Cheney Lake Watershed
 - Make one-on-one contacts with landowners or producers to recruit and facilitate the implementation of Best Management Practices.
 - Coordinate with local news media, issue news releases and/or feature articles that highlight watershed projects, especially those that help accomplish watershed goals.
 - Prepare grant requests necessary to assist in funding of projects associated with the watershed improvement management plan.
 - General office management to support the activities listed above.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for contractual expenses incurred in 2015 on a regular basis and the City of Wichita will reimburse Cheney Lake Watershed, Inc for those expenses. The Cheney Lake Watershed, Inc. will be responsible for supervisory control of the professional services.

This agreement shall be governed by and construed in accordance with the laws of the State of Kansas. It is agreed by both parties that this agreement can be modified with the written consent of each party and this agreement can be terminated with 60 days written notice of either party.



 Cheney Lake Watershed, Inc.

 Date 6-2-14

 City of Wichita

 Date _____
 Attest: _____

Approved this _____ day of _____, 201__
 _____ City Attorney

WORKING AGREEMENT FOR WATER QUALITY PROJECTS

between

RENO COUNTY CONSERVATION DISTRICT

and the

CHENEY LAKE WATERSHED, INC.

and the

CITY OF WICHITA

- I. Purpose:** It is the intent of this agreement to provide cost share reimbursement and incentive payments to producers and communities within the Cheney Lake Watershed who install practices that benefit the water quality of Cheney Lake Reservoir. This agreement shall define the procedure by which payments to those producers will be processed.
- II. Background:** The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. The Cheney Lake Watershed is governed by a board, the Citizen's Management Committee, hereafter referred to as CMC. The Citizens Management Committee serves as an advisory board to the Reno County Conservation District. The Cheney Lake Watershed, Inc. provides education and recruits producers and landowners in the watershed to implement management practices that benefit Cheney Lake Reservoir.
- III. Cost Share:** This working agreement shall cover year 2015, January 1, 2015 through December 31, 2015. The CMC and the Reno County Conservation District will review applications for cost share assistance and make decisions for approval based on available funds and the impact of implementing specific practices. Total amount of cost share payments for FY 2015 shall not exceed funds budgeted by the City of Wichita Public Works Department.

Watershed Restoration and Protection Strategy (WRAPS) Implementation Projects: In order to establish desirable practices that protect water quality, the Reno County Conservation District will provide up to 60% of the county average cost or up to 60% of the actual cost of installing the project, whichever is less, using WRAPS funding from KDHE. The City of Wichita will provide matching cost share payments for eligible practices not to exceed 100% of the actual or estimated cost, whichever is less.

Implementation projects may include but will not be limited to the following practices: range and pasture seeding, alternate livestock watering systems, terraces and waterways, no-till farming implementation, nutrient management, the relocation of livestock feeding areas, the relocation of seasonal feeding areas, and the enhancement or creation of wetlands.

Perimeter Fencing: The conversion of cropland to pasture has positive water quality benefits if perennial grasses are established, maintained, and properly grazed. The expense of building perimeter fence is a major deterrent to conversion of cropland to permanent native grass. Conversion of cropland to grass includes land that has been established in native grass for enrollment in the Conservation Reserve Program (CRP). Upon expiration of a CRP contract, assistance with the installation of perimeter fence is an incentive to the landowner to develop a grazing system rather than returning the land to crop production. The CMC has established priority areas within the watershed for the use of cost share for perimeter fence.

A maximum of two (2) miles of fence is eligible for cost share. The cost share rate for Wichita funds will be 50% of county average cost or 50% of the actual cost, whichever is less. The county average cost for the

Water Resources Cost Share (WRCS) program in the county where the practice is installed will be the basis for determining the funding level.

Producers must agree to maintain the fence and to abide by a grazing management plan developed with the NRCS Field Office for a 10 year period following the installation of the fence. Applications will be taken at the Cheney Lake Watershed office. Payment process will be handled by Cheney Lake Watershed with CMC/Reno County Conservation District approval of all payment applications before sending to Wichita.

Water Resources Cost Share (WRCS) and Non-Point Source (NPS) Pollution Control Fund Projects: WRCS and NPS are state cost share programs which are administered by each county Conservation District. Under these programs, the producer applies for cost share assistance for eligible improvements through the county Conservation District; projects are awarded cost share assistance through a ranking process. The producer is eligible to receive state reimbursement of 50 to 70% of county average cost. The City of Wichita will provide matching cost share payments for eligible practices not to exceed 100% of the actual or estimated cost, whichever is less.

Project Implementation Using Other Funding Sources: In order to implement a broad spectrum of desirable practices that protect water quality, the Cheney Lake Watershed and the Reno County Conservation District will seek additional cost share funds from all available sources. These sources may include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office, the Kansas Rural Center, USDA, the US EPA and other entities. When these sources provide 60 to 90% of the county average cost or 60-90% of the actual cost of the project, the City of Wichita will provide up to 40% of the cost, not to exceed a total of 100% of the actual cost. In cases where there is no established county average cost, payment will be based upon reasonable costs as determined by the CMC. These special projects may include, but will not be limited to, the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands for water quality protection.

IV. Incentive Payments: This working agreement shall cover year 2015, January 1, 2015 through December 31, 2015. The Citizen's Management Committee and the Reno County Conservation District will review applications for incentive payments and make decisions for approval based on available funds and the impact of implementing specific practices. Total amount of incentive payments for FY 2015 shall not exceed \$121,000 as budgeted by the City of Wichita Public Works and Utilities Department.

Small Community Wastewater Treatment Systems: There are at least 13 small communities within the Cheney Watershed. Eight of these communities have some type of existing community wastewater treatment system. Many of the community wastewater treatment systems operate near intermittent or perennial streams. In an effort to protect surface water within the watershed, the Cheney Lake Watershed, Inc. will provide incentive payments to small communities that are upgrading a wastewater treatment system. The proposed treatment system must meet all current requirements of the Kansas Department of Health and Environment and must also be located within contributing portions of the watershed. Each eligible community may apply for a one-time payment of \$2,500 to match state or federal funds awarded to upgrade the treatment system. Individual communities may make application for assistance through the Cheney Lake Watershed office. Cheney Lake Watershed, Inc. will make direct payments to participating communities upon completion of the upgrades. A maximum of two applications per year may be approved and funded.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for the amount paid to participating communities and the City will reimburse CLW, Inc. in an amount not to exceed \$5,000 for FY2015.

Continuous Sign-up Conservation Reserve Program (CRP): The conversion of small, strategic parcels of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the area. As water is slowed, the infiltration rate into the soil is increased. By locating these small parcels of perennial grasses adjacent to perennial or intermittent streams, nearly the same benefits may be achieved regarding water quality as converting an entire field to grass.

Continuous Sign-up CRP is a program of the USDA, administered by the Farm Service Agency. In order to maximize utilization of this program in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The CMC has established priority areas and will determine CRP practices that will be eligible for Wichita payments. Cost share funds will be paid to the owner or operator, whichever incurred the cost of establishment.

An incentive payment of \$200 per acre will be paid to the landowner or farm operator upon approval of the contract with FSA. Incentive payments will be paid to the owner or operator or split between them in the same manner that the Continuous CRP payments are to be paid. Incentive payments will be paid to the owner and/or operator based upon the shares indicated in the CCRP contract for annual payments from USDA. Participants must provide a copy of their CCRP contract to the Cheney Lake Watershed office to receive signup incentive payments.

Conversion of Cropland to Perennial Grass: The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of \$100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

Reno County Conservation District Responsibilities

The RCCD will:

1. Maintain official records relative to farms and other official records.
2. Establish the sign-up period for Water Resources Cost Share (WRCS) and Non-Point Source Pollution Control Fund (NPS) cost share programs.
3. Determine producer's eligibility to participate in WRCS and NPS.
4. Maintain County Average Costs.
5. Administer the state's cost share amount to the producer for WRCS and NPS funds.

Cheney Lake Watershed, Inc. Responsibilities

CLW, Inc. will:

1. Review, prioritize and approve/ disapprove applications for cost share and incentive payments. Notify producers or communities of approval status.
2. Will provide an accounting of the practice to the City of Wichita.
4. Prepare payment applications and review with RCCD before forwarding to the City of Wichita for payment.
5. Provide the City of Wichita the name, address and Social Security number of the producer completing the demonstration, the type of practice implemented, and legal description of the practice or demonstration site.
6. Provide a yearly accounting of the program to the City of Wichita.
7. Make direct payments to small communities for upgrades in wastewater treatment systems and invoice the City of Wichita for reimbursement.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.
2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.
3. Provide notification to the Cheney Lake Watershed Office of payments as soon as possible within workload requirements.
4. Provide reimbursement to the Cheney Lake Watershed, Inc. for payments made to small communities for upgrades in wastewater treatment systems.

All Parties:

1. This agreement can be modified with written consent of both parties.
2. This agreement can be terminated with 60 days written notice of either party


 _____ Date 6-27-14
 Reno County Conservation District


 _____ Date 6-25-14
 Citizen's Management Committee

_____ Date
 City of Wichita

APPROVED AS TO FORM:

ATTEST:

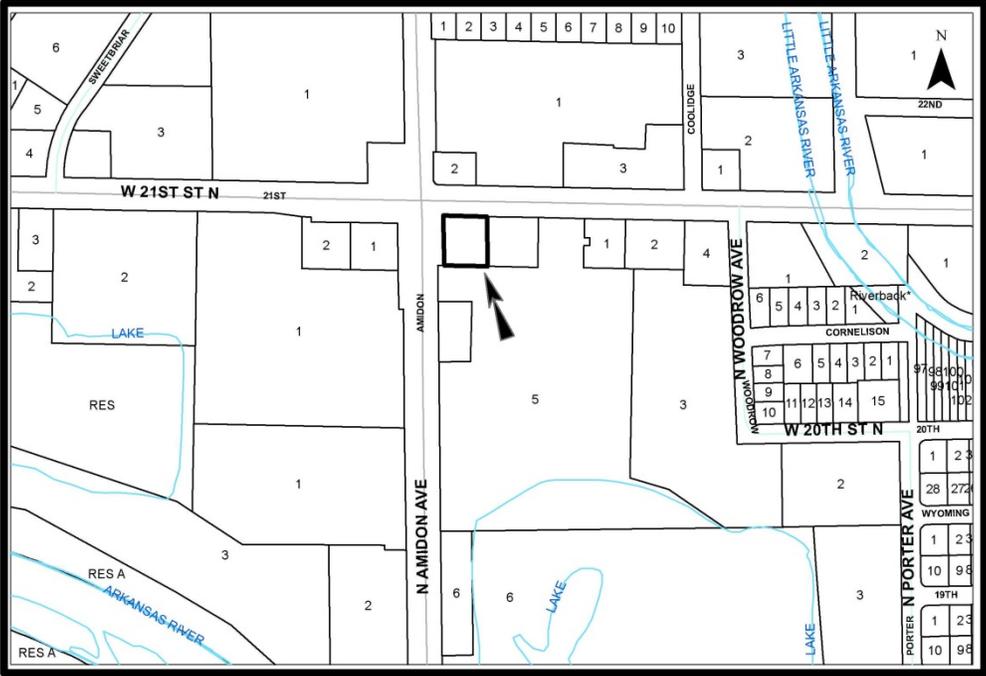
KAREN SUBLETT, CITY CLERK

City of Wichita
City Council Meeting
August 5, 2014

TO: Mayor and City Council
SUBJECT: SUB2014-00010 -- Plat of 21st and Amidon Addition located on the southeast corner of 21st Street North and Amidon (District VI)
INITIATED BY: Metropolitan Area Planning Department
AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)



Background: The site, consisting of one lot on a half acre, is zoned LC Limited Commercial.

Analysis: The site is currently being served by water and sewer services. The applicant has submitted a Drive Approach Closure Certificate regarding the driveways required to be closed by access controls, which are being dedicated by the plat. The applicant has submitted a Restrictive Covenant for Future Joint Access to provide access to the lot to the east.

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: The Law Department has reviewed and approved the Drive Approach Closure Certificate and Restrictive Covenant for Future Joint Access as to form and the documents will be

recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.

Attachments: Drive Approach Closure Certificate.
Restrictive Covenant for Future Joint Access.

COPY

DRIVE APPROACH CLOSURE CERTIFICATE

Sedgwick County)
) SS
State of Kansas)

Martin Bruce Gow and John Marcus Gow,, owner(s) of that certain real property to be known as Lot 1, Block 1, 21st AND AMIDON ADDITION, Wichita, Sedgwick County, Kansas, is in the process of platting said property, and does hereby acknowledge that in accordance with the requirements of the platting process as set forth by the City of Wichita, the westerly, of the two existing drive approaches on 21ST Street per said platting requirements shall be closed.

This is to place on notice the owner(s) of the above-described property and subsequent owners thereof that, as a result of the above-cited platting requirements, said owner and subsequent owners thereof are responsible for seeing that such drive approach or approaches are removed and closed per City of Wichita's specifications for such work, and that sufficient guaranty of such closure(s), in a form acceptable to the City of Wichita (e.g. - bond, cash, letter of credit, etc.) and/or acknowledgement that the City of Wichita may withhold the issuance of an occupancy permit for any future building construction, will be a pre-condition of the issuance of any future building permit for all development on the above-described property.

**RESTRICTIVE COVENANT
FOR FUTURE JOINT ACCESS EASEMENT**

THIS RESTRICTIVE COVENANT made this 17th day of July 2014, by Martin Bruce Gow and John Marcus Gow, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Martin Bruce Gow and John Marcus Gow are the owners of the following described real property, to-wit:

That property to be known as Lot 1, Block 1, 21st AND AMIDON ADDITION, Wichita, Sedgwick County, Kansas, which is in the process of being platted.
and

WHEREAS, as a platting requirement of the Wichita/Sedgwick County Planning Commission, the Declarant hereby agrees to execute a future joint access easement along the North 25 feet of the East line of Lot 1, Block 1, as platted in the 21st AND AMIDON ADDITION, for the benefit of said Addition and the property immediately adjacent to the North 25 feet of the East line of Lot 1, Block 1, 21st AND AMIDON ADDITION.

NOW, THEREFORE, Declarant hereby declares the following:

The Declarant acknowledges their willingness to negotiate a joint access easement with the owner of the property immediately adjacent to the North 25 feet of the East line of Lot 1, Block 1, as platted in the 21st AND AMIDON ADDITION at some future date if said adjacent owner desires to enter into a joint access easement.

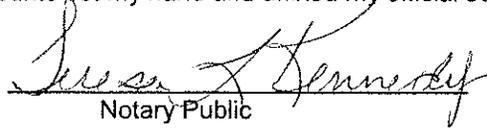
This Restrictive Covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in title for the above described real property located in Sedgwick County, Kansas.

By: Martin Bruce Gow
Martin Bruce Gow
By: John Marcus Gow
John Marcus Gow

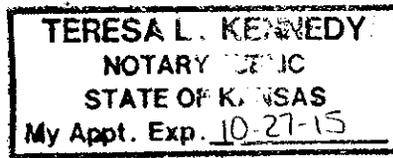
STATE OF KANSAS)
COUNTY OF SEDGWICK)SS:

BE IT REMEMBERED, that on this 17 day of July, 2014, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Martin Bruce Gow and John Marcus Gow, and personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

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


Notary Public

(My Commission Expires: 27 October 2015)



APPROVED AS TO FORM:

Name

Title

Signature

City of Wichita
City Council Meeting
August 5, 2014

TO: Wichita Airport Authority

SUBJECT: Transportation Security Administration
Amendment of Solicitation and Modification of Contract
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the amendment.

Background: Under a 2003 license agreement, the Wichita Airport Authority (WAA) has provided space in the terminal building for use by the Transportation Security Administration (TSA) to conduct baggage and passenger screening. The WAA is required to provide use of the space at no cost to TSA as a part of its obligation to comply with a security program and in recognition of the benefits that TSA's security function provides to the Airport, passengers, and others entering Airport property. Throughout the term of the license agreement, the TSA has reimbursed the WAA for janitorial services.

Analysis: In addition to traditional janitorial services, WAA custodial staff provides the clean-up of bio-hazardous spills at the passenger screening checkpoint. WAA staff is trained to handle this type of special service in accordance with Occupational Safety and Health Administration (OSHA) guidelines. On a nationwide basis, the TSA is now desirous of documenting the provision of this existing special service which has been provided by the WAA custodial staff for many years. The service period is extended an additional year, and will be effective September 1, 2014, through August 31, 2015. The agreement will be modified at a future date to account for changes in the space once the new terminal is opened next spring.

Financial Considerations: The annual revenue from the above-mentioned services provided by WAA custodial staff is \$23,287, which continues at the same rate as last year's contractual period.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the amendment and authorize the necessary signatures.

Attachments: Amendment of Solicitation/Modification of Contract.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE OF PAGES 1 3
2. AMENDMENT/MODIFICATION NO. P00001	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO. 2114204CKP202		5. PROJECT NO. (If applicable)
6. ISSUED BY Transportation Security Administration 601 S. 12th Street Arlington, VA 20598-6025		CODE TSA-25	7. ADMINISTERED BY (If other than Item 6) Office of Acquisition -- Human Capital and Finance Division Transportation Security Administration 601 S. 12th Street Arlington, VA 20598-6025 Attn: Paul Bean, Contract Specialist Phone: 571-227-4627 Email: Paul.Bean@tsa.dhs.gov	CODE TSA-25
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP: Code) Wichita Airport Authority 2299 Airport Road Wichita, KS 67209 Attn: Traci Nichols, Properties and Contract Manager Phone: 316-946-4712 Email: tnichols@wichita.gov			<input type="checkbox"/> 9A. AMENDMENT OF SOLICITATION NO.	<input checked="" type="checkbox"/> 10A. MODIFICATION OF CONTRACT/ORDER NO. HSTS01-13-H-CKP172
CODE			10B. DATED (SEE ITEM 13) September 16, 2013	
FACILITY CODE				

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

See continuation page for accounting and appropriation data

INCREASE: \$23,286.9613. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS,
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input checked="" type="checkbox"/>	D. OTHER Specify type of modification and authority) ATSA, PUB. L. 107-71

E. IMPORTANT: Contractor is not, is required to sign this document.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

Modification P00001 to Agreement HSTS01-13-H-CKP172 extends the period of performance and obligates funding for fixed janitorial services for the TSA security checkpoint and baggage screening areas at the Wichita Mid-Continent Airport. This modification also amends Article IV and Exhibit 3 of the Agreement.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Isabel Roman-Cogswell	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		BY _____ (Signature of Contracting Officer)	

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED HSTS01-13-H-CKP172 P00001	Page 2	OF 3
NAME OF OFFEROR OR CONTRACTOR Wichita Airport Authority			

DUNS: 124970641

1. Purpose

The purpose of Modification P00001 is to:

- Extend the period of performance of Agreement HSTS01-13-H-CKP172 by twelve months from September 1, 2014 to August 31, 2015.
- Amend Article IV – Responsibilities to add the following subsection:
 - A.1.9. The Airport is responsible for janitorial services in the TSA passenger and baggage screening areas associated with the clean-up of bio-hazardous spills in accordance with 29 CFR 1910.1030.
- The last sentence of Exhibit 3 is replaced with the following sentence:
 - Special services, to include the clean-up of bio-hazardous spills, shall be provided immediately upon request of TSA personnel.
- Obligate funding in the amount of \$23,286.96 for fixed janitorial services for the TSA security checkpoint and baggage screening areas at the Wichita Mid-Continent Airport.

2. Period of Performance

Agreement HSTS01-13-H-CKP172 is extended through August 31, 2015.

3. Obligated Funding

The following funding is obligated for utility services at the TSA security checkpoint and baggage area at Wichita Mid-Continent Airport:

	Annual Costs	Pro-rated Monthly Costs	# Months	Obligated Funding
Janitorial	\$23,286.96	\$1,940.58	12	\$23,286.96
Total	\$23,286.96	\$1,940.58		\$23,286.96

4. Accounting and Appropriation Data

Funding is obligated in accordance with the following Accounting and Appropriation Data:

Purchase Request #	Item #	Services	Amount	Accounting Code
2114204CKP202	00001	Janitorial	\$23,286.96	5AV145A000D2014ADE020GE0000 77006402642CKP- 5903001310060000-2540-TSA DIRECT-DEF. TASK-D
Total:			\$23,286.96	

5. Current Obligated Funding

	Award Date	Obligated Amount
Base Award	9/16/2013	\$23,286.90
Total:		\$23,286.90

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED HSTS01-13-H-CKP172 P00001	Page 3	OF 3
NAME OF OFFEROR OR CONTRACTOR Wichita Airport Authority			

6. Total Obligated Funding

Modification P00001 increases the total obligated funding for this agreement:

From:	\$23,286.90
By:	\$23,286.96
To:	\$46,573.86

7. Terms and Conditions

All other terms and conditions of agreement HSTS01-13-H-CKP172 remain unchanged and in full force and effect.

End of Modification P00001

**City of Wichita
City Council Meeting
August 5, 2014**

TO: Wichita Airport Authority

SUBJECT: Roof Replacements 2014
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the project budget.

Background: The Wichita Airport Authority (WAA) owns the majority of the facilities on Mid-Continent and Jabara airports. The WAA has roof maintenance responsibilities for public use facilities, multi-tenant buildings, airport staff locations, and tenant facilities where the roof obligation has been assigned to the lessor pursuant to the lease agreement. The adopted Capital Improvement Program (CIP) includes the programmed replacement and maintenance of roofs on an ongoing basis.

Analysis: The 2014 roof replacement program includes the replacement or maintenance of roofs at the following locations:

- 1880 Airport Road, occupied by Bevan Rabell
- 1980 Airport Road, occupied by Signature Flight Support and Textron Aviation Services

Financial Considerations: A capital budget of \$500,000 is requested. This project will be funded with available funds of the Airport and the issuance of general obligation bonds repaid with Airport revenue.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the project budget.

Attachments: None.

City of Wichita
City Council Meeting
August 5, 2014

TO: Wichita Airport Authority

SUBJECT: Midwest Corporate Aviation, Inc.
Aviation Fuel Storage and Distribution Facilities
Colonel James Jabara Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the agreement.

Background: On December 19, 1983, the Wichita Airport Authority (WAA) approved an agreement with Midwest Corporate Aviation, Inc. (MCA) for the purpose of managing and operating the Bulk Fuel Farm (BFF), located on Colonel James Jabara Airport. The BFF is now known as the Aviation Fuel Storage and Distribution Facilities (AFSDF). The agreement also allows MCA the privilege to sell and dispense AvGas and Jet-A fuel to users of the airport.

Analysis: WAA currently owns the AFSDF and notified MCA in 2012 of the intent of WAA to shut down the fueling facility due to its deteriorated condition because it has exceeded its useful life. MCA plans to construct its own new fuel farm in the future, but until such time, MCA is now desirous of acquiring the AFSDF from the WAA. The AFSDF consists of a system of equipment that includes such items as fuel storage tanks, piping, fencing, pumps, controls, monitoring and alarm systems, fire suppression systems, distribution components, truck loading and unloading stations, electrical devices, and related accessories and components. The transfer of ownership of this equipment shall be at no cost to MCA. The transfer of ownership to MCA lessens the WAA's potential risk in unforeseeable capital investment and maintenance costs, as well as environmental concerns and liability, due to the age and deteriorated condition of the AFSDF. MCA will rent the land underlying the AFSDF during the tenure of its use of the AFSDF.

Financial Considerations: A land rental rate of \$0.14 per sq. ft. per year will result in annual revenue to the WAA of \$3,346. The land rental rate will be adjusted each year at a three percent escalation. The WAA currently pays \$0.01 per gallon to MCA for operation and management services, which was an expense to the WAA of \$8,713 in 2013. That expense will now be eliminated in the future. In addition, there will be a significant savings to the WAA in future capital investment, maintenance expenses, and management oversight since MCA will assume all maintenance responsibilities for the existing AFSDF.

Legal Considerations: The agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the agreement and authorize the necessary signatures.

Attachments: Agreement.

USE AND LEASE AGREEMENT

By and Between

WICHITA AIRPORT AUTHORITY

And

MCA Fuel Services, LLC

For

Aviation Fuel Storage and Distribution Facilities
Colonel James Jabara Airport
Wichita, Kansas

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THIS AGREEMENT is entered into August 5, 2014, between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and MCA Fuel Services, LLC, Wichita, Kansas, Tax Identification # 46-1820167 (LESSEE).

WHEREAS, LESSOR is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into this Agreement by and through its governing body; and

WHEREAS, LESSOR owns, operates, regulates, administers, and maintains the Colonel James Jabara Airport, Wichita, Kansas; and

WHEREAS, LESSEE desires to lease the parcels of land defined below (Premises) on the campus of Colonel James Jabara Airport (Airport) from LESSOR under the terms and conditions set forth below in this Use and Lease Agreement (Agreement).

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE do hereby covenant and agree as follows:

1. AVIATION FUEL STORAGE AND DISTRIBUTION FACILITIES

Upon the execution of this Agreement, LESSOR hereby transfers ownership of the Aviation Fuel Storage and Distribution Facilities (AFSDF), including all related and attached equipment, hardware, electrical, pipes, plumbing and accessories to LESSEE. The ownership of the AFSDF shall be transferred at no cost to the LESSEE. This ownership expressly does not include the ownership transfer of real property, which the LESSEE expressly reserves to itself. Both parties acknowledge that the AFSDF and the related equipment are to be considered trade fixtures.

Ownership of the land upon which the AFSDF is constructed and installed shall remain vested with the LESSOR, the Wichita Airport Authority, however, all tanks, piping, plumbing, valves, pumps, controls, monitoring and alarm systems, fire suppression equipment, and appurtenances thereto shall retain status as the personal property of the LESSEE even though affixed to the Premises, and ownership shall remain with LESSEE. Upon termination or expiration of LESSEE's interest, ownership of the AFSDF shall be transferred at no cost to the LESSOR.

LESSOR shall inform all licensing agencies of this ownership transfer. Therefore, LESSEE shall be solely responsible to comply with any federal, state or local regulations, statutes or ordinances and shall be responsible to maintain the Premises, including AFSDF and all related and attached equipment, hardware, electrical, pipes, plumbing and accessories in good condition throughout the Term of this Agreement and all approved extensions.

Upon execution of this Agreement, LESSEE shall be responsible to pay all costs of modification or upgrade, maintenance and upkeep, utilities, utility upgrades or improvements, and taxes, permits and licenses for the AFSDF required by federal, state, and local regulations, statutes, codes and ordinances. LESSEE shall conduct its operations of the fuel facilities in such a manner as will meet all federal, state and local requirements.

2. PREMISES

LESSOR agrees to let to LESSEE, and LESSEE does hereby rent from LESSOR certain real property located at 3600 N. Jabara Road, consisting of 5,412 sq. ft. of land and 9520 East 35th Street North, consisting of 18,503 sq. ft. of land, (Premises), as set forth and shown on the attached Exhibit "A" as Parcel A and Parcel B.

Except as may be otherwise expressly provided in this Agreement, the taking of possession of the Premises and AFSDF by LESSEE shall in itself constitute acknowledgement that the Premises and AFSDF are in good and tenantable condition, and LESSEE agrees to accept Premises and AFSDF in its presently existing condition, "as is," "where is," and that LESSOR shall not be obligated to make any improvements or modifications thereto except to the extent that may otherwise be expressly provided in this Agreement.

In addition, LESSOR grants to LESSEE a temporary easement allowing the use, maintenance and operation of the existing pipeline connecting the fuel loading dock located on Parcel A and the fuel farm located on Parcel B. This pipeline shall be included in the definition of the AFSDF. This easement allows both the underground pipeline and surface access for the purpose of constructing, repairing, operating and maintenance of the underground pipeline. This surface easement shall be non-exclusive and shall be exercised only upon reasonable notice to and approval of LESSOR, emergency repairs excepted. This temporary easement shall be coterminous with the lease of the Premises. The extent of this temporary easement is shown on Exhibit A.

3. TERM

The term of this Agreement shall commence on August 1, 2014 and shall continue for a period of five years, and expiring on July 31, 2019 unless otherwise terminated under provisions agreed to herein.

4. LAND RENT

Upon commencement of this Agreement, LESSEE shall pay to LESSOR land rental for the Premises located at 9520 East 35th Street North, consisting of 23,915 sq. ft. That rent shall be calculated as follows:

LAND RENT Aviation Fuel Storage and Distribution Facility 3600 N. Jabara Road – 5,412 Sq. Ft. 9520 East 35th Street North – 18,503 Sq. Ft. Total = 23,915					
Years			Rate Per Sq. Ft.	Annual	Monthly
8/1/2014	-	7/31/2015	.1061	\$2,537.38	\$211.45
8/1/2015	-	7/31/2016	.1093	\$2,613.91	\$217.83
8/1/2016	-	7/31/2017	.1126	\$2,692.83	\$224.40
8/1/2017	-	7/31/2018	.1159	\$2,771.75	\$230.98
8/1/2018	-	7/31/2019	.1194	\$2,855.45	\$237.95

LESSEE shall pay to LESSOR in advance on the first day of each month, without demand or invoicing, rentals for LESSEE's leased Premises as set forth herein.

5. OTHER FEES AND CHARGES

It is understood and agreed by LESSEE that LESSOR may assess fees and charges to LESSEE according to rates established by LESSOR in LESSOR's Schedule of Fees and Charges for the following categories. Such Schedule may be amended from time-to-time by action of the LESSOR. In the event of such an adjustment, LESSOR shall provide LESSEE sixty (60) days prior written notice.

Fuel Flowage Fees: LESSEE shall pay a fuel flowage fee to LESSOR on fuels or propellant delivered to and dispensed by LESSEE on the Airport. At LESSEE's sole discretion, LESSEE may charge/transfer/pass-through fuel flowage fees to customers in an amount no greater than the fuel flowage fee imposed on LESSEE by LESSOR. LESSEE shall maintain and report accurate and complete records of fuel dispensed. LESSEE shall furnish to LESSOR for each calendar

month a statement showing total fuel gallons dispensed, which shall be submitted to the LESSOR by the fifteenth (15th) day of the month following each calendar month. LESSEE agrees to pay fuel flowage fees to LESSOR by the fifteenth (15th) day of the month following each calendar month of service.

LESSOR shall have the right, at all reasonable times, to inspect and audit all records such as fuel dispensing logs, or other similar report.

The LESSOR reserves for itself the right to charge by separate agreement any other provider, whether commercial, non-commercial, retailer; wholesaler; or for company or personal use, a fuel flowage fee for all fuels or propellant delivered to and dispensed on the Airport, which fee may be adjusted from time to time through its Schedule of Fees and Charges. In the event of such an adjustment, LESSOR shall provide LESSOR sixty (60) days prior written notice.

At any time LESSEE is engaged in performing services, fueling or handling, LESSEE shall be responsible to LESSOR for collecting and reporting fees as defined in this Section.

6. PAYMENT PROCEDURE

LESSEE shall pay to LESSOR in advance on the first day of each month, without demand or invoicing, for land rental for the Premises as set forth herein. In the event LESSEE fails to make payment within ten (10) days of the dates due as set forth in this Agreement, then LESSOR, may charge LESSEE a monthly service charge of twelve percent (12%) on an annual basis for any such overdue amount, unless a lesser sum is set as the maximum allowable under state statutes on any such overdue amount, plus reasonable attorneys' and administrative fees incurred by LESSOR in attempting to obtain payment.

Any amounts due LESSOR from LESSEE for utility, maintenance, reimbursements, or other special charges will be paid by LESSEE within thirty (30) days of the date of the invoice.

LESSEE shall make all payments to the Wichita Airport Authority and in a form acceptable to LESSOR. Automated Clearing House (ACH) direct deposit is preferred. Bank account and routing information is available upon request. Payments made by check shall be delivered or mailed to:

Wichita Airport Authority
2173 Air Cargo Road
Wichita, Kansas 67209

or such other address as designated in writing.

7. REQUIRED USE OF PREMISES

LESSEE shall be required to use the Premises and AFSDF to engage in commercial activities for aviation purposes or purposes incidental or related thereto and the support and administration thereof. LESSEE shall also have the right of ingress and egress, in common with others, for both vehicles and aircraft, for the benefit of its customers, agents, contractors, representatives and employees, to be exercised in a reasonable manner. This may include the right of ingress and egress for activities incidental or related to LESSEE'S approved activities, and for no other purposes except as may be approved in writing by LESSOR.

LESSEE recognizes that other tenants now and hereafter may occupy other portions of the Airport, and that such other tenants shall have the right to use public roadways, streets, ramps, taxiways, runways, access gates, lighting, beacons, navigational aids, or other conveniences for aeronautical operations, and these common facilities are not under an exclusive use lease; and LESSEE shall conduct its operations in such a manner as to not impede access by others to these common facilities, nor in any other way interfere with, nor disrupt the business of other tenants or the quiet enjoyment of their leasehold interests at the Airport.

LESSOR reserves the right to grant and/or permit other parties the right to use any portion of the Airport, except that described in Section 2, for any permitted purpose, and upon any fair and non-discriminatory terms established by the LESSOR.

LESSEE, its affiliated entities, subsidiaries, employees, agents, representatives, contractors, and subcontractors, will not transact or otherwise engage in any other activities, business, and/or services on or from the Premises, except as described in this Agreement, unless such is provided for by a separate written approval, or amendment to this Agreement, and subject to approval by LESSOR.

Activities and services required under this Agreement shall include provision of the following:

- (a) Fueling. Storing, handling and dispensing of Jet-A and 100 octane aviation grade gasoline (avgas). Fuel storing, handling and dispensing shall meet or exceed the requirements of all federal, state and local regulations, laws and/or codes, including but not limited to National Fire Protection Association (NFPA) 407 – Standard for Aircraft Fuel Servicing, NFPA 30 – Flammable and Combustible Liquids, Airport Rules and

Regulations, and Airport Standard Operating Procedures as currently adopted or as may be amended, or any such successor or otherwise applicable regulations.

8. OPERATIONAL REQUIREMENTS

LESSEE shall use and operate the Premises and AFSDP, at its sole cost and expense, for the purpose of providing commercial aeronautical fueling services to both personal and business, local and itinerant, users/pilots operating single and multiengine reciprocating and turbine aircraft.

LESSEE agrees that it will adhere to the following operational requirements:

- (a) LESSEE shall, upon request by LESSOR, provide LESSOR with a copy of any rules, regulations, operating policies, or other standards of operation developed by LESSEE and distributed to sublessees and tenants.
- (b) LESSEE will maintain and operate the facilities in a safe, clean, orderly condition at all times.
- (c) LESSEE shall maintain sufficient fixtures, equipment, tools, accessories, and supplies, and employ a sufficient number of personnel to handle the operations and respond to customer inquiries and furnish good, prompt and efficient service and sales adequate to meet all reasonable demands and needs of the business herein authorized, including all transient and local based aircraft.
- (d) LESSEE will provide to LESSOR and maintain a local, 24-hour monitored telephone for emergency purposes and regular maintenance contact. Any such calls and/or requests for service shall be responded to within a maximum 2-hour period.
- (e) LESSEE will not block any areas used for ingress and egress by Airport traffic and will not interfere with the activities of LESSOR, its agents, employees or other Airport tenants.
- (f) LESSEE will not engage in any unlawful restraint of trade or anti-competitive activities with any other commercial aeronautical operator at the Airport.
- (g) LESSEE must, at its own expense, identify and provide to LESSOR and maintain in force any and all licenses, permits and operating certificates required for the legal operation of all aspects of this Agreement.
- (h) LESSEE is responsible for initiating, maintaining, and supervising all safety precautions and programs for purposes of risk management and risk reduction which may be reasonably directed or suggested by the current insurance underwriter, underwriter's authorized agent, or LESSOR. LESSEE shall keep in proper functioning order at all times fire monitoring, warning and suppression systems, and shall from time to time as reasonably required by

LESSOR, state or local government, or insurance underwriter conduct appropriate tests of the system.

- (i) Commercial sale, re-sale, or distribution of auto fuels to off-airport non-aviation parties is prohibited.
- (j) LESSEE shall provide initial and on-going recurrent training to its employees on legal and proper procedures in the operation and maintenance of the fuel facilities, including but not limited to:
 - (a) product delivery testing and acceptance
 - (b) product quality control
 - (c) storage
 - (d) fire prevention and safety
 - (e) environmental/spill prevention best management practices
 - (f) emergency response to accidental releases
 - (g) dispensing to mobile fuelers

At LESSEE's expense, LESSEE shall at all times comply with all applicable laws, rules, regulations, and permit requirements now in effect or as may be revised, and industry standard practices and petroleum product supplier recommendations pertaining to petroleum storage tanks and distribution systems, including but not limited to operation, inspection, monitoring, secondary containment, release detection, Stormwater Pollution Prevention Plan and Spill Prevention Control and Countermeasure Plan, maintenance, preventive maintenance, and best management practices. LESSEE shall be responsible for all spillage, overflow, release or escape of petroleum products within, to or from the fuel facility and for any fines or penalties in connection therewith. All fuel tanks shall be registered by and permitted to the LESSEE as required by law. The LESSEE shall provide to LESSOR, at LESSOR's request, copies of all current tank permits that may be required by law.

The LESSEE shall be responsible for response, notifications, pay for clean-up and remediation costs related to any reportable spills, discharges, releases of petroleum products in accordance with federal, state and local laws. The LESSEE shall promptly notify the LESSOR of any reportable spills, discharges, releases of petroleum products on the Premises the same as if it were a regulating authority.

The LESSEE shall strictly comply with fire prevention, mitigation and safety ordinances, codes and statutes of the City of Wichita, Sedgwick County, the State of Kansas and the National Fire Protection Association (NFPA).

9. OPERATIONAL STANDARDS OF SERVICE

LESSEE agrees that it will meet or exceed the following standards of conduct, level of service, and personal guidelines, and shall:

- (a) Furnish service on a fair, reasonable and not unjustly discriminatory basis to all users.
- (b) Furnish good, prompt, courteous and efficient service adequate to meet all reasonable demands for its services.
- (c) All employees of LESSEE shall conduct their activities in accordance with Airport Rules and Regulations, policies, and Airport Standard Operating Procedures.
- (d) Appoint and maintain trained, experienced and professional staff. Such management and supervisory staff shall be highly qualified, experienced and knowledgeable, and vested with full authority to act on the LESSEE's behalf. Such management and supervisory staff shall be available at the Airport during regular business hours, and shall be available, "on-call" after regular business hours via phone, pager, or other electronic communications device;
- (e) Appoint and maintain sufficient number of trained employees to promptly, effectively, efficiently and safely provide service without unreasonable delay.
- (f) Provide required technical training for employees, and/or verify certificates or qualification, as may be required for such employees to carry out assigned duties.

10. NON-EXCLUSIVE USE OF AIRPORT FACILITIES

LESSOR grants the LESSEE, in common with other users, the non-exclusive use of the Airport and appurtenances, together with all facilities, improvements and services which are now, or may hereafter be provided at, or in connection with the Airport. This use is limited to the purposes for which such facilities were designed and constructed, and for no other purposes, and is available on a non-exclusive use basis, according to the discretionary operational decisions of LESSOR. These facilities include, but are not limited to roadways, streets, taxiways, runways, access gates, lighting, beacons, navigational aids, or other conveniences for aeronautical operations which are not leased Premises of the LESSEE or of any other tenant on the Airport.

11. LESSEE'S RIGHTS AND PRIVILEGES

LESSEE shall have the following rights and privileges on the Premises and on the Airport:

- a) The rights to install, operate, repair, and store upon the Premises all personal property and fixtures necessary for the conduct of LESSEE's lawful business for the storage, handling, distribution and commercial retail sale of aviation fuels.
- b) The right of ingress and egress to and from the Premises, which rights shall extend to LESSEE's customers, agents, invitees, contractors, representatives and employees; subject, however, to all reasonable regulations.
- c) The right in common with others authorized to do so, to use the common areas of the Airport, consisting of but not limited to roadways, streets, taxiways, runways, access gates, lighting, beacons, and navigational aids.

12. LESSOR'S RIGHTS AND PRIVILEGES

LESSOR expressly reserves from the Premises:

- (a) Mineral Rights. All gas, oil and mineral rights in and under the soil.
- (b) Water Rights. All statutory, exempt, vested, and granted appropriation rights for the use of water, and all rights to request further appropriations for the Premises.
- (c) Airspace. A public right of flight through the airspace above the surface of the Premises. This public right of flight will include the right to cause or allow in said airspace, any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport. No liability on the part of LESSOR or any Tenant will result from the exercise of this right.
- (d) Navigational Aids. The right to install, maintain and modify and/or permit others to install, maintain and modify on the Premises visual and electronic navigational aids.
- (e) Entry and Inspection of Premises and AFSD. The right of LESSOR, its authorized officers, employees, agents, contractors, subcontractors, authorized government agents, or other representatives to enter upon the Premises:

- (1) To inspect at reasonable intervals during regular business hours (or any time in case of emergency or lawful investigation or inspection) to determine whether LESSEE has complied, and is complying with the terms and conditions of this Agreement;

- (2) To Inspect Premises, AFSD, facilities, and equipment for compliance with laws, regulations and/or codes of the federal, state or local government, airport rules and regulations and airport standard operating procedures; and
- (3) To construct or erect new facilities, or to perform maintenance, repair, or replacement relating to the Premises or any facility thereon, as may be required and necessary, but LESSOR shall not be obligated to exercise this option.
- (f) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the Premises.
- (g) Security access control and surveillance. The right to install, operate and maintain security access control and surveillance systems on Airport property, however, the LESSOR shall have no right to install security infrastructure or end-devices in or upon the Premises without the consent of the LESSEE.
- (h) General Provisions. The right to exercise any and all rights set out in this Agreement.
- (i) Signage. The right to enter onto the Premises for installation, and the right to install any signage on the Premises required by law, order, rule, regulation, Airport Security Program or federal directive.

Provided that exercise by LESSOR of any such reserved rights (a) through (i) shall be without expense to the LESSEE and shall not unreasonably or materially interfere with LESSEE's use of the Premises and shall not delay LESSEE in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance.

13. NON-INTERFERENCE WITH AIRPORT OPERATIONS

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities, nor shall LESSEE use or permit the Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard to the general public, or to LESSOR's tenants or the customers, agents, invitees, contractors, representatives and employees of those tenants.

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises, which shall materially or adversely affect, infringe upon, block or interrupt the operations or business activity of other airport tenant leaseholds.

14. COOPERATION WITH AIRPORT DEVELOPMENT

LESSEE understands and agrees that LESSOR may pursue Airport development, improvements and maintenance activities from time-to-time that may affect the Premises and other areas of the Airport. Lessee agrees to work cooperatively and in good faith with the LESSOR and other tenants and contractors in development, improvement and maintenance activities to minimize any disruptions. If requested by the LESSOR, LESSEE shall cooperate with and assist the LESSOR to the greatest extent possible in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such Airport development, improvement, and maintenance activities. LESSOR may temporarily or permanently close, re-route, or consent to the closing or re-routing of any method of ingress or egress on the Airport, so long as the means of ingress and egress are reasonably equivalent to current access available to LESSEE. Provided that exercise by LESSOR of any such Airport development, improvement, or maintenance shall be without expense to the LESSEE and shall not unreasonably or materially interfere with LESSEE's use of the Premises, and shall not delay LESSEE in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance.

15. REMOVAL AND DEMOLITION

LESSEE shall not remove or demolish, in whole or in part, the AFSDF or any improvements upon the Premises without the prior written consent of the LESSOR, which may, at its discretion, condition such consent upon the obligation of LESSEE replacing the same by a reasonable improvement specified in such consent.

16. LIENS

LESSEE shall take or cause to be taken all steps that are required or permitted by law in order to avoid the imposition of any lien upon the Premises or any improvements thereon. Should any lien be placed on the Premises or any improvements thereon, LESSEE shall cause to be removed any and all liens of any nature. This obligation includes, but is not limited to, tax liens and liens arising out of or because of any financing, construction or installation performed by or on behalf of LESSEE or any of its contractors or subcontractors upon LESSEE's Premises or arising out of or because of the performance of any work or labor to it or them at said Premises or the furnishing of any materials to it or them for use at said Premises. Should any such lien be made or filed, LESSEE shall bond against or discharge the same within thirty (30) days after actual notice of the same from any source, whether from LESSOR or otherwise, and provide written

proof of discharge or bonding to LESSOR within that time. LESSEE acknowledges that its interest in the Premises is a leasehold, and that notwithstanding its construction of improvements on the Premises, such improvements accrue to the LESSOR and that it has no equity interest in the Premises which can support a mortgage lien. LESSEE may not mortgage or pledge as collateral its leasehold interest herein without the prior written consent of the LESSOR.

17. TAXES, LICENSES AND PERMITS

LESSEE shall promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operation or lease of the Premises and LESSEE's ownership of personal property on the Premises. LESSEE may elect, however, at its own cost and expense, to contest any such tax, excise, levy, or assessment. LESSEE will keep current all federal, state or local licenses, operating certificates or permits required for the conduct of its business. LESSEE represents and warrants to LESSOR that it has obtained all license, franchise, operating certificates or other agreements, permits or authorizations necessary to operate LESSEE's business in accordance with the terms of this Agreement, and LESSEE covenants to keep all such licenses, franchises, permits, operating certificates and other agreements in full force and effect during the Term of this Agreement.

LESSEE shall pay all lawful taxes and assessments which, during the term hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body, upon the leased Premises or upon any taxable interest of LESSEE acquired in Agreement, or any taxable possessory right which LESSEE may have in or to the leased Premises, including any improvements or facilities located on the Premises, as well as LESSEE shall also pay all lawful taxes and assessments on taxable property, real or personal, owned by LESSEE in and about said Premises. Nothing in this Section shall prevent LESSEE from contesting the legality, validity or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled so to do.

18. UTILITIES

LESSEE shall pay all costs for utility services (whether for installation, connection, extension, upgrade, service, administration, or maintenance thereof) used by LESSEE at or upon the Premises with no responsibility or expense accruing or incurring to LESSOR, including all permits, licenses or authorizations necessary in connection therewith. Such payments by LESSEE shall be made directly to the utility supplier or service provider.

Unless otherwise agreed upon in writing, if LESSEE requires utilities beyond that currently provided or that are available to be extended to the Premises boundary, LESSEE agrees to pay the full cost and expense associated with the upgrade/extension/installation of all such utilities related to its use of the Premises and AFSD, and to comply with all provisions for maintaining such utilities.

Wastes not legally permitted and authorized for disposal into the storm and/or sanitary drainage system shall not be discharged, connected or introduced into storm and/or sanitary drains and the storm and/or sanitary drainage system. LESSEE shall take all reasonable precautions to prevent the discharge of material into any drainage system that would create interference with the flow therein, or that would cause a hazard or unlawful contamination thereto. A copy of LESSEE's Stormwater Pollution Prevention Plan and Spill Prevention Control and Countermeasure Plan shall be submitted to the LESSOR upon the LESSOR's request.

19. ASSIGNMENT

With the exception of assignment to a parent or "holding" company or subsidiary that agrees to be obligated to all condition of this Agreement, LESSEE shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement due to its defeasible ownership interest in the AFSD. Any assignment or delegation so made by LESSEE and so permitted by LESSOR shall be subject to all terms, conditions and other provisions of this Agreement. Any attempted assignment or delegation in violation of this provision shall be void and have no force or effect whatsoever.

20. SUBLEASING, PERMITTING AND CONTRACTING

LESSEE shall not sublease, rent or permit any persons, firms or corporations to occupy any part of the Premises, or to provide any type of commercial or non-commercial operation, aviation or otherwise, on the Premises without having first received the prior written consent of LESSOR, granted only under the following conditions:

- (a) Any arrangements must be in the form of a written instrument and must be for purposes and uses of the Premises as authorized under this Agreement, and shall be subject to the provisions of this Agreement. LESSEE shall submit a copy of such proposed instrument at the time of requesting consent of LESSOR.
- (b) All sublease(s) must comply with Sections 7, 8, 9, 11 and 12 of this Agreement, and will be reviewed for compliance by LESSOR to that end. Any arrangement for the subleasing of space must be in conformance with the use of the Premises outlined in this Agreement, unless expressly approved otherwise in writing by LESSOR.
- (c) LESSEE must keep current records on file and available for LESSOR's inspection, that describes the nature and document the legitimacy of the sublessee's business, including all current municipal, state, or local licenses or permits required for the conduct of sublessee's business.
- (d) LESSEE hereby agrees that it shall incorporate language acceptable to LESSOR into all of its sublease agreements, placing on any sublessee and that sublessee's affiliated entities, customers, employees, invitees, contractors, and subcontractors similar restrictions, as may be appropriate to its approved uses as those which bind LESSEE and its use of the facility through this Agreement. LESSEE shall also incorporate and make reference to this Agreement, as may be amended from time to time, to ensure sublessee's operations and conduct are subject to and are in compliance with the terms and conditions of this Agreement, as may be amended from time to time. Any sublease agreement shall explicitly state that it is subordinate to this Agreement, and that the sublessee shall never obtain rights in the Premises greater than those held by LESSEE under this Agreement, as amended. Any sublessee shall be specifically subject to eviction from the Premises as a result of termination, cancellation, or expiration of this Agreement, irrespective of sublessee's state of compliance with the terms of its sublease.
- (e) LESSEE shall at all times during the term(s) of approved sublease(s), remain responsible to LESSOR for the compliance of its sublessees with the terms and conditions of any approved sublease and with this Agreement. LESSOR may look to LESSEE directly to satisfy any failure of sublessee to comply with these documents.
- (f) Consent to one sublease permit or subcontract shall not be deemed consent to any subsequent sublease permit or subcontract. Prior written consent of the LESSOR shall be required for each sublease permit or subcontract executed by the LESSEE.

21. LIABILITY INSURANCE

LESSEE shall procure, maintain and carry, at its sole cost, in accordance with this Section and until of this Agreement is cancelled or terminated, all insurance, as required per the amounts as set forth below. Insurance shall be furnished by a company licensed to do business in Kansas.

Insurance certificates shall be issued on a standard ACORD form and include the NAIC number of the insuring company. Each insurance company's rating, as shown in the latest Best's Key Rating Guide, shall be no less than A-VII, unless otherwise approved by the LESSOR, or from a Workers' Compensation pool approved by the State of Kansas. Insurance certificates must be received and approved by the LESSOR prior to occupancy.

All insurance certificates will state that all coverages are in effect and shall not be cancelled or non-renewed without thirty (30) days prior written notice to the Certificate Holder (10 day notice for non-payment of premium). The LESSOR reserves the right to request and receive for review certified copies of any and all insurance policies to which this Agreement is applicable prior to commencement of work. The failure of LESSOR to reject the LESSEE'S certificate of insurance shall not be deemed to constitute an acceptance by the LESSOR of a deficient certificate of insurance. If the LESSEE fails to procure or maintain any of the specified coverages the LESSOR has the right, but not the obligation, to secure the coverage and charge the cost to the LESSEE along with a 20% administrative fee.

The LESSEE shall be responsible for determining the types and limits of insurance coverage required by any approved subleasee, permittee or contractor of the LESSEE commensurate with the type of activity and associated risk levels. At a minimum, any sublessee shall carry Workers' Compensation, commercial general liability (minimum of \$1,000,000 per occurrence) and commercial automobile liability (minimum of \$1,000,000 combined single limit). LESSEE shall require in any approved sublease and/or operating permit with the LESSEE that the Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds on the SUBLESSEE'S commercial general liability policy.

The requirements, procurement and carrying of the required insurance shall not limit any of the LESSEE's obligations or liability under this Agreement or as a matter of law.

Where "minimum limits" of insurance are specified in this Section, such minimum insurance limits are required and considered by LESSOR to be the lowest insured amounts acceptable under this Agreement. The LESSEE is not limited or restricted whatever in securing additional insurance coverage and higher insured limits than those specified herein if, at the LESSEES

determination and discretion and commensurate with the type of activity and associated business risk, additional coverage and higher limits are necessary and appropriate.

Insurance shall include the following terms, conditions and minimum limits:

(a) WORKERS' COMPENSATION

LESSEE shall maintain *workers' compensation insurance* to cover the statutory requirements of the workers' compensation laws of the State of Kansas for its operations on the Premises, and when applicable to federal laws, *voluntary compensation and employer's liability* (including occupational disease) coverage.

Employers Liability Limits	\$1,000,000/\$1,000,000/\$1,000,000
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(b) COMMERCIAL AUTOMOBILE LIABILITY

LESSEE shall maintain *commercial automobile insurance*, including *contractual liability* coverage. Coverage shall include all owned, non-owned and hired automobiles used in connection with the services or other work performed on the Premises and in conjunction thereof, and shall have minimum bodily injury and property damage limits as outlined herein. An MCS-90 endorsement shall be procured, when applicable.

Combined Single Limit	\$1,000,000 Each Accident
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(c) COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain *commercial general liability insurance* on an occurrence form. Coverage shall include on-going operations, product/completed operations (minimum of two years following the project completion) and personal and advertising Injury. Minimum limits, as outlined herein, shall be:

General Aggregate (per project)	\$2,000,000
Products/Completed Operations	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds.

(d) UMBRELLA/EXCESS LIABILITY COVERAGE

The LESSEE shall provide minimum *umbrella/excess liability* limits (excess of *employer's liability, commercial general liability and commercial automobile liability*) of:

Each Occurrence Limit	\$2,000,000
Annual Aggregate Limit	\$2,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds covered under this *umbrella/excess liability* coverage.

(e) POLLUTION LIABILITY COVERAGE

The LESSEE shall provide *pollution liability* coverage with a minimum limit of:

Each Claim	\$1,000,000
Aggregate Limit	\$1,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds covered under this *pollution liability* coverage.

LESSEE agrees that in the event of future changes in the law or upon notice by the LESSOR, the minimum levels of insurance required by this Section may be increased within the bounds of commercial reasonableness.

LESSEE agrees, prior to the commencement of the Agreement, to provide LESSOR with copies of all policies or certificates evidencing that such insurance are in full force and effect, and stating the terms thereof. This Agreement shall not commence until policies of insurance satisfactory to LESSOR are supplied by LESSEE. LESSEE shall provide LESSOR updated certificates of insurance the earlier of annually, or upon renewal, which certificate shall demonstrate the coverage required in this Section for the ensuing 12 month period. Failure to maintain satisfactory insurance policies in force shall constitute grounds for cancellation of this Agreement as set forth in Section 24 of this Agreement.

LESSEE shall be solely responsible for obtaining insurance policies that provide coverage for losses or damage of LESSEE-owned (personal) property. The LESSOR shall not provide such insurance coverage for LESSEE-owned (personal) property, or be responsible for payment of LESSEE's cost for such insurance.

22. ALL RISK PROPERTY INSURANCE

LESSEE, at its expense, throughout the term of this Agreement, shall cause the facilities, structures, fixtures and improvements on the Premises to be insured against loss or damage by fire or other casualty equal to the actual replacement value thereof, plus any closure and decommission expenses, and by an *all risk coverage policy* furnished by a company licensed to do business in Kansas. Such policy shall not exclude, or in the alternative, shall carry endorsements for damage from tornado, hail, flood, and sewer backup, and shall furnish LESSOR a certificate evidencing such insurance. The proceeds of any payments made under such insurance policy or policies shall be used, at LESSOR's discretion, to replace, restore, rehabilitate, reconstruct or close the insured facilities, subject to the provisions governing damage or destruction found at Section 37. In the event of such damage or destruction to the AFSDF, including all related and attached equipment, hardware, electrical, pipes, plumbing and accessories, LESSEE agrees at its sole expense to provide uninterrupted aeronautical fueling services for the full time elapsed between loss to the AFSDF and construction and commissioning of its replacement. This continuity of its operation will be supported by insurance approved by LESSOR.

LESSEE agrees, prior to the commencement of the Agreement, to provide LESSOR with copies of all policies or certificates evidencing that such insurance are in full force and effect, and stating the terms thereof. This Agreement shall not commence until policies of insurance satisfactory to LESSOR are supplied by LESSEE. LESSEE shall provide LESSOR updated certificates of insurance the earlier of annually, or upon renewal, which certificate shall demonstrate the coverage required in this Section for the ensuing 12 month period. Failure to continuously maintain satisfactory insurance policies in force shall constitute grounds for cancellation of this Agreement.

LESSEE shall be solely responsible for obtaining insurance policies that provide coverage for losses or damage of LESSEE-owned (personal) property. The LESSOR shall not provide such insurance coverage for LESSEE-owned (personal) property, or be responsible for payment of LESSEE's cost for such insurance.

23. LOSS OF PERSONAL PROPERTY

Any personal property of LESSEE or others placed in or upon the Premises including the AFSDF, shall be at the sole risk of the LESSEE, and LESSOR shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the LESSEE waives all rights of subrogation against recovery from the LESSOR for such loss or damage unless such loss or damage is the result of the LESSOR's negligence.

24. CANCELLATION BY LESSOR

The LESSOR, in addition to any other rights to which it may be entitled by law or otherwise, may cancel this Agreement by giving LESSEE written notice in the event of default by LESSEE under this Agreement failing to be resolved in less than sixty (60) days after the LESSEE's receipt of written notice of such default and opportunity to cure from the LESSOR, upon or after the happening of any one of the following events:

- (a) LESSEE shall file a voluntary petition in bankruptcy or that proceedings in bankruptcy shall be instituted against it and LESSEE is thereafter adjudicated bankrupt pursuant to such proceedings;
- (b) A court shall take jurisdiction of LESSEE and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act;
- (c) Receiver of LESSEE's assets shall be appointed;
- (d) LESSEE shall be divested of its estate herein by other operation of law;
- (e) LESSEE shall fail to perform, keep and observe any of the obligations, terms, warranties or conditions contained in this Agreement that on the part of LESSEE are to be performed, kept or observed;
- (f) If any such condition or default cannot reasonably be corrected within the 60-day period and LESSEE has demonstrated due diligence with respect to curing said default, then, at the LESSOR's sole discretion, such cure period may be extended for consecutive periods of 30 days, as long as diligent progress is made toward cure, with a reasonably foreseeable resolution date. Under such circumstances, default may be treated as cured until cured. Should diligent progress cease, or the reason for default become apparent as insoluble, then the term shall cease and expire at the end of the 30-day extension then in effect.

Acceptance of rental by LESSOR for any period or periods after a notice of default is issued by LESSOR of any of the obligations, terms, warranties and conditions herein contained to be

performed, kept and observed by LESSEE shall not be deemed a waiver of any other right on the part of LESSOR to cancel this lease for failure by LESSEE so to perform, keep and observe any of the obligations, terms, warranties, or conditions hereof to be performed, kept and observed. No waiver of default by LESSOR of any of the obligations, terms, warranties or conditions hereof to be performed, kept and observed by LESSEE, shall be construed to be or act as a waiver of any subsequent default of any of the obligations, terms, warranties or conditions herein contained to be performed, kept and observed by LESSEE.

25. CANCELLATION BY LESSEE

LESSEE may cancel this Agreement without cause by giving LESSOR sixty (60) days written notice.

26. MAINTENANCE AND REPAIR

LESSEE shall maintain and keep in good repair and condition at its sole cost and expense the Premises, AFSDF and any related equipment, include but not limited to, all tanks, electrical, piping, plumbing, valves, pumps, controls, monitoring and alarm systems, fire suppression equipment, landscaping, landscape maintenance and mowing, and daily routine Premises clean-up work and trash removal to keep the Premises in good and tenantable condition throughout the term of this Agreement.

At anytime during the term of this Agreement, LESSOR, its agents or employees, shall have the right to enter upon the Premises and within all improvements placed thereon, to conduct reasonable inspections.

LESSOR shall be responsible for maintenance, repair and replacement of paved surfaces and storm drainage systems on the Airport not within or upon the Premises; however, LESSEE shall be responsible for the repair or replacement of any damaged paved surfaces and/or sub-grade on the Airport that may be caused due to the LESSEE's negligence, misuse, or consent to misuse, of such facilities including but not limited to exceeding the weight bearing capacity limits of the pavements.

27. EXTERIOR SIGNS AND ADVERTISING

LESSEE agrees that no signs or advertising material shall be erected on the Premises or on any improvement or facility on the Premises unless the design and layout of such signs and advertising material, together with the materials and method of construction of such signs and advertising material, shall have been approved in advance in writing by LESSOR.

LESSEE shall have no rights to erect or install, or cause or consent to be erected or installed any commercial outdoor advertising by an outdoor commercial advertising agency.

LESSEE shall not erect, install, operate, nor cause or permit to be erected, installed, or operated upon any non-leased Premises of the Airport property, any signs, banners, or other similar devices for its own business, or the business of others without the LESSOR's prior written approval. This provision shall not have the effect of limiting or restricting LESSEE's right to enter into an agreement with LESSOR'S authorized and permitted marketing, advertising or signage agency for the display of informational, marketing or advertising media at approved designated locations on Airport property.

28. PORTABLE STORAGE CONTAINERS/STRUCTURES

Unless specifically approved in writing, and under conditions specified by LESSOR, LESSEE shall not place or allow to be placed upon Premises, any type of portable storage container, trailer, unit, box, or barrel which is used to store merchandise and/or equipment and supplies outside of an enclosed permanent building or structure, which does not qualify as a building or structure under Title 18 of the Code of the City of Wichita. Unless specifically approved, and under conditions specified by LESSOR, LESSEE shall not place or allow to be placed upon Premises, any type of portable or temporary structure, trailer, mobile home, modular structure or device.

LESSOR will not unreasonably withhold approval of such container(s) and structure(s) if such is of a temporary nature for the purpose of supporting construction, alteration or improvement activity, or other approved project.

29. GRANTING OF EASEMENTS

LESSEE shall not (i) grant easements, licenses and other rights or privileges in the nature of easements with respect to the land, or (ii) release existing easements, licenses, right-of-ways and other rights or privileges, and LESSEE agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by LESSEE of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, and (b) a written application signed by the LESSOR requesting execution and delivery of such instrument, provided that, such grant or release is not detrimental to the proper conduct of the business of LESSEE, and such grant or release will not impair the effective use or interfere with the efficient and economical operation of the facilities. LESSEE shall not request any payment or other consideration for such execution, the same being amply supported by the promises exchanged in this Agreement. Any payments or other consideration received by LESSOR for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of LESSOR. The obligations of this Section shall survive termination of this Agreement.

30. RULES AND REGULATIONS

LESSEE, its agents and employees, shall be subject to any and all applicable rules, regulations, Airport Standard Operating Procedures, orders and restrictions which are now in force or which may hereafter be adopted by the Wichita Airport Authority or the City of Wichita, Kansas, in respect to the operation of the Airport; and shall also be subject to any and all applicable laws, statutes, rules, regulations or orders of any governmental authority, federal or state, which are now in force or which may hereafter be promulgated, lawfully exercising authority over the Colonel James Jabara Airport or LESSEE's operations conducted hereunder.

LESSOR shall not be liable to LESSEE for any diminution or deprivation of its rights hereunder on account of the exercise of any such authority as in this Section provided, nor shall LESSEE be entitled to terminate this Agreement by reason thereof unless exercise of such authority shall so interfere with LESSEE's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of Kansas, or as set out in Section 25, Cancellation by LESSEE.

31. ENCROACHERS, TRESSPASSERS AND OTHER THIRD PARTY HAZARDS

LESSEE shall lawfully remove, or cause to be removed by LESSOR or other official law enforcement agency, all encroachers, trespassers and other third parties violating laws of the federal, state or local government, or who are not on the Premises for legitimate purposes.

32. FIRE EQUIPMENT AND SYSTEMS

LESSEE shall furnish and maintain on the Premises sufficient portable fire extinguishing equipment as maybe required by city code and insurance underwriters.

33. ENVIRONMENTAL ASSESSMENT

LESSOR certifies that prior to the commencement date, the operation and licensing of the AFSDF has completed with all federal and state administrative regulations. The LESSOR agrees to hold harmless, defend and indemnify LESSEE for any regulatory penalties or sanctions which may be harmless, imposed by any governmental agency or court resulting from licensing or operating of the AFSDF prior to the date of commencement of this Agreement.

A "Phase-II" environmental site assessment shall be conducted, at LESSOR's sole expense, by an environmental consultant of LESSOR's choice prior to commencement of this Agreement, or within ninety (90) days following the commencement of this Agreement, and a copy of this report shall be promptly provided to the LESSOR and LESSEE. The environmental site assessment soil and/or water specimen results shall be deemed to be the base-line levels established at the commencement of this Agreement.

A "Phase-I" environmental site assessment and "Phase-II" environmental site assessment shall be conducted, at LESSEE's expense, by an environmental consultant satisfactory to the LESSOR within ninety (90) days following the cancellation or termination of this Agreement, and a copy of these reports shall be promptly provided to the LESSOR and LESSEE. If any contamination of the property has occurred through LESSEE's fault or negligence, or the fault or negligence of a LESSEE supplier, agent or contractor, LESSEE shall be required to re-establish the Premises to the pre-Agreement threshold or baseline levels, in a timely manner and acceptable to LESSOR.

Nothing in this Section shall be construed to hold LESSEE liable in any way for any environmental impact or release of hazardous substances affecting the Premises that occurs by

reason of the mitigation, release, discharge or flow from other verifiable and documented off-site contamination sources that are not attributable to the LESSEE's activity on the Premises. A rebuttable presumption shall exist that any negative environmental impact detected beyond the baseline created by the initial Phase II site assessment or any negative environmental complaint arising from condition exceeding the baseline is attributable to LESSEE's activity. The burden of proof shall rest exclusively with the LESSEE to demonstrate that any such environmental impacts affecting the Premises are not attributable to the LESSEE's activity on the Premises.

34. ENVIRONMENTAL COVENANTS

(a) The LESSEE hereby covenants that it will not cause or permit any Hazardous Substances to be placed, held, located, or disposed of, on, under or at the Premises or within the vicinity, shown on the attached Exhibit A, other than in the ordinary course of business and in compliance with all applicable laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided in this Agreement to the LESSOR, the LESSEE hereby agrees to indemnify and hold harmless the LESSOR and the City of Wichita from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSOR or the City of Wichita by any person or entity for or arising out of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during any term of this lease of any Substance (hazardous or otherwise) regulated by any applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws), if such presence, escape, seepage, leakage, spillage, discharge, emission was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, contractors, invitees and/or licensees, or if such Substance (hazardous or otherwise) was owned by, or located on the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(c) If, during the term of this Agreement, the LESSEE receives any notice of (i) the happening of any event involving the use (other than in the ordinary course of business and in compliance with all applicable laws), spill, release, leak, seepage, discharge or cleanup of any Substance (hazardous or otherwise) on the Premises or in connection with the LESSEE's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions,

water discharges, or any other environmental, health, or safety matter affecting the LESSEE from any persons or entity (including, without limitation, the United States Environmental Protection Agency (the "EPA") or the Kansas Department of Health and Environment ("KDHE")), the LESSEE shall immediately notify the LESSOR in writing of said notice.

(d) The LESSOR shall have the right, but not the obligation, and without limitation of the LESSOR's other rights under this Agreement, to enter the Premises or to take such other actions as deemed necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any Substance (hazardous or otherwise) or environmental complaint following receipt of any notice from any person, including, without limitation, the EPA or KDHE, asserting the existence of any Substance (hazardous or otherwise) or an environmental complaint pertaining to the Premises or any part thereof which, if true, could result in an order, suit or other action against the LESSEE and/or which, in the reasonable judgment of the LESSOR, could jeopardize its interests under this Agreement. If such conditions are caused by circumstances within the control of the LESSEE or if such circumstances result from a Substance (hazardous or otherwise) owned by, or located on the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release) all reasonable costs and expenses incurred by the LESSOR in the exercise of any such rights shall be payable by the LESSEE, within 15 days of written demand by Landlord.

(e) If an event of default shall have occurred and be continuing, the LESSEE at the request of the LESSOR shall periodically perform, at the LESSEE's expense, an environmental audit and, if reasonably deemed necessary by the LESSOR, an environmental risk assessment, of the Premises, or the hazardous waste management practices and/or hazardous waste disposal sites used by the LESSEE with respect to the Premises. Such audits and/or risk assessments shall be conducted by an environmental consultant satisfactory to the LESSOR, and all environmental audits and environmental risk assessments must be reasonable satisfactory to the LESSOR. Should the LESSEE fail to perform any such environmental audit or risk assessment within 90 days of the written request of the LESSOR, the LESSOR shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the LESSOR in the exercise of such rights shall be payable by the LESSEE on demand.

(f) Neither LESSEE nor LESSOR shall install or permit to be installed in the Premises friable asbestos, electrical equipment containing polychlorinated biphenyls (PCBs), or any Substance containing asbestos and deemed hazardous by federal or state regulations applicable to the Premises and respecting such material. The LESSEE shall defend, indemnify, and save the LESSOR and the City of Wichita harmless from all costs and expenses (including consequential damages) asserted or proven against the LESSEE by any person, as a result of the presence of said Substances, and the costs of any removal or compliance with such regulations, if said Substance was installed by the LESSEE, or persons within its control.

(g) Subject to any limitations or restrictions imposed by the Kansas Budget Law, Cash Basis Law, or Tort Claims Act, the LESSOR hereby agrees to indemnify and hold harmless the LESSEE from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSEE by any person or entity for, arising out of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during the term of this Agreement and the period prior to the term of this Agreement of any Substance (hazardous or otherwise) (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order of decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning any Hazardous Substance) unless such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, invitees and/or licensees, or if such Substance (hazardous or otherwise) was owned by, or placed upon the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release except to the extent such was caused by the LESSOR).

Environmental compliance shall not be limited to those items noted within this lease but shall include any current or future federal, state, or local law, statute or regulation, that may be required of LESSEE's operation (storage or use of Substances (hazardous or otherwise), activities of LESSEE's employees or contracted vendor's etc.). LESSEE shall provide LESSOR upon request copies of any plan, training program, training records, material safety data sheet or any other documentation required by said laws.

(h) The provisions of this article shall survive the termination of this Agreement.

35. IMPOSITIONS

LESSEE shall, during the life of this Agreement, bear, pay and discharge, before the delinquency thereof, any and all impositions, including all lawful taxes and assessments imposed on the Premises, personal property thereon, or LESSEE's possessory right therein. In the event any impositions may be lawfully paid in installments, LESSEE shall be required to pay only such installments thereof as become due and payable during the life of this Agreement as and when the same become due and payable. LESSOR covenants that without LESSEE's written consent it will not, unless required by law, take any action intended to cause or induce the levying or assessment of any imposition (other than special assessments levied on account of special

benefits or other impositions for benefits or services uniformly imposed) which LESSEE would be required to pay under this Section and that should any such levy or assessment be threatened or occur LESSOR shall, at LESSEE's request, fully cooperate with LESSEE in all reasonable ways to prevent any such levy or assessment. Nothing herein contained shall prevent LESSEE from contesting the legality, validity, or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled to do so.

36. INDEMNITY

LESSEE, shall protect, defend and hold LESSOR and the City of Wichita and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Premises and AFSDF or the acts or omissions of LESSEE's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of LESSOR. The LESSOR shall give to LESSEE reasonable notice of any such claims or actions.

LESSOR shall protect, defend and hold LESSEE, its officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the Premises and AFSDF or the acts of omissions of LESSOR's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage is caused by the negligence of LESSEE. The LESSEE shall give LESSOR reasonable notice of any such claims or actions.

The provisions of this Section shall survive the expiration or termination of this Agreement to the extent that they relate to liabilities, losses, suits, claims, judgments, fines or demands arising from or incident to events occurring during LESSEE'S occupancy of the Premises. The LESSEE shall use counsel reasonably acceptable to LESSOR in carrying out its obligations in this Section.

37. DAMAGE OR DESTRUCTION

In the event that the Premises or the AFSDF, facilities or improvements on the Premises are damaged or destroyed in whole or in part by any peril or casualty during the term of this Agreement, this Agreement shall remain in full force and effect and LESSEE shall proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed property or parts thereof to as good a condition as all affected properties were in immediately prior to such damage or destruction, subject to such alterations as LESSEE may elect to make and are permitted in this Agreement. All proceeds from the insurance policies related to such damage or destruction shall be applied to cover the cost of such repairs or restoration.

In the event the improvements are damaged or destroyed in whole or in part by any peril or casualty not resulting in whole or in part from the actions of the LESSEE during the term of this Agreement, and such damage, destruction or loss exceeds fifty five percent (55%) of the value of the property as it existed prior to the casualty loss, LESSEE shall have the election, indicated by written notice given to LESSOR within 180 days after the occurrence of such event, not to repair, restore, rebuild or replace the improvements. Upon such election by LESSEE, this Agreement shall be terminated effective as of the date such notice is given by LESSEE, and neither party shall have any further rights or obligations pursuant to this Agreement other than LESSEE'S obligation to satisfy damages arising from any negligent or intentional action of itself, its employees, agents or invitees to the extent not covered by insurance proceeds. All of the insurance proceeds shall be paid to LESSEE and LESSOR in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the proceeds are received, except that the total proceeds attributable to damage or destruction to the AFSDF shall be paid to LESSOR. Where allowed by the insurance policy, insurance proceeds shall first be applied to removal of damaged the AFSDF from the Premises before such distribution.

38. CONDEMNATION

If, during the term, title to, or the temporary use of, all or any part of the Premises shall be condemned by any authority exercising the power of eminent domain, LESSEE shall, within fifteen (15) days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify LESSOR in writing as to the nature and extent of such condemnation and whether it is practicable for LESSEE to acquire or construct substitute improvements.

If LESSEE shall determine that such substitution is practicable and desirable and LESSOR shall agree thereto, LESSEE shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any net proceeds received from any award or awards with respect to the Premises or any part thereof made in such condemnation or eminent domain proceeds shall be used and applied for the purpose of paying the cost of such substitution. Any proceeds not required for such costs shall be distributed to the parties in pro-rata distributions as their interests may appear based upon Agreement term remaining and the fair market value of each party's interest at the time the proceeds are received.

If LESSEE shall determine that it is not practicable and desirable to acquire or construct substitute improvements, any net proceeds shall be distributed to the parties in pro-rata distributions as their interests may appear based upon the Agreement term remaining, and the fair market value of each party's interest at the time the proceeds are received.

LESSOR shall cooperate fully with LESSEE in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof. In no event will LESSEE or LESSOR voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Premises without the mutual agreement and written consent of the other party to this Agreement.

39. MODIFICATIONS FOR GRANTING FAA FUNDS

In the event that the Federal Aviation Administration requires modifications or changes to this Agreement as a condition precedent to granting of funds for the improvement of the Airport, LESSEE agrees to consent to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required to enable the LESSOR to obtain said Federal Aviation Administration funds, provided that in no event shall such changes materially impair the rights of LESSEE hereunder or materially increase its obligations.

40. NONDISCRIMINATION

The LESSEE agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The LESSEE agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.

41. GENERAL PROVISIONS

Facility Development. LESSOR reserves the right to further develop or improve the landing area or any other area, building or other improvement within the present or future boundaries of Airport as it sees fit in its sole judgment regardless of the desires or view of LESSEE and without interference or hindrance by LESSEE. Further, LESSOR retains the absolute right to maintain, repair, develop and expand or replace the terminal building, utilities, ramps, taxiways, runways, streets, roadways, sidewalks, any other airport facility, airport improvement or airport property free from any and all liability to LESSEE for loss of business or damage of any nature whatsoever as may be occasioned during or because of the performance of such maintenance, repair, development, expansion or replacement.

Maintenance, Repair, Direction and Control. LESSOR reserves the right, but is not obligated to exercise the right, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of LESSEE in this regard. These areas will include, but are not limited to, those areas which are necessary to serve the aeronautical users of the Airport, except that LESSOR will not be obligated to maintain and keep in repair such areas of the Airport as may be leased to or under the control of Airport tenants, whether such area serves aeronautical users or otherwise.

Operation of Airport by the United States of America. This Agreement and all the provisions hereof will be subject to whatever right the United States of America now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

14 CFR Part 77 of Federal Aviation Regulations. LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building, structure, or attachment thereto is planned for the Premises, or in the event of any planned modification or alteration of any present or future

building or structure situated on the Premises. LESSEE by accepting this Agreement expressly agrees for itself, its successors and assigns, that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Premises which will exceed such maximum height as may be stipulated by LESSOR. It is understood and agreed that applicable laws, codes, regulations or agreements concerning height restrictions will govern the maximum height to be stipulated by LESSOR. In the event the aforesaid covenants are breached, LESSOR reserves the right to enter upon the Premises and to remove the offending structure or object, and cut down the offending tree, all of which will be at the expense of LESSEE and without liability to LESSOR.

Airspace. There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight will include the right to cause or allow in said airspace, any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport. No liability on the part of LESSOR will result from the exercise of this right.

Easement for Flight. LESSEE releases LESSOR from any present or future liability whatsoever and covenants not to sue LESSOR for damages or any other relief based directly or indirectly upon noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions occurring as a result of aviation or airport related operations at or otherwise associated with the Airport. This release and covenant includes but is not limited to claims for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, nuisance, or inverse condemnation or for injunctive or other extraordinary or equitable relief. It is further agreed that LESSOR shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands, rerouting air traffic, erecting sound or other barriers, establishing curfews, noise or other regulations, relocating airport facilities or operations or taking other measures, except to the extent, if any, that such actions are validly required by government authority. LESSOR reserves these rights from the Premises an easement for flight of aircraft in or adjacent to the airspace above the Premises and for the existence and imposition over, on and upon said Premises of noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value which may occur directly or indirectly as a result of aviation, airport or airport-related operations at or otherwise associated with use of the Airport. LESSEE accepts the Premises subject to the risks and activities hereinabove described.

Airport Hazards. LESSEE by accepting this Agreement agrees for itself, its successors and assignees, that it will not make use of the leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this Agreement term is breached, LESSOR reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of LESSEE without liability to LESSOR of any kind.

Airport Rules and Regulations, Policies, and Standard Operating Procedures. LESSOR will have the right to adopt, amend and enforce reasonable airport rules and regulations, policies and standard operating procedures with respect to use of and the conduct and operation of the Airport, its buildings and facilities or any improvements within the present or future boundaries of the Airport, which LESSEE agrees to observe and obey.

Federal Aviation Administration Requirements. LESSOR and LESSEE agree that the requirements of the Federal Aviation Administration (FAA) set out below are approved by both parties, and if applicable, LESSEE agrees to comply with all FAA requirements with respect to its operations, use of the Airport and this Agreement:

(a) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) The LESSEE assures that it will undertake an affirmative action program as required

by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The LESSEE assures that it will require that its covered suborganizations provide assurances to the LESSEE that they similarly will undertake affirmative action programs, and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(e) LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) LESSOR reserves the right (but shall not be obligated to LESSEE) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of LESSEE in this regard.

(g) LESSOR reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of LESSEE, and without interference or hindrance.

(h) LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of LESSOR, would limit the usefulness of the airport or constitute a hazard to aircraft.

(i) During time of war or national emergency LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

(j) It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

(k) There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating

on or about the airport.

(l) This Agreement shall become subordinate to provisions of any existing or future agreement between the LESSOR and the United States of America or any agency thereof relative to the operation, development or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

Subordination to Agreements with the U.S. Government. This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between LESSOR and the United States Government relative to the operation or maintenance of Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to LESSOR for Airport purposes, or the expenditure of federal funds for the improvement or development of Airport, including the expenditure of federal funds for the development of Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time. LESSOR covenants that it has no existing agreements with the United States Government in conflict with the express provisions hereof.

Non-Waiver of Rights. No waiver or default by either party of any of the terms, warranties, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, warranties, covenants or conditions herein contained, to be performed, kept and observed by the other party.

Notices. Notices required herein may be given by registered, certified, or express mail, and shall be deemed served on the date such notice is deposited in the United States Mail, or by prepaid private courier in the continental United States. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received.

Until any such change is made, notices to LESSOR shall be delivered as follows:

Wichita Airport Authority
Wichita Mid-Continent Airport
2173 Air Cargo Road
Wichita, Kansas 67209

Until any such change is made, notices to LESSEE shall be delivered as follows:

MCA Fuel Services, LLC
3512 North Webb Road
Wichita, KS 67226

Captions. The captions/headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Severability and Invalid Provisions. In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this agreement.

Waiver of Claims. LESSEE hereby waives any claim against LESSOR and its officers or employees for loss of anticipated profits, consequential or incidental damages, or claim for attorney fees caused by or resulting any suit or proceedings directly or indirectly attacking the validity of Agreement or any part thereof, or the manner in which it is executed or performed, or by any judgment or award in any legal proceeding declaring this Agreement null, void or voidable, or delaying the same of any part thereof, from being carried out. This waiver extends to all claims, whether the supporting legal theory lies in common law or has a statutory basis.

Incorporation of Exhibits. All exhibits referred to in this Agreement are intended to be and are hereby specifically made a part of this Agreement.

Incorporation of Required Provisions. The parties incorporate in this Agreement by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

Non-Liability of Agents and Employees. No member, officer, agent or employee of either party to this Agreement shall be charged personally, or held contractually liable by or to the other party under the terms or provisions of this Agreement, or because of any breach thereof or because of its or their execution or attempted execution.

Successors and Assigns Bound. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto where permitted by this Agreement.

Time of Essence. Time is of the essence in this Agreement.

Relationship of the Parties. It is understood LESSEE is not in any way or for any purpose a partner or joint venturer with or an agent of LESSOR. LESSEE shall act as an independent contractor in the performance of its duties pursuant to this Agreement.

Interpretation. LESSOR and LESSEE hereby agree that this Agreement shall not be construed or interpreted in favor of either party on the basis of preparation.

Kansas Laws to Govern. This Agreement is created in the State of Kansas and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas, and venue for resolution of any issue pertaining to this Agreement shall be in Sedgwick County, Kansas.

42. THIRD PARTY RIGHTS

It is agreed between the parties that it is not intended by any of the provisions of this Agreement to create for the public or any member thereof the status of a third-party beneficiary, 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.

43. QUIET ENJOYMENT

LESSOR agrees that, on payment of the rentals and fees and performance of the terms, covenants, conditions and agreements on the part of LESSEE to be performed in this Agreement, LESSEE will have the right to peaceably occupy and enjoy the Premises, subject however, to the GENERAL PROVISIONS contained in Section 41.

44. HOLD OVER

In the event LESSEE holds over the lease of the Premises, any rights granted after expiration of this Agreement without any written renewal of it shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a month-to-month arrangement, which may be terminated within thirty (30) days notice by LESSOR or LESSEE.

45. SURRENDER OF POSSESSION AND RESTORATION

LESSEE shall yield and deliver to LESSOR possession of the Premises and AFSDF at the expiration or termination of this Agreement as good a condition as established under the commencement walk-through and the baseline Phase II site assessment, except for reasonable wear and tear, or fire or other casualty for which full insurance compensation has been paid as agreed.

LESSEE, at LESSEE's expense, shall remove during the Term of the Agreement or at its termination or expiration all non-attached equipment and personal property placed by LESSEE on or about the Premises herein leased.

In the event LESSEE does not remove all of its non-attached equipment and personal property within thirty (30) calendar days after the termination of this Agreement, any remaining property shall be considered abandoned and LESSOR may dispose of said property without any further responsibility or liability to LESSEE. The net disposal costs of such property shall be the financial obligation of LESSEE.

46. INTENTION OF PARTIES

This Agreement is intended solely for the benefit of LESSOR and LESSEE and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. Any work done or inspection of the Premises performed by LESSOR is solely for the benefit of LESSOR and LESSEE.

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint ventures, or any other similar such relationship, between the parties hereto. Further, non-parties to this Agreement may not maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Agreement. The parties shall understand and agree that neither the method of payment, nor any other provision contained herein, nor any act(s) of the parties hereto creates a relationship other than the relationship of the LESSOR and the LESSEE.

47. ENTIRE AGREEMENT

This Agreement supersedes and cancels all previous agreements for the Premises and AFSDF generally described under Section 1 and the Fueling and Services Agreement, dated December 19, 1983, between LESSOR and LESSOR or any other party, and all amendments, supplemental agreements, or renewals thereto. The parties understand and agree that this instrument contains the entire Agreement between them. The parties hereto further understand and agree that the other party and its agents have made no representations or promises with respect to the Agreement or the making or entry into this Agreement, except as expressed in this Agreement, and that no claim or liability or cause for termination shall be asserted by either party against the other and such party shall not be liable by reason of, the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other being expressly waived.

The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for which they are acting herein.

The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel deemed necessary for them to form a full and complete understanding of all rights and obligations herein.

48. AMENDMENT

This Agreement constitutes the entire Agreement between the parties for the lease of Premises and ownership of and AFSDF set forth and identified under Section 1. No amendment, supplemental agreement, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

49. APPROVAL, CONSENT, DIRECTION OR DESIGNATION BY LESSOR

Wherever under this Agreement, approvals, consents, directions, or designations are required or permitted, such approvals, consents, directions, or designations required or permitted under this Agreement shall be performed by the Director of Airports, or his/her authorized representative. Approvals, consents, directions, or designations made at any time by the Director of Airports, and from time to time, may be withdrawn or modified by notice from LESSOR to LESSEE.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

MIDWEST CORPORATE AVIATION, INC.

By _____

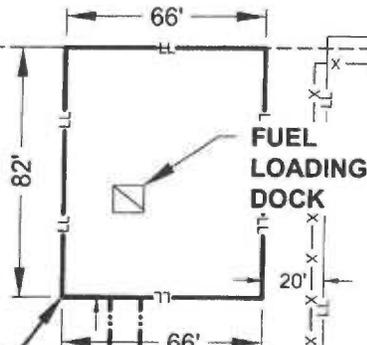
By _____
Marvin E. Autry, President
"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

TWY B

EXHIBIT A-1

750' BUILDING RESTRICTION LINE



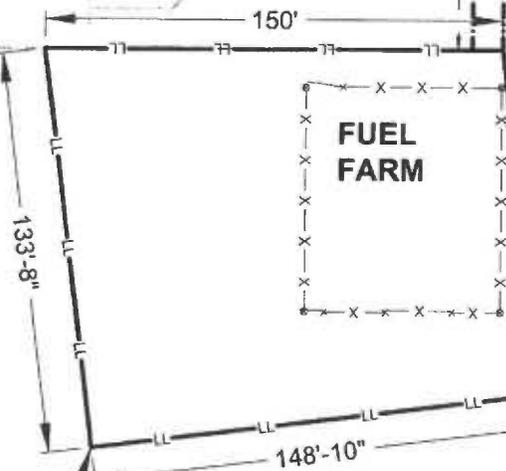
**PARCEL A
PROPOSED LEASE**
3600 N JABARA ROAD
(5,412 S.F.)

TRAVERSED PROPERTY CORRIDOR

TELCO BUILDING
(3580 N JABARA ROAD)

ACCESS UTILITY & DRAINAGE EASEMENT
(PRIVATE STREET)

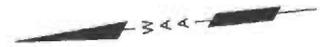
JABARA ROAD



**PARCEL B
PROPOSED LEASE**
9520 E 35th ST. NORTH
(18,503 S.F.)

35th St. North

ACCESS UTILITY & DRAINAGE EASEMENT
(PRIVATE STREET)



FUEL FARM LEASE

COLONEL JAMES JABARA AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

DATE	DR. BY	SCALE	SHEET
4/2/14	H.G.O.	1" = 60'	1 of 1

D:\Drawings\JABARA\222-Environmental\Fuel\Fuel Farm\2014 updates.dwg, Proposed Lease, 4/2/2014 4:05:56 PM

PARCEL A

Description for Fuel Loading Dock
Located on Lot 1, Block A, Colonel James Jabara Airport
An Addition to Wichita, Sedgwick County, Kansas

Commencing at a point 401.20 feet East and 437.19 feet North of the West Quarter Corner, Section 33, Township 26 South, Range 2 East, of the 6th Principal Meridian; said point of commencement being the Southwesterly corner of a lease parcel commonly referred to as Tract 3560 Jabara Road; thence bearing S83°57'36"E along the South line of said lease parcel a distance of 281.00 feet; thence bearing N06°02'24"E along the East line of said lease parcel a distance of 550.00 feet to the Northeasterly corner of said lease parcel; thence bearing N06°02'24"E a distance of 20.00 feet to the Point of Beginning; thence continuing said bearing N06°02'24"E a distance of 66.00 feet; thence bearing N83°57'36"W a distance of 82.00 feet; thence bearing S06°02'24"W a distance of 66.00 feet; thence bearing S83°57'37"E parallel with and 20.00 feet North of the North line of said lease parcel a distance of 82.00 feet to the Point of Beginning. (Basis of bearing Colonel James Jabara Airport Addition)

Encompassing 5,412 square feet more or less

PARCEL B

Description for Fuel Farm
Located on Lot 1, Block A, Colonel James Jabara Airport
An Addition to Wichita, Sedgwick County, Kansas

Commencing at the Southwest Corner, of the Northwest Quarter, of Section 33, Township 26 South, Range 2 East, of the 6th P.M. Sedgwick County, Kansas, thence bearing N01°05'53"W along the West line of the Southwest Quarter, a distance of 1045.54 feet; thence bearing N88°54'07"E along the North Right of Way line of 35th St. North, a distance of 395.96 feet, to a point intersecting the West Right of Way line of Jabara Road, Lot 1, Block A, Colonel James Jabara Airport Addition, and the Point of Beginning, thence bearing N06°02'24"E along the West Right of Way line of Jabara Road, a distance of 150.00 feet; thence bearing S88°53'56"W a distance of 133.63 feet; thence bearing S01°05'53"E a distance of 148.83 feet, to the North Right of way line of 35th St. North; thence bearing N88°54'07"E along said Right of Way line, a distance of 115.00 feet to the Point of Beginning. (Basis of bearing Colonel James Jabara Airport Addition)

Encompassing 18,503 square feet more or less

Charles W. Brooksher LS