REVISIONS:
REMOVAL OF ITEMS 2, 3, 15, AND 36
ADDITION OF ITEM 54

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. February 12, 2008

City Council Chambers
455 North Main

ORDER OF BUSINESS

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the February 5, 2008 regular meeting

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AWARDS AND PRESENTATION

-- Special Award:

Carla Shull

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. Elizabeth Stevenson-Clean Indoor Air Ordinance.

2. **Mark Payne-Smoking Ban. (REMOVE PER MR. PAYNE)**

3. **Buck Goodman-Boathouse proposal**. **(REMOVE PER MR. GOODMAN)**

CONSENT AGENDA

4. Report of the Board of Bids and Contracts Dated February 11, 2008.

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

5. Applications for Licenses:

Renewals

Robert Floyd	Kellogg Gift Shop Inc. dba Priscilla's	6143 West Kellogg
Robert Floyd	Armour Gift Shop Inc. dba Priscilla's	2606 South Rock Road SU 100

RECOMMENDED ACTION: Approve the licenses.

6. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2008	(Consumption off Premises)
Michelle McCall	Wal-Mart Supercenter #1099	501 East Pawnee Street
Michelle McCall	Wal-Mart Supercenter #1221	6110 West Kellogg
Michelle McCall	Wal-Mart Supercenter #3492	11411 East Kellogg
Hau Ma	K & T Store	4001 Seneca

Renewal	2008	(Consumption on Premises)
Matthew J. Ryan	Ryan Boys North, Inc. dba Two Brothers BBQ*	3750 North Woodlawn U102

New Operator	2008	(Consumption off Premises)
Navid Haerl	Azalia, LLC dba Pawnee Shell	1535 East Pawnee
Kashif A. Khan	Zee Enterprises Inc.	2602 North Arkansas Avenue
Stephen Diehl	Dillon Store #89	1910 West 21st Street North
Stephen Diehl	Dillon Store #91	3020 East Douglas Avenue
Stephen Diehl	Dillon Store #92	640 North West Street
Kamran Eshghi	KosKesh LLC/dba Phillips 66	3810 North Woodlawn SU 1

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

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

7. Preliminary Estimates:
   a. 2008 Sanitary Sewer Reconstruction, Phase 1 (various locations east of Hillside, south of 21st Street North) (468-84482/620499/668618) Traffic to be maintained during construction using flagpersons and barricades. (District I, III) - $244,000.00
   b. Logan Water Main Replacement (north of 13th Street North, east of Hillside) (448-90210/636157/776550) Traffic to be maintained during construction using flagpersons and barricades. (District I) - $2,202,597.00
   c. Left Turn Lane on 13th Street North for eastbound traffic into Veranda to serve Waterfront Residential Addition and Greenwich Office Park Addition (north of 13th Street North, west of Greenwich) (472-84645/766190/490208) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $154,000.00
   d. Left Turn Lane and Right Turn Lane on 13th Street North at Lindberg to serve Waterfront 6th Addition (north of 13th Street North, west of Greenwich) (472-84627/766191/490209) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $142,000.00
   e. 55th Street South from the east line of the plat, west to the west line of Meadowview; Meadowview from the north line of 55th Street South, north to the west line of Maywood; Maywood from the west line of Meadowview, east to the east line of Elmhurst Circle; Shoffner from the west line of Meadowview, west to the west line of Lot 14, Block B; Elmhurst Circle from the south line of Maywood, south to and including the cul-de-sac; Meadowview Court (Lots 33 thru 40, Block C) from the east line of Meadowview, east to and including the cul-de-sac; Meadowview Court (Lots 83 thru 91, Block A) from the west line of Meadowview, west to and including the cul-de-sac; Meadowview Court (Lots 16 thru 21, Block B) from the west line of Meadowview, west to and including the cul-de-sac; Sidewalk on 55th Street South, Meadowview and Shoffner to serve Meadowlake Beach Addition (north of 55th Street South, west of Clifton) (472-84540/766154/490172) Does not affect existing traffic. (District III) - $784,000.00

RECOMMENDED ACTION: Receive and file.

8. Consideration of Street Closures/Uses.

   a. Voornaam Pyrotechnics Fireworks Display, February 14, 2008, 9:00 to 9:30 p.m. (District VI)

      - 11th Street, North River Blvd to Forrest Street.
      - North River Drive, Forrest Street to entrance of Oak Park Disk Golf.

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; 3) Certificate of Liability Insurance on file with Community Events Coordinator.

9. Change Orders:
   a. Sanitary Sewer Main to serve an area along MacArthur, between 1/2 mile east of West Street and the Wichita-Valley Center Flood Control Ditch. (District IV)
   b. Douglas Street Drainage Outfall. (Districts I and VI)
   c. Waterman Improvement, between Main and Washington. (District I)

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

10. Property Acquisition:
    a. Partial Acquisition of 4020 South Meridian for the MacArthur; Meridian to Seneca Improvement Project. (District IV)

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

11. January 2008 Monthly Contracts & Agreements Report to Council.

RECOMMENDED ACTION: Receive and file.

12. Minutes of Advisory Boards/Commissions, February 12, 2008.

Police and Fire Retirement System, November 28, 2007
Police and Fire Retirement System, December 19, 2007

RECOMMENDED ACTION: Receive and file.

13. Proposed Assessment Rolls.

Proposed Assessment Rolls have been prepared for twenty (20) water projects, twenty one (21) sewer projects and eight (8) storm sewer projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held March 3, 2008 at 11:00 a.m. Notification of both the informal and formal public hearings regarding the proposed special assessments will be mailed to affected property owners on February 15, 2008.

RECOMMENDED ACTION: Set the hearing on the Proposed Assessment Rolls for 9:30 a.m., Tuesday, March 18, 2008.

14. Assistance to Firefighters Grant Program Grant Award.

RECOMMENDED ACTION: Approve the FY 2007 Assistance to Firefighters Grant Award; authorize the appropriate signatures; and approve necessary budget transfers.

(Item 15)

15. Municipality Resolution to Obtain Credit Card Account.

(PULL PER KELLY CARPENTER)

16. Enforcing Underage Drinking Laws (EUDL) Grant.

RECOMMENDED ACTION: Approve the application and authorize the appropriate signatures.

17. Contingency Fund Use to Promote Conventions and Events by Greater Wichita Convention & Visitor's Bureau.

RECOMMENDED ACTION: Approve GWCVB's 2008 Sponsorships request and fund it from budget allocation included in the 2008 Adopted Budget within Tourism and Convention Fund.

18. Home Program; Housing Development Loan Program Funding. (Districts I and VI)

RECOMMENDED ACTION: Approve the amendment to the 2007-2008 Consolidated Plan, the recommended funding allocations, and authorize the necessary signatures.

19. Selection of an Underwriter, STAR Bonds.

RECOMMENDED ACTION: Designate George K. Baum & Company as underwriter for the purpose of assisting in a negotiated sale of special obligation STAR Bonds.

20. Results of Litigation.

RECOMMENDED ACTION: Acknowledge court transfer of the Old Mission Mausoleum property to City ownership, and direct City staff to evaluate and appropriately assign internally them maintenance obligations.

21. Second Reading Ordinances: (First Read February 5, 2008)

a. Public Hearing and Tax Exemption Request, Custom Cupboards, Inc. (District IV)

An ordinance exempting property from ad valorem taxation for economic development purposes pursuant to article 11, section 13, of the Kansas constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of custom cupboards, inc. so exempted.

b. Public Hearing and Tax Exemption Request, Cox Machine, Inc. (District V)

An ordinance exempting property from ad valorem taxation for economic development purposes pursuant to article 11, section 13, of the Kansas constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Cox machine, inc, so exempted.

c. Public Hearing and Tax Exemption Request Diversified Services, Inc. (District VI)

An ordinance exempting property from ad valorem taxation for economic development purposes pursuant to article 11, section 13, of the Kansas constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of diversified services, inc., so exempted.

d. Non-Exempt Employee Salary and Classification Ordinances for Airport Teamsters Agreement.

An ordinance providing for a uniform schedule of standard pay ranges for non-exempt employees of the City of Wichita, repealing ordinance no. 47-700.

An ordinance establishing position classifications for non-exempt employees of the City of Wichita and prescribing pay rates by reference to position classifications in the schedule of pay ranges repealing ordinance no. 47-699.

e. ZON2007-00043 – Zone change from “B” Multi-Family Residential to “GO” General Office. Generally located east of Woodlawn Avenue, west of Armour Avenue, on the south side of Central Avenue. (District II.)

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

h. ZON2005-00025 – Zone change from “SF-5” Single-family Residential to “LI” Limited Industrial. Generally located north of Merton Circle and west of Baehr Street. (District IV)

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

i. ZON2007-58 – Zone change from “B” Multi-family Residential to “LC” Limited Commercial with a Protective Overlay. Generally located northeast of the Central and Oliver intersection. (District I)

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

(Item 21 continued)

j. ZON2007-00059 – Amendment to Protective Overlay #4 (SCZ-0721) to allow placement of one (1) off-site sign. Generally located northeast of the intersection of Zoo Blvd. and North Lakeway Cir., 5936 West 21st Street North. (District V)

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

k. ZON2007-62 - City zone change from "GC" General Commercial and "SF-5" Single-Family Residential to "LI" Limited Industrial. Generally located on the northwest corner of 13th Street North & Wabash Avenue. (District I)

An ordinance changing the zoning classifications or districts of certain lands located in the Cty of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

RECOMMENDED ACTION: Adopt the Ordinances.

UNFINISHED BUSINESS

22. Tax Exemption Request, ZTM, Inc. (District III)
(Deferred February 5, 2008)

RECOMMENDED ACTION: Approve the first reading of the Ordinance, granting a 100% tax exemption on the identified real and personal property improvements for a five-year term, plus a 100% tax exemption for a second five-year term on real and personal property, subject to City Council approval and PILOT payments on personal property.

23. Improvement to the Intersection of Central and Tyler. (District V)
(Deferred February 5, 2008)

RECOMMENDED ACTION: Approve the project, place the Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

NEW BUSINESS

24. Quarterly Financial Report for Quarter ending December 31, 2007.

The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions.

RECOMMENDED ACTION: Receive and file the Quarterly Financial Report for the quarter ended December 31, 2007.

25. Library Computer Migration Project.

On November 8, 2007, the Staff Screening and Selection Committee selected Polaris as the company and system best able to provide integrated library automation services for the Wichita Public Library customers and staff.

RECOMMENDED ACTION: Authorize staff to initiate the project, authorize the necessary signatures and the necessary budget adjustments.

26. 2006 and 2007 Traffic Signalization Program. (District IV)

On July 11, 2006, the City Council approved the 2006 and 2007 funding for the CIP Traffic Signalization Program.

RECOMMENDED ACTION: Approve the revised budget, adopt the amending Resolution, and authorize the necessary signatures.

27. Mixed Martial Arts Event at Century II.

Promoter Sean Carpenter has requested usage of Century II for a Mixed Martial Arts event on May 10, 2008. State statute 74-50,189 requires a license from the Kansas Athletic Commission and the governing body of the city to adopt a resolution approving professional and amateur boxing, kickboxing, full-contact karate, and mixed martial arts.

RECOMMENDED ACTION: Adopt the resolution for Mr. Sean Carpenter to hold the Mixed Arts Event on May 10, 2008 at Century II.

28. Professional Boxing / Mixed Martial Arts Event at Century II.

Promoter Justin Willms of Havic Prizefighting Promotions, Wichita, Kansas, has requested usage of Century II for a Professional Boxing / Mixed Martial Arts event on March 29, 2008.

RECOMMENDED ACTION: Adopt the resolution for Mr. Justin Willms and Havic Prizefighting Promotions to hold their Professional Boxing/Mixed Martial Arts Event on March 29, 2008 at Century II.

29. Amend Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) Agreement.

Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) provides the skilled labor required for the Century II stages.

RECOMMENDED ACTION: Approve the amendment to the Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) Agreement.

30. Public Hearing and Tax Exemption, Carlson Hydraulics. (District IV)

Carlson Hydraulics is now requesting approval of an Economic Development Tax Exemption on the construction of a building addition.

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance, granting Carlson Hydraulics a 47% tax exemption on the identified real property improvements for a five-year term, plus a 47% tax exemption for a second five-year term, subject to City Council approval.

31. Public Hearing and Tax Exemption Request, Triumph Structures 2005 Expansion. (District IV)

At the request of the Sedgwick County Appraiser's Office, Triumph (formerly Excel) withdrew its application for an Economic Development Tax Exemption on the 2005 expansion project (which was originally submitted by Excel) and has now resubmitted it under the name of the new company (Triumph).

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Triumph Structures – Wichita Inc. a 100% tax exemption on the identified personal property improvements for a five-year term.

32. Public Hearing and Tax Exemption Request, Triumph Structures 2006 Expansion. (District IV)

Triumph (formerly Excel) is now requesting approval of an Economic Development Tax Exemption on the newly acquired manufacturing equipment in connection with the 2006 expansion project.

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting a 100% tax exemption on the identified personal property improvements for a five year term.

33. Public Hearing and Tax Exemption Request, Globe Engineering Co., Inc. (District IV)

Globe Engineering is now requesting approval of a 5+5 year exemption on the building addition and a 5-year exemption on the equipment acquired after July 1, 2006 in conjunction with the expansion project.

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Globe Engineering a 57% tax exemption on the identified real and personal property improvements for a five year term, plus a 57% tax exemption for a second five-year term on real property only, subject to City Council review.

34. Public Hearing and Tax Exemption Request, Fiber Dynamics, Inc. (District IV)

Fiber Dynamics is now requesting approval of an Economic Development Tax Exemption on the construction of a new facility and newly acquired equipment in conjunction with the expansion project.

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Fiber Dynamics a 100% tax exemption on the identified real and personal property improvements for a five year term, plus a 100% tax exemption for a second five-year term on real and personal property subject to City Council review and PILOT payments on personal property.

35. Resolution Considering the Establishment of a Redevelopment District, Tax Increment Financing. (District VI)

C.O.R.E. has recently teamed with Wichita-based Inner City Development Company (ICDC) to redevelop the area. The developer has requested financial assistance from the City of Wichita in the form of tax increment financing ("TIF").

RECOMMENDED ACTION: Adopt the resolution providing notice of consideration for the establishment of the C.O.R.E. Redevelopment District and setting a public hearing for March 18, 2008.

(Item 36)

36. **Petitions to Renovate Building Facades in the Core Area. (Districts I and VI)**
(PULLED PER MAYOR)

37. Amendments to the Self-Supported Municipal Improvement District (SSMID) Ordinance. (Districts I and VI)

On March 20, 2001, the City Council adopted on ordinance establishing a self-supported municipal improvement district (SSMID) for downtown Wichita (the "SSMID Ordinance"). The ordinance provides for the levying of an additional ad valorem tax, up to 10 mills, on all taxable real and personal property located within the boundaries set forth in the SSMID Ordinance.

RECOMMENDED ACTION: Close the public hearing and approve the first reading of the amended SSMID Ordinance.

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.

* Consent Items

38. ZON2007-00036 – Zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential with a Protective Overlay. Generally located south and east of the intersection of 31st Street South and Wichita Street. (District III)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the zone change subject to the additional conditions of Protective Overlay #193; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; OR 2) Return the application to the MAPC for reconsideration.

39. CON2007-48 – Conditional Use to permit "parking area, ancillary," (parking only) on property zoned "SF-5," Single-family Residential located southeast of the intersection of Heather Road and Peach Tree Lane 8201 East Peach Tree Lane. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the Conditional Use, subject to the recommended conditions (requires a simple majority vote); OR 2) Deny the application, make alternative findings, and override the MAPC recommendation (requires a two-thirds majority vote to override the MAPC recommendation); OR 3) Return the application to the MAPC for reconsideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

40. DER2007-00013 – Amendment to Article III, Section III-C.2(1)(b) of the Wichita-Sedgwick County Unified Zoning Code (UZC) dealing with off-site signage in non-residential Community Unit Plans.

RECOMMENDED ACTION: 1) Adopt the recommendation of the MAPC to amend the Wichita-Sedgwick County Unified Zoning Code to permit off-site signage in community unit plans only after governing body approval; place the ordinance on first reading and authorize the appropriate signatures; OR 2) Amend the recommendation of the MAPC; OR 3) Deny the application.

41. *ZON2007-00064 – City zoning on un-zoned property to "LC" Limited Commercial. Generally located on the north side of Central Avenue, just east of the Big Ditch (Wichita-Valley Center Floodway). (District V)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change to "LC" Limited Commercial and approve the first reading of the ordinance; OR 2) Return the application to the MAPC for reconsideration.

42. *VAC2007-00040 Request to vacate a platted reserve and the uses it is restricted to per the plattor's text. Generally located on the north side of 13th Street North, west of Greenwich Road. (District II)

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

43. *VAC2007-00047 Request to vacate portions of platted complete access control. Generally located at the southeast corner of 21st Street North and 127th Street East. (District II)

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

44. *DED 2008-01 and DED 2008-02-Dedication of Utility Easements located east of Maize Road and north of MacArthur Road. (District IV)

    RECOMMENDED ACTION: Accept the Dedications.

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.

* Consent Items

Allan Murdock, Housing Member is also seated with the City Council.

45. *Section 8 Management Assessment Program (SEMAP).

    RECOMMENDED ACTION: Approve the 2007 Section 8 Management Assessment Program (SEMAP) Certification.

46. *2007 Public Housing Assessment System.

    RECOMMENDED ACTION: Review and approve the submission of the 2007 Public Housing Assessment System Certification for Management Indicators to the U. S. Department of Housing and Urban Development (HUD); adopt the resolution; and provide the necessary signatures.

47. *Revisions of the 2006 and 2007 Capital Fund Grants.

RECOMMENDED ACTION: Approve the revisions of the 2006 and 2007 Capital Fund Grant Budgets.

48. *Admissions and Continued Occupancy Policy (ACOP).

RECOMMENDED ACTION: Review and approve the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing Program.

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport 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.
*Consent items

49. Armstrong/Shank Advertising Agency Contract Renewal, Supplemental Agreement No. 2.

RECOMMENDED ACTION: Approve Supplemental Agreement No. 2 with Armstrong|Shank which includes a one-year renewal with the option to extend for an additional year beyond February 28, 2009, and authorize the necessary signatures.

50. Air Service Consulting Services - Sabre, Inc, Master Agreement.

RECOMMENDED ACTION: Approve the new Air Service Consulting Master Agreement with Sabre, Inc., for a term of three years and two additional one-year renewal options, and authorize the necessary signatures.

51. *Pratt and Whitney Engine Services, Inc. - Supplemental Agreement No. 2.

RECOMMENDED ACTION: Approve Supplemental Agreement No. 2, and authorize the necessary signatures.

52. *Colonel James Jabara Airport, Taxiways F and G, Runway Markings

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

CITY COUNCIL

53. Board Appointments.

RECOMMENDED ACTION: Approve the appointments.

54. **Resolution in honor of those who lost their lives in Kirkwood, Missouri, (requested by Mayor Brewer)**

RECOMMENDED ACTION: Adopt the resolution.

Adjournment

Workshop to follow

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

PRELIMINARY ESTIMATES
FOR CITY COUNCIL FEBRUARY 12, 2008

a. 2008 Sanitary Sewer Reconstruction, Phase 1 (various locations east of Hillside, south of 21st Street North) (468-84482/620499/668618) Traffic to be maintained during construction using flagpersons and barricades. (District I,III) - $244,000.00

b. Logan Water Main Replacement (north of 13th Street North, east of Hillside) (448-90210/636157/776550) Traffic to be maintained during construction using flagpersons and barricades. (District I) - $2,202,597.00

c. Left Turn Lane on 13th Street North for eastbound traffic into Veranda to serve Waterfront Residential Addition and Greenwich Office Park Addition (north of 13th Street North, west of Greenwich) (472-84645/766190/490208) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $154,000.00

d. Left Turn Lane and Right Turn Lane on 13th Street North at Lindberg to serve Waterfront 6th Addition (north of 13th Street North, west of Greenwich) (472-84627/766191/490209) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $142,000.00

e. 55th Street South from the east line of the plat, west to the west line of Meadowview; Meadowview from the north line of 55th Street South, north to the west line of Maywood; Maywood from the west line of Meadowview, east to the east line of Elmhurst Circle; Shoffner from the west line of Meadowview, west to the west line of Lot 14, Block B; Elmhurst Circle from the south line of Maywood, south to and including the cul-de-sac; Meadowview Court (Lots 33 thru 40, Block C) from the east line of Meadowview, east to and including the cul-de-sac; Meadowview Court (Lots 83 thru 91, Block A) from the west line of Meadowview, west to and including the cul-de-sac; Meadowview Court (Lots 16 thru 21, Block B) from the west line of Meadowview, west to and including the cul-de-sac; Sidewalk on 55th Street South, Meadowview and Shoffner to serve Meadowlake Beach Addition (north of 55th Street South, west of Clifton) (472-84540/766154/490172) Does not affect existing traffic. (District III) - $784,000.00

468-84482 (620499) 668618 Districts I, III

To be Bid: February 1, 2008

PRELIMINARY ESTIMATE of the cost of:
2008 Sanitary Sewer Reconstruction Phase 1 (various locations east of Hillside, south of 21st Street North)

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	8" Pipe Removed & Replaced	1,326	lf
2	8" Pipe Abandoned	1	LS
3	Point Repair (Site 1)	1	LS
4	Point Repair (Site 2)	1	LS
5	Point Repair (Site 5)	1	LS
6	Replace Service Connection	5	ea
7	Reconstr. Cleanout Assy w/ Single Wye	1	ea
8	Abandon Manhole	3	ea
9	Reconstruct Manhole	2	ea
10	Construct Manhole	1	ea
11	Repl MH Frame & Cover	8	ea
12	Rem & Repl MH Bench & Invert	2	ea
13	Concr Approach Rem & Repl	20	lf
14	Pvmt Removed & Replaced	255	lf
15	Soil Erosion BMPs	1	LS
16	Site Preparation & Restoration	1	LS

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication
Water Dept
Contingency

Total Estimated Cost $244,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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

for Jim Armour, P.E., City Engineer

Sworn to and subscribed before me this _____.
(DATE)

_____
City Clerk

668618 (620499) 468-84482
Page _____

EXHIBIT _____

To be Bid: February 1, 2008

PRELIMINARY ESTIMATE of the cost of:
Logan Water Main Replacement
(north of 13th, east of Hillside)

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	WL Pipe 8"	19,703	lf
2	DICL SJ Pipe 8"	188	lf
3	WL Pipe 6"	35	lf
4	DICL SJ Pipe 6"	2	lf
5	Anchor Valve Assembly 6"	1	ea
6	2" Custom Set & Service (Long)	1	ea
7	2" Custom Set & Service (Short)	1	ea
8	MJ Gate Valve Assembly 6"	2	ea
9	MJ Gate Valve Assembly 8"	24	ea
10	Fire Hydrant Assembly	18	ea
11	Blowoff Assembly 2"	1	ea
12	Remove Existing Fire Hydrant	8	ea
13	RC Encasement 8"	280	lf
14	Site Clearing & Restoration	1	LS
15	Project Seeding	1	LS
16	Erosion Control BMP	1	LS
	Measured Quantity Bid Items		
17	Domestic Short Service 1"	221	ea
18	Domestic Long Service 1"	229	ea

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication
Water Dept

Total Estimated Cost $2,202,597.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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

for Jim Armour, P.E. City Engineer

Sworn to and subscribed before me this _____.
(DATE)

_____
City Clerk

776550 (636157) 448-90210
Page _____ EXHIBIT _____

472-84645 (766190) 490208 District II

To be Bid: February 1, 2008

PRELIMINARY ESTIMATE of the cost of:
Left turn Lane on 13th Street North for eastbound traffic into Veranda to serve Waterfront Residential Addition and Greenwich Office Park Addition

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

	GROUP 1 - Lump Sum Bid Items		
1	AC Pvmt 7" (5" Bit Base)	777	sy
2	Reinf Crushed Rock Base (8")	1,351	sy
3	RCVG Pvmt (7")	304	sy
4	Comb. C&G (6 5/8" & 1 1/2")	656	lf
5	Mono Edge Curb (6 5/8" & 1 1/2")	136	lf
6	Sidewalk Concrete (4")	3,385	sf
7	Wheelchair Ramp Construction	2	ea
8	Sawed Cut & Mill (12")	780	lf
9	AC Pvmt 2" Surface	87	sy
10	Excavation	1,900	cy
11	Pvmt Marking	1	LS
12	Traffic Control	1	LS
13	Site Clearing & Restoration	1	LS
14	Project Seeding	1	LS
15	Sodding	1,600	sy
16	SWS Pipe RCP 15"	10	lf
17	SWS Pipe RCP 18"	25	lf
18	SWS Pipe RCP 24"	6	lf
19	Inlet, Curb 1 (L=10' W=3')	2	ea
20	MH, Shallow Type B 5' Dia	2	ea
21	Flowable Fill	17	lf
22	Sediment Barrier, Inlet	2	ea

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication

Total Estimated Cost $154,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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

for Jim Armour, P.E. City Engineer

Sworn to and subscribed before me this _____.
(DATE)

_____
City Clerk

490208 (766190) 472-84645

Page _____ EXHIBIT _____

472-84627 (766191) 490209 District II

To be Bid: February 1, 2008

PRELIMINARY ESTIMATE of the cost of:
Left Turn Lane and Right Turn Lane on 13th at Lindberg to serve
Waterfront 6th Addition (north of 13th Street North, east of Webb)

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

	GROUP 2 - Lump Sum Bid Items		
1	AC Pvmt 7" (5" Bit Base)	630	sy
2	Reinf Crushed Rock Base (8")	1,010	sy
3	RCVG Pvmt (7")	281	sy
4	Comb. C&G (6 5/8" & 1 1/2")	220	lf
5	Mono Edge Curb (6 5/8" & 1 1/2")	125	lf
6	Sidewalk Concrete (4")	1,750	sf
7	Wheelchair Ramp Construction	2	ea
8	Sawed Cut & Mill (12")	335	lf
9	AC Pvmt 2" Surface	38	sy
10	Excavation	500	cy
11	Site Clearing & Restoration	1	LS
12	Project Seeding	1	LS
13	Sodding	310	sy
14	Pvmt Marking	1	LS
15	Traffic Control	1	LS
16	SWS Pipe RCP 24"	84	lf
17	Inlet, Curb 1 (L=10' W=3')	2	ea
18	MH, Special Shallow Type B 5' Dia	1	ea
19	RCB Culvert 7'x3' (Precast)	24	lf
20	RCB Culvert Transition (Cast-In-Place)	3	lf
21	Sediment Barrier, Inlet	2	ea

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication

Total Estimated Cost $142,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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

Jim Armour, P.E., City Engineer

Sworn to and subscribed before me this _____.
(DATE)

_____
City Clerk

490209 (766191) 472-84627

Page _____ EXHIBIT _____

To be Bid: February 1, 2008

PRELIMINARY ESTIMATE of the cost of:
55th Street South from the east line of the plat, west to the west line of Meadowview; Meadowview from the north line of 55th Street South, north to the west line of Maywood; Maywood from the west line of Meadowview, east to the east line of Elmhurst Circle; Shoffner from the west line of Meadowview, west to the west line of Lot 14, Block B; Elmhurst Circle from the south line of Maywood, south to and including the cul-de-sac; Meadowview Court (Lots 33 thru 40, Block C) from the east line of Meadowview, east to and including the cul-de-sac; Meadowview Court (Lots 83 thru 91, Block A) from the west line of Meadowview, west to and including the cul-de-sac; Meadowview Court (Lots 16 thru 21, Block B) from the west line of Meadowview, west to and including the cul-de-sac; Sidewalk on 55th Street South, Meadowview and Shoffner to serve Meadowlake Beach Addition (north of 55th Street South, west of Clifton)

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	AC Pvmt 5" (3" Bit Base)	12,644	sy
2	Reinf Crushed Rock Base (5")	15,945	sy
3	RCVG Pvmt (7")	518	sy
4	Comb. C&G (6 5/8" & 1 1/2")	603	lf
5	Comb. C&G (3 5/8" RL & 1 1/2")	5,945	lf
6	Mono Edge Curb (3 5/8" RL & 1 1/2")	307	lf
7	Median Edge Curb (6 5/8")	604	lf
8	Sidewalk Concrete (4")	7,137	sf
9	Wheelchair Ramp Constr. (30 sf)	10	ea
10	Inlet Hookup	10	ea
11	Inlet Adjustment	10	ea
12	Concrete Flume	2	ea
13	Excavation	2,438	cy
14	Compacted Fill (95% Density)	178	cy
15	Site Clearing & Restoration	1	LS
16	Project Seeding	1	LS
17	Street Signage	1	LS
	Measured Quantity Bid Items		
18	Inlet Erosion Barrier	10	ea
19	End of Road Sediment Barrier	3	ea
20	Erosion Control Mat	6,855	lf
21	Maintain Silt Fence	1,222	lf
22	Maintain Ditch Checks	2	ea
23	Maintain Erosion Control Mat	1,440	sy
24	Maintain Cut-off Trench	550	lf
25	Maintain Drop Inlet Protection	12	ea
26	Maintain Temp. Constr. Entrance	1	ea

Construction Subtotal _____

Design Fee
Engineering & Inspection
Administration
Publication

Total Estimated Cost $784,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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

for Jim Armour, P.E. City Engineer

Sworn to and subscribed before me this _____.
(DATE)

City Clerk

490172 (766154) 472-84540

Page _____ EXHIBIT _____

Agenda Item No. 8a.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Community Events

INITIATED BY: Division of Arts & Cultural Services (District VI)

AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events Procedure, the event promoter Voornaam Pyrotechnics is coordinating with City of Wichita Staff, to launch a fireworks display for guest of the Castle Inn Riverside during a private reception on the evening of February 14, 2008 subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Voornaam Pyrotechnics Fireworks Display, February 14, 2008 9:00 – 9:30 pm

- 11th Street, North River Blvd to Forrest Street.
- North River Drive, Forest Street to entrance of Oak Park Disk Golf.

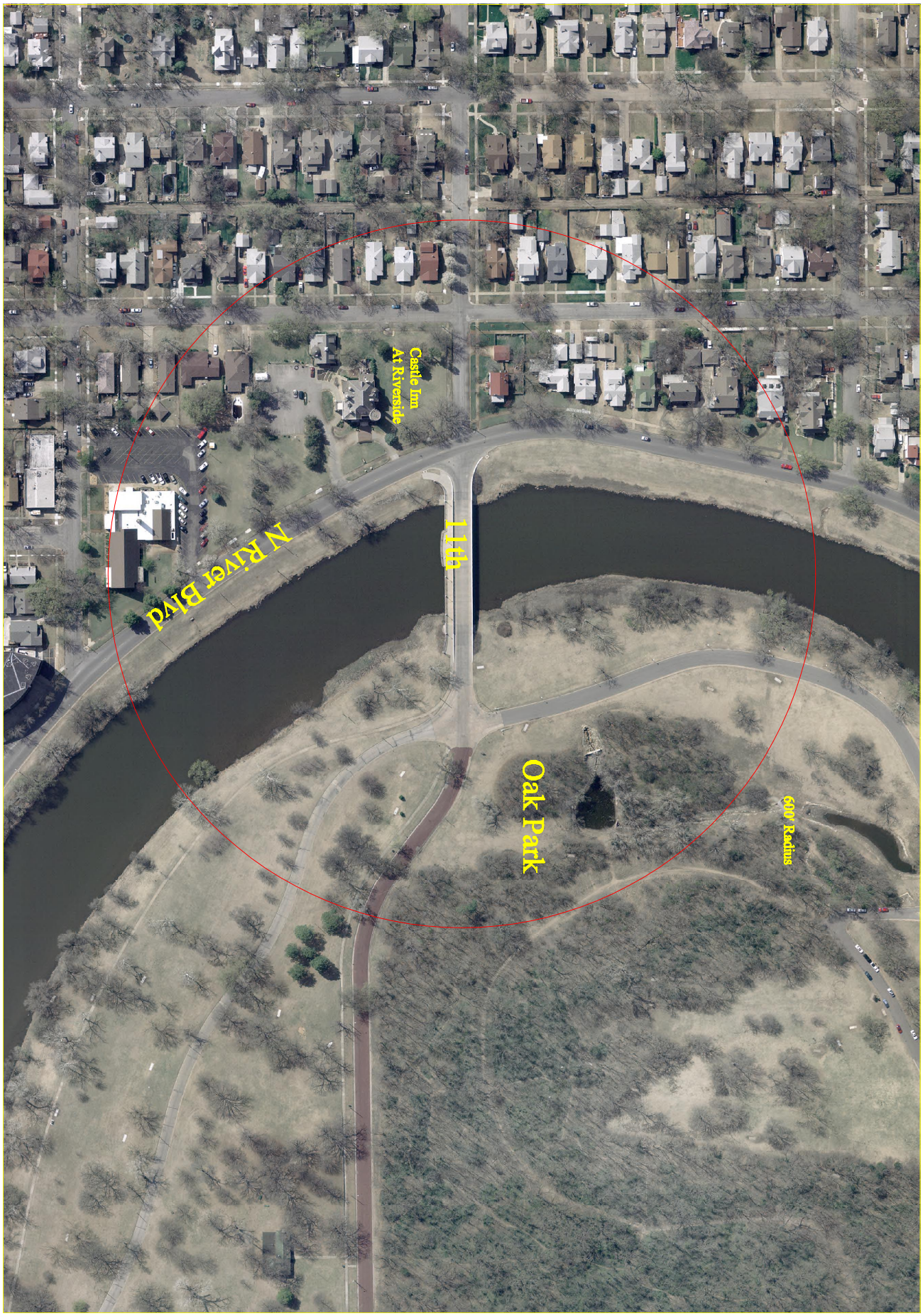
Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special events.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

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


600' Radius
Oak Park
11th
N River Blvd
Castle Inn
At Riverside

Agenda Item No. 9a.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Change Order: Sanitary Sewer Main to serve an area along MacArthur, between ½ mile east of West Street and the Wichita-Valley Center Flood Control Ditch (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On August 15, 2006, the City Council approved a project to construct a sanitary sewer main to be located along MacArthur, from ½ mile east of West Street to the Wichita-Valley Center Flood Control Ditch. On October 17, 2006, the City Council approved a construction contract with Wildcat Construction Company. Due to the number and location of existing utilities found to be within close proximity of the proposed alignment, it was necessary to revise the route for a majority of the sewer pipeline from along MacArthur to an alignment approximately ¼ mile south of MacArthur. By re-routing the sanitary sewer main along the new alignment, it will eventually be able to provide service to a much larger benefit area. This change has already been approved by change order. Staff has now determined that the western portion of the route should be relocated farther south and west to avoid a potential conflict with future development. This change order covers that relocation.

Analysis: A Change Order has been prepared for the additional work. Sufficient funding is available within the existing budget.

Financial Considerations: The total cost of the additional work is $31,733. The original contract amount is $1,775,888. This Change Order plus previous change orders represents 12.80% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by extending sanitary sewer main service to homes with septic tank systems and a new residential subdivision.

Legal Considerations: The Department of Law has approved the Change Order as to legal form.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

Attachments: Change Order.

CITY OF WICHITA

PUBLIC WORKS-ENGINEERING

January 4, 2008

CHANGE ORDER

To: Wildcat Construction, Inc.

Project: Main 22 – SWIS & WSL in McArthur West St to Hoover

Change Order No.: 3

Project No.: 468-83861/448-89373

Purchase Order No.: 601398

OCA No.: 744140/633703

CHARGE TO OCA No.: 744140

PPN: 480828/759320

Please perform the following extra work at a cost not to exceed $31,732.98

To avoid the potential of future relocation, Line 1 was placed within 15 feet of the south and west of the Lies property lines. In addition, due to utilities, 40 lf of 24" steel casing was added on Line 2 from Sta. 0+75 to 1+15 to allow safe use of the trench box. The contractor agreed on a reduced unit price for the additional steel casing. See attachments for revisions.

OVERRUN:

MH, Type P or C (Standard) – 1 ea @ $8,850.00/ea	= $ 8,850.00
SS Pipe PVC 21" – 41 lf @ $179.00/lf	= $ 7,339.00
Steel Casing Pipe (24" min.) – by Boring & Jacking – 24.15 lf @ $410.00/lf	= $ 9,901.50
ADD:	
Debris & Tree Clearing – 1 LS @ $2,950.00	= $ 2,950.00
Unusable MH Parts – 1 LS @ $2,692.48	= $ 2,692.48
Total	$31,732.98

Recommended By:

Lawrence Schaller, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

Chris Carrier, P.E. Date
Director of Public Works

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____

City Clerk

Agenda Item No. 9b.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Change Order: Douglas St. Drainage Outfall (Districts I & VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On September 11, 2007, the City Council approved a construction contract with Wildcat Construction Company for a storm water drain along Douglas from the drainage canal to Old Town. After the work began, an abandoned trolley track was discovered along the edge of a shared waterline/stormwater trench in Douglas, between I-135 and Hydraulic. The track removal requires additional pavement removal and replacement.

Analysis: A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is $42,761 with $28,521 paid by the Storm Water Utility and $14,240 paid by the Water Utility. The original contract amount is $5,081,022. This Change Order plus previous change orders represents 1.4% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving drainage in Old Town.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

Attachments: Change Order.

PUBLIC WORKS-ENGINEERING

January 10, 2008

CHANGE ORDER

To: Wildcat Construction Co., Inc.

Project: Douglas Ave. Drainage Outfall Phase 1; Wabash SS Replacement; Douglas Water Main Replacement

Change Order No.: 3
Purchase Order No.: 700966
CHARGE TO OCA No.: 660798 = $28,520.90
636183 = $14,240.50

Project No.: 468-84060
OCA No.: 660798/620477/636183
PPN: 864501/667595/777574

Please perform the following extra work at a cost not to exceed $42,761.40

An abandoned trolley track was discovered along the edge of a shared waterline/stormwater trench in Douglas between I-135 and Hydraulic. The track removal neccessitates additional pavement removal and replacement. Additional work will be done at the bid unit price.

	Quantity		Unit Price		
UNDERRUN ITEMS:					
Lump Sum Bid Items (636183)					
Asphalt Pvmt Milling (2")	343.9	sy	($5.00)	=	($1,719.50)
Lump Sum Bid Items (660798)					
Asphalt Pvmt Milling (2")	687.8	sy	($5.00)	=	($3,439.00)
OVERRUN ITEMS:					
Lump Sum Bid Items (636183)					
Asphalt Pvmt Rem & Repl (incl Base & Sub Base)	280	ea	$57.00	=	$15,960.00
Lump Sum Bid Items (660798)					
Asphalt Pvmt Rem & Repl (incl Base & Sub Base)	560.7	ea	$57.00	=	$31,959.90
					$42,761.40

Recommended By:

Lawrence Schaller, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

Chris Carrier, P.E. Date
Director of Public Works

Approved as to Form:

By Order of the City Council:

Gary Rebenstorf Director of Law	Date	Carl Brewer Mayor	Date

Attest:_____
City Clerk

Agenda Item No. 9c.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Change Order: Waterman Improvement, between Main and Washington (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On March 27, 2007, the City Council approved a construction contract with Dondlinger & Sons Construction for improvements to Waterman, between Main Street and Washington. After the work began, it was determined that the south approach of the St. Francis/Waterman intersection should be concrete pavement rather than asphalt. The concrete pavement is needed to support the existing adjacent brick pavers in St. Francis. In addition, concrete pavement is needed at the approaches to the railroad overpass at Waterman to improve drainage and reduce future maintenance costs.

Analysis: A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is $20,784 with the $12,279 paid by the Storm Water Utility and $8,505 paid by Weststar. The original contract amount is $6,776,498. This Change Order plus previous change orders represents 1.26% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving water supply and reducing future maintenance costs.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

Attachments: Change Order.

CITY OF WICHITA

PUBLIC WORKS-ENGINEERING

January 10, 2008

CHANGE ORDER

To: Dondlinger & Sons, Construction Co., Inc.

Project: Waterman Drng. & Pav. Imp., Phase 2 and 48" SE WSL, Phs 1B; Waterman SS

Change Order No.: 6

Purchase Order No.: 700363

CHARGE TO OCA No.: 751422

Project No.: 468-84167a

OCA No.: 751422/633791/620473

PPN: 485313/757001/667591

Please perform the following extra work at a cost not to exceed $20,783.93

Engineering staff recommends the approach to the south return at the intersection of Waterman and St Francis be constructed in concrete in lieu of asphalt. The concrete approach is recommended to better support the adjacent brick in St Francis Street. Engineering staff recommends the approaches to the railroad underpass on Waterman be constructed with concrete in lieu of asphalt to improve drainage in the sump area and improve future street maintenance. Work will be done at the bid unit prices.

Additional 6" PVC conduit is required as part of the ductbank work under Waterman Street. The ductbank is part of a shared participation agreement between the City and utility companies. Westar has agreed to reimburse the City 100% of this additional cost. Work will be done at the bid unit price.

ADD:					
Concrete Approach (St Francis)	1	ls	5942.93	=	$5,942.93
OVERRUN ITEMS:					
Concrete Pvmt (9") (Reinf) (AE)	192	sy	51.50	=	$9,888.00
PVC Conduit (6") (Power) (WESTAR)	420	sy	20.25	=	$8,505.00
UNDERRUN ITEMS:					
7" AC Pvmt (5" Bit Base)(BM-2, PG 70-28)	(192)	sy	18.50	=	($3,552.00)
					$20,783.93

Recommended By:

Lawrence Schaller, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

Chris Carrier, P.E. Date
Director of Public Works

Approved as to Form:

By Order of the City Council:

Gary Rebenstorf Director of Law	Date	Carl Brewer Mayor	Date

Attest:_____
City Clerk

Agenda Item No. 10.

CITY OF WICHITA
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 4020 South Meridian for the MacArthur; Meridian to Seneca Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On February 7, 2006, City Council approved the reconstruction of MacArthur to provide four lanes, with left turn lanes and landscaped medians. The intersection of MacArthur and Meridian will be signaled and storm water sewer will be built. There are sixteen parcels that are affected by the project. All of the acquisitions involve partial, strip takings along the existing roadway. No improvements are impacted by the proposed project. The City requires a 1,625 square foot parcel from the east part of the property. The area is part of the drive approach for the convenience store on site and has no improvements except paving.

Analysis: The acquisition was valued at $8,125 ($5.00 per square foot). This amount was offered to the owner and was accepted.

Financial Considerations: A budget of $8,500 is requested. This includes $8,125 for the acquisition and $375 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

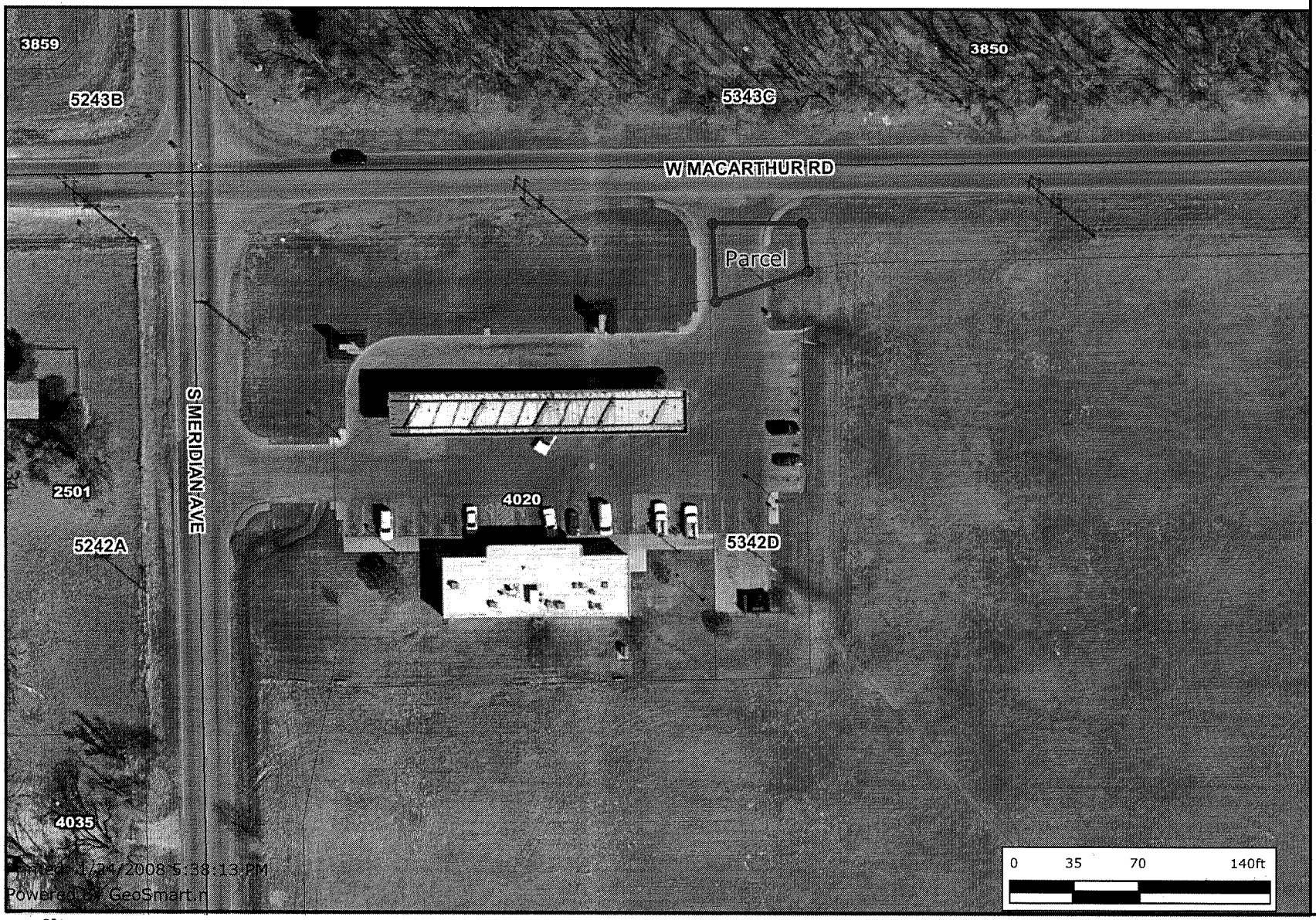
Goal Impact: The acquisition of these parcels is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the agreement and authorize the necessary signatures.

Attachments: Aerial map, tract map and real estate purchase agreement.

4020 South Meridian



Property Parcels

Roads

- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp

Railroads

Quarter Section

Waterways

Streams

Parks

Airports

SDERASTER.S-DEDATA.ORTH-O1FT

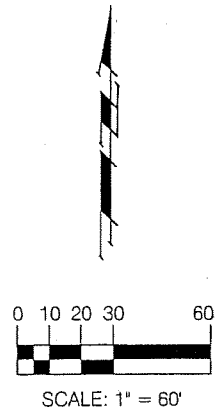
SDERASTER.S-DEDATA.ORTH-O

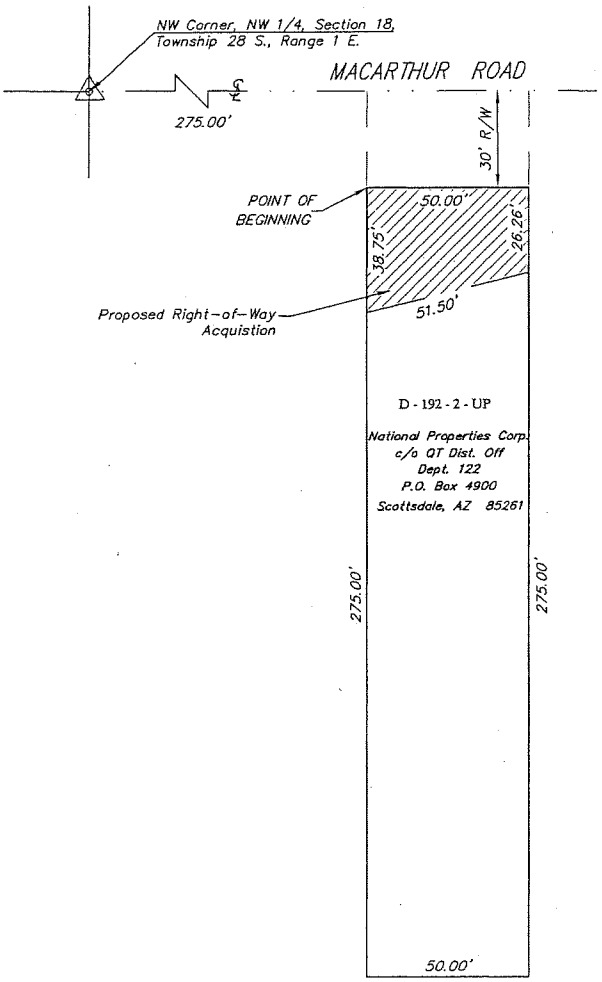
City Limits

- Andale
- Bel Aire
- Bentley
- Cheney
- Clearwater
- Colwich
- Derby
- Eastborough
- Garden Plain
- Goddard
- Haysville
- Kechi
- Maize
- Mount Hope
- Mulvane
- Park City

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.

EXHIBIT





LEGAL DESCRIPTION:

A Proposed Right-of-Way Acquisition in Wichita, Sedgwick County, Kansas, Described as Follows:

Commencing at the NW Corner of the NW Quarter, Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the North line of said NW Quarter Section a distance of 275.00 feet; thence South parallel to the West Line of said NW Quarter a distance of 30.00 feet to a Point of Beginning; thence South a distance of 38.75 feet; thence Northeast a distance of 51.50 feet to a point 56.26 feet normally distance South of said North Line; thence North a distance of 26.26 feet; thence West a distance of 50.00 feet to the Point of Beginning.

Containing 1625.2 Sq. Ft., more or less.

Baughman Company, P.A.
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

Project Number 04-04-E856

F:eng/MacArthur Meridian to Seneca/Exhibits/QT.dwg

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ___ day of _____, 2008 by and between NAPE Acquisition, Inc., a Maryland corporation, hereinafter referred to as "Seller," whether one or more, and City of Wichita, a Municipal Corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient special warranty deed for the following described real property, situated in Sedgwick County, Kansas, to wit:

A tract of land in Wichita, Sedgwick County, Kansas described as follows:

Commencing at the Northwest corner of the Northwest quarter of Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the North line of said Northwest quarter section a distance of 275.00 feet; thence South parallel to the West line of said Northwest quarter section a distance of 30.00 feet to a point of beginning; thence South a distance of 38.75 feet; thence Northeast a distance of 51.50 feet to a point 56.26 feet normally distance South of said North line; thence North a distance of 26.26 feet; thence West a distance of 50.00 feet to the point of beginning.

2. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient temporary construction easement in form and substance reasonably acceptable to seller for the following described real property, situated in Sedgwick County, Kansas, to wit:

A tract of land in Wichita, Sedgwick County, Kansas described as follows:

Commencing at the Northwest corner of the Northwest quarter of Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the North line of said Northwest quarter section a distance of 275.00 feet; thence South parallel to the West line of said Northwest quarter section a distance of 68.75 feet to a point of beginning; thence South parallel to the West line of Northwest quarter a distance of 6.25 feet; thence East parallel to the North line of said Northwest quarter a distance of 50.00 feet; thence; thence North a distance of 18.74 feet; thence Southwest a distance of 51.50 feet to the point of beginning.

3. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above described real properties and any and all damages to the remainder, the sum of Eight Thousand One Hundred Twenty-five Dollars and No Cents ($8,125.00) in the manner following, to-wit: cash at closing.

4. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required and may be obtained by Buyer at Buyer's expense. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and

agreed that the Seller shall have no obligation to correct any defects in title. Buyer will order title at its cost.

5. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

6. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before March 31, 2008.

7. The Seller further agrees to convey the above described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted. Except as otherwise expressly provided herein, property is to be conveyed "as-is".

8. Possession to be given to Buyer on closing date.

9. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100 % by buyer. Buyer will pay 100% closing costs.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:
NAPE ACQUISITION, INC., a Maryland Corporation

Paul E. Bayer Executive Vice President

BUYER:
By Direction of the City Council

ATTEST:

Carl Brewer, Mayor

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this _____ day of _____, 2008, by and between NAPE Acquisition, Inc., a Maryland corporation, herein referred to as "Grantor" and the City of Wichita, Kansas, a Municipal Corporation, herein referred to as "Grantee".

WITNESSETH: That the said Grantor, in consideration of the sum of One Dollar ($1.00) and other valuable considerations, the receipt whereof is hereby acknowledged, do hereby grant and convey unto Grantee a temporary right-of-way and easement for the purpose of constructing roadway improvements and associated site and utility work over, along and under the following described real estate situated in Sedgwick County, Kansas (the "Easement Area"), to wit:

Commencing at the Northwest corner of the Northwest quarter of Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the North line of said Northwest quarter section a distance of 275.00 feet; thence South parallel to the West line of said Northwest quarter section a distance of 68.75 feet to a point of beginning; thence South parallel to the West line of Northwest quarter a distance of 6.25 feet; thence East parallel to the North line of said Northwest quarter a distance of 50.00 feet; thence; thence North a distance of 18.74 feet; thence Southwest a distance of 51.50 feet to the point of beginning.

And said Grantee, heirs, consultants, contractors, and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing roadway improvements and associated site and utility work for a period not to exceed one year from the date construction begins.

See Addendum attached hereto and made a part hereof.

IN WITNESS WHEREOF: Grantor has signed these presents the day and year first written.

NAPE Acquisition, Inc., a Maryland corporation KS

By: _____

Paul E. Bayer

Executive Vice President

STATE OF ~~KANSAS~~ Florida)
) **SS:**
COUNTY OF ~~SEDGWICK~~ Orange)

This instrument was acknowledged before me on 23rd day of January, 2008 by **Paul E. Bayer** _____ as Executive Vice President of NAPE Acquisition, Inc., a Maryland corporation.

Kella Schaible
Notary Public

SEAL

My Appointment Expires: _____

NOTARY PUBLIC STATE OF FLORIDA
Kella Schaible
Commission # DD385420
Expires March 11, 2009
Bonded Troy Fain - Insurance, Inc. 800-385-7019

ADDENDUM TO EASEMENT

THIS ADDENDUM is made this ___ day of January, 2008, by and between NAPE ACQUISITION, INC., a Maryland corporation ("Grantor") and City of Wichita, Kansas, a Municipal Corporation (the "Grantee").

NOTWITHSTANDING the terms and conditions of the attached Temporary Construction Easement (the "Easement"), the parties hereby agree as follows:

1. The Grantee's right of ingress and egress in, to, over, through and across the Easement Area shall be limited to the roadways and improved parking areas on the Property, to the extent reasonably practicable.

2. The Grantee covenants and agrees to pay all costs of repairing any and all damage to any of Grantor's property and improvements located thereon which are damaged as a result of Grantee's installing, maintaining, repairing or replacing any of said facilities. The Grantee agrees to use reasonable efforts to minimize any interference with the operations at Grantor's property and with any access to Grantor's property.

3. Grantee agrees to indemnify and hold Grantor harmless from any and all claims for personal injuries, death or property damage and any and all losses, damages, charges or expenses, including attorneys fees, which arise out of, in connection with, or by reason of the use or occupancy of the easement by Grantee; Grantee further agrees to undertake, at its own expense, the defense of any action which may be brought against Grantor claiming damages which are alleged to have arisen out of, by reason of, or in connection with, the use or occupancy of the easement by the Grantee.

4. In the event of any conflict between the terms of the Easement and this Addendum, this Addendum shall control.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed the day and year above written.

GRANTEE:

CITY OF WICHITA, KANSAS,
a Municipal Corporation

By: _____
Name: _____
Title: _____

GRANTOR:

NAPE ACQUISITION, INC.,
a Maryland corporation

By: _____
Name: Paul E. Bayer
Title: Executive Vice President

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HEARING ON PROPOSED ASSESSMENTS FOR CONSTRUCTION OF WATER, SEWER, AND STORM SEWER PROJECTS:

On February 12, 2008 the Council was notified that the Proposed Assessment Rolls for construction of the following water, sewer and storm sewer projects has been prepared and was on file in the office of Debt Management in the Finance Department for public inspection:

WATER PROJECTS:

a. (470-007/448-89963) Construction of Water Distribution System No. 448-89963 TO SERVE TURKEY CREEK 2ND ADDITION, North of Pawnee, West of 119th Street West, as authorized by Resolution No. 04-256 rescinded by Resolution No. 05-102, adopted May 18, 2004 & March 1, 2005, and published May 21, 2004 & March 4, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $81,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

b. (470-028/448-90004) Construction of Water Distribution System No. 448-90004 TO SERVE FONTANA 3RD ADDITION, East of 119th Street West, North of 29th Street North, as authorized by Resolution No. 04-491 rescinded by Resolution No. 06-620, adopted September 14, 2004 & November 21, 2006, and published September 17, 2004 & November 27, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $79,000.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

c. (470-037/448-90028) Construction of Water Distribution System No. 448-90028 TO SERVE THE FAIRMONT 3RD ADDITION, West of 127th Street East, North of 21st Street North, as authorized by Resolution No. 04-648 rescinded by Resolution No. 07-302, adopted December 7, 2004 & May 15, 2007, and published December 10, 2004 & May 17, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $44,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

d. (470-988/448-90080) Construction of Water Distribution System No. 448-90080 TO SERVE UNPLATTED TRACTS 'A' & 'B', CLIFTON HEIGHTS COMMERCIAL, CLIFTON HEIGHTS COMMERCIAL 2ND & CLIFTON COVE ADDITIONS, along Clifton, from 63rd Street South to 55th Street South, as authorized by Resolution No. 05-608 rescinded by Resolution No. 06-452, adopted November 15, 2005 & August 22, 2006, and published November 21, 2005 & August 25, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $746,900.00 is to be apportioned 64.5% payable by the improvement district & 35.5% payable by City of Wichita from Water Department Water Utility Improvement Funds. The cost has been assessed on a square foot basis. (District I).

e. (470-989/448-90081) Construction of Water Distribution System No. 448-90081 TO SERVE CLIFTON COVE ADDITION, South of 63rd Street South, West of Clifton, as authorized by Resolution No. 05-609, adopted November 15, 2005, and published November 21,

2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $106,900.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District I)

f. (470-970/448-90083) Construction of Water Distribution System No. 448-90083 TO SERVE CROSS POINTE ADDITION, South of 21st, East of Greenwich, as authorized by Resolution No. 05-333, adopted June 28, 2005, and published July 1, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $70,300.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II).

g. (470-998/448-90093) Construction of Water Distribution System No. 448-90093 TO SERVE THE FAIRMONT ADDITION, North of 21st Street, West of 127th Street East, as authorized by Resolution No. 05-416 rescinded by Resolution No. 06-419, adopted August 9, 2005 & August 8, 2006, and published August 12, 2005 & August 11, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $72,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II).

h. (470-020/448-90104) Construction of Water Distribution System No. 448-90104 TO SERVE TYLER'S LANDING 3RD ADDITION, South of 37th Street North, East of Tyler, as authorized by Resolution No. 05-435 rescinded by Resolution No. 07-001, adopted August 16, 2005 & January 9, 2007, and published August 19, 2005 & January 12, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $54,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

i. (470-962/448-90105) Construction of Water Distribution System No. 448-90105 TO SERVE FALCON FALLS 2ND & 3RD, & FALCON FALLS COMMERCIAL ADDITIONS, North of 45th Street North, West of Hillside, as authorized by Resolution No. 05-427 rescinded by Resolution No. 05-587, adopted August 16, 2005 & November 8, 2005, and published August 19, 2005, corrected & republished September 2, 2005, & November 17, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $184,700.00 is to be apportioned 76.42% payable by the improvement district & 23.58% payable by the City of Wichita from Water Department Utility Improvement Funds. The cost has been assessed on a fractional basis. (District I)

j. (470-986/448-90128) Construction of Water Distribution System No. 448-90128 TO SERVE FALCON FALLS 3RD ADDITION, North of 45th Street North, West of Hillside, as authorized by Resolution No. 05-585, adopted November 8, 2005, and published November 17, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $100,400.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District I)

k. (470-972/448-90161) Construction of Water Distribution System No. 448-90161 TO SERVE EMERALD BAY ESTATES ADDITION & UNPLATTED TRACTS A, B & C, West of West Street, North of 21st, as authorized by Resolution No. 06-035 rescinded by Resolution No. 06-459, adopted January 24, 2006 & September 12, 2006, and published January 27, 2006 & September 15, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $614,900.00 is to be apportioned 35% payable by the improvement district & 65% payable by the City of Wichita Water Utility Funds. The cost has been assessed on a fractional basis. (District V)

l. (470-034/448-90175) Construction of Water Distribution System No. 448-90175 TO SERVE K-96 BUSINESS PARK ADDITION, North of 29th Street North, West of Greenwich, as authorized by Resolution No. 06-149 rescinded by Resolution No. 07-258, adopted March 21, 2006 & April 24, 2007, and published March 23, 2006 & April 26, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $140,500.00 is to be apportioned 47% payable by the improvement district & 53% payable by the Wichita Water Utility Fund. The cost has been assessed on a fractional basis. (District II)

m. (470-004/448-90200) Construction of Water Distribution System No. 448-90200 TO SERVE SYCAMORE POND ADDITION, South of 47th Street South, East of Seneca, as authorized by Resolution No. 06-343, adopted June 6, 2006, and published June 8, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $65,800.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

n. (470-009/448-90232) Construction of Water Distribution System No. 448-90232 TO SERVE CLEAR CREEK ADDITION, West of 143rd Street East, South of Kellogg, as authorized by Resolution No. 06-508, adopted September 26, 2006, and published September 29, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $63,200.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

o. (470-032/448-90248) Construction of Water Distribution System No. 448-90248 TO SERVE VALENCIA ADDITION, East of Meridian, South of 53rd Street North, as authorized by Resolution No. 06-534 rescinded by Resolution No. 07-172, adopted October 17, 2006 & March 13, 2007, and published October 20, 2006 & March 16, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $48,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District VI)

p. (470-013/448-90250) Construction of Water Distribution System No. 448-90250 TO SERVE TERRADYNE WEST ADDITION, West of 159th Street East, North of Central, as authorized by Resolution No. 06-639, adopted November 28, 2006, and published December 1, 2006, corrected & republished December 21, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $66,800.00 is to be apportioned 26.46% payable by the City of

Wichita & 73.54% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

q. (470-014/448-90251) Construction of Water Distribution System No. 448-90251 TO SERVE TERRADYNE WEST ADDITION, West of 159th Street East, North of Central, as authorized by Resolution No. 06-640, adopted November 28, 2006, and published December 1, 2006, corrected & republished December 21, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $109,400.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

r. (470-017/448-90259) Construction of Water Distribution System No. 448-90259 TO SERVE SANTA FE ORIENT INDUSTRIAL DISTRICT 3RD ADDITION, West of Seneca, North of Harry, as authorized by Resolution No. 06-653, adopted December 12, 2006, and published December 15, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $26,300.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

s. (470-021/448-90275) Construction of Water Distribution System No. 448-90275 TO SERVE MONARCH LANDING ADDITION & UNPLATTED RESIDENTIAL TRACT 1, North of 21st, West of 159th Street East, as authorized by Resolution No. 07-107, adopted February 13, 2007, and published February 15, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $270,500.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District II)

t. (470-031/448-90279) Construction of Water Distribution System No. 448-90279 TO SERVE LEGACY 3RD ADDITION, North of 47th Street South, West of Meridian, as authorized by Resolution No. 07-190, adopted March 13, 2007, and published March 16, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007 in the amount of $39,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

<u>SEWER PROJECTS:</u>

u. (480-879/468-83584) Construction of LATERAL 344, FOUR MILE CREEK SEWER, East of 127th Street East, North of Pawnee, as authorized by Resolution No. 03-095 rescinded by Resolution No. 06-372, adopted February 11, 2003 & June 27, 2006, and published February 15, 2003 & June 30, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $81,300.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

v. (480-905/468-83809) Construction of LATERAL 3, MAIN 7, NORTHWEST INTERCEPTOR SEWER, North of 37th Street North, West of Maize, as authorized by Resolution No. 04-370 rescinded by Resolution No. 05-360, adopted July 20, 2004 & July 12, 2005, and published July 23, 2004 & July 16, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the

amount of $110,300.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District V)

w. (480-885/468-83820) Construction of LATERAL 3, MAIN 6, COWSKIN INTERCEPTOR SEWER, North of Pawnee, West of 119th Street West, as authorized by Resolution No. 04-260 rescinded by Resolution No. 05-106, adopted May 18, 2004 & March 1, 2005, and published May 21, 2004 & March 4, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $163,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

x. (480-907/468-83882) Construction of LATERAL 10, MAIN 7, NORTHWEST INTERCEPTOR SEWER, East of 119th Street West, North of 29th Street North, as authorized by Resolution No. 04-497 rescinded by Resolutio No. 06-622, adopted September 14, 2004 & November 21, 2006, and published September 17, 2004 & November 27, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $82,200.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District V)

y. (480-855/468-84044) Construction of LATERAL 5, MAIN 16, FOUR MILE CREEK SEWER, South of 21st, East of Greenwich, as authorized by Resolution No. 05-336, adopted June 28, 2005, and published July 1, 2005. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $102,300.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District II)

z. (480-898/468-84064) Construction of LATERAL 25, MAIN 19, SOUTHWEST INTERCEPTOR SEWER, South of 37th Street North, East of Tyler, as authorized by Resolution No. 05-437 rescinded by Resolution No. 07-003, adopted August 16, 2005 & January 9, 2007, and published August 19, 2005 & January 12, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $248,200.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District V)

aa. (480-894/468-84081) Construction of LATERAL 38, MAIN 1, COWSKIN INTERCEPTOR SEWER, South of Maple, West of Maize, as authorized by Resolution No. 05-533, rescinded by Resolution No. 06-402, rescinded by Resolution No. 07-368, rescinded by Resolution No. 07-406, adopted October 18, 2005, July 25, 2006, June 26, 2007 & July 17, 2007, and published October 21, 2005, July 28, 2006, June 29, 2007 & July 20, 2007 corrected & republished August 1, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $90,200.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District V)

ab. (480-858/468-84139) Construction of LATERAL 1, MAIN 23, SOUTHWEST INTERCEPTOR SEWER, West of West Street, North of 21st, as authorized by Resolution No. 06-037, rescinded by Resolution No. 06-211, rescinded by Resolution No. 06-410, adopted January 24, 2006, May 9, 2006 & August 1, 2006, and published January 27, 2006, May 11, 2006 & August 4, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $977,400.00 is to

be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

ac. (480-857/468-84141) Construction of MAIN 23, SOUTHWEST INTERCEPTOR SEWER, West of West Street, North of 21st, as authorized by Resolution No. 06-039, adopted January 24, 2006, and published January 27, 2006 corrected & republished August 1, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $1,112,300.00 is to be apportioned 16.5% payable by the improvement district & 83.5% payable from other available funds of the City, including available and unencumbered funds of the Water and Sewer Utility and proceeds of Water and Sewer Utility Revenue Bonds. The cost has been assessed on a square foot basis. (District V)

ad. (480-904/468-84146) Construction of LATERAL 1, MAIN 19, FOUR MILE CREEK SEWER, North of 13th, West of 159th Street East, as authorized by Resolution No. 06-070, rescinded by Resolution No. 07-218, rescinded by Resolution No. 07-257, rescinded by Resolution No. 07-284, adopted February 14, 2006, April 3, 2007, April 24, 2007 & May 1, 2007, and published February 17, 2006, April 5, 2007 corrected & republished April 23, 2007, April 26, 2007 corrected & republished May 8, 2007, & May 5, 2007 corrected & republished May 23, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $654,200.00 is to be apportioned Three Hundred Forty-One Thousand Dollars ($341,000) payable by the Benefit District and the remaining cost of the improvements payable from other available funds of the City, including available and unencumbered funds of the Water and Sewer Utility and p. The cost has been assessed on a fractional basis. (District II)

ae. (480-872/468-84182) Construction of LATERAL 396, FOUR MILE CREEK SEWER, North of Central, West of 127th Street East, as authorized by Resolution No. 06-184 rescinded by Resolution No. 06-506, adopted April 18, 2006 & September 26, 2006, and published April 20, 2006 & September 29, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $251,000.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District I)

af. (480-886/468-84203) Construction of LATERAL 398, FOUR MILE CREEK SEWER, East of 127th Street East, North of Harry, as authorized by Resolution No. 06-489, adopted September 26, 2006, and published September 29, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $199,100.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District II)

ag. (480-887/468-84231) Construction of LATERAL 400, FOUR MILE CREEK SEWER, West of 143rd Street East, South of Kellogg, as authorized by Resolution No. 06-509, adopted September 26, 2006, and published September 29, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $116,800.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District II)

ah. (480-890/468-84258) Construction of LATERAL 7, MAIN 15, SANITARY SEWER NO. 23, East of Meridian, South of 53rd Street North, as authorized by Resolution No. 06-536

rescinded by Resolution No. 07-174, adopted October 17, 2006 & March 13, 2007, and published October 20, 2006 & March 16, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $89,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District VI)

ai. (480-891/468-84261) Construction of LATERAL 402, FOUR MILE CREEK SEWER, West of 159th Street East, North of Central, as authorized by Resolution No. 06-641, adopted November 28, 2006, and published December 1, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $162,100.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

aj. (480-892/468-84262) Construction of MAIN 22, FOUR MILE CREEK SEWER, North of Pawnee, East of Webb, as authorized by Resolution No. 06-579, adopted November 7, 2006, and published November 10, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $190,000.00 is to be apportioned 50% payable by the improvement district & 50% payable by the City of Wichita Water and Sewer Department. The cost has been assessed on a fractional basis. (District II)

ak. (480-893/468-84263) Construction of LATERAL 1, MAIN 22, FOUR MILE CREEK SEWER, North of Pawnee, East of Webb, as authorized by Resolution No. 06-580 rescinded by Resolution No. 07-232 rescinded by Resolution No. 07-268, adopted November 7, 2006, April 10, 2007 & May 1, 2007, and published November 10, 2006, April 13, 2007 & May 3, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $101,500.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

al. (480-895/468-84281) Construction of LATERAL V, SANITARY SEWER NO. 8, West of Seneca, North of Harry, as authorized by Resolution No. 06-654, adopted December 12, 2006, and published December 15, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $17,900.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

am. (480-899/468-84316) Construction of MAIN 23, FOUR MILE CREEK SEWER, North of 21st, West of 159th Street East, as authorized by Resolution No. 07-108, adopted February 13, 2007, and published February 15, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $152,500.00 is to be apportioned 50% payable by the improvement district & 50% payable by the City at Large. The cost has been assessed on a fractional basis. (District II)

an. (480-900/468-84317) Construction of LATERAL 1, MAIN 23, FOUR MILE CREEK SEWER, North of 21st, West of 159th Street East, as authorized by Resolution No. 07-109, adopted February 13, 2007, and published February 15, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $613,100.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

ao. (480-914/468-84329) Construction of LATERAL 521, SOUTHWEST INTERCEPTOR SEWER, North of 47th Street South, West of Meridian, as authorized by Resolution No. 07-194, adopted March 13, 2007, and published March 16, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved in the amount of $76,500.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

STORM SEWER PROJECTS:

ap. (485-302/468-83883) Construction of SWD NO. 236, TO SERVE FONTANA ADDITION, East of 119th Street West, North of 29th Steet North, as authorized by Resolution No. 04-498, resc by 05-619, resc by 06-623, adopted Sep 14, 2004, Nov 22, 2005, Nov 21, 2006, and published Sep 17, 2004, Nov 25, 2005, Nov 27, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $549,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

aq. (485-312/468-84024) Construction of SWD NO. 269, TO SERVE CLIFTON COVE ADDITION, South of 63rd Street South, West of Clifton, as authorized by Resolution No. 05-605, resc by 06-363, adopted Nov 15, 2005, Jun 20, 2006, and published Nov 21, 2005, corr & repub Jan 6, 2006, Jun 22, 2006, corr & repub Jul 13, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $625,000.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District III)

ar. (485-314/468-84183) Construction of SWD NO. 294, TO SERVE CRESTLAKE ADDITION & UNPLATTED TRACT A, North of Central, West of 127th Street East, as authorized by Resolution No. 06-185, resc by 06-666, adopted Apr 18, 2006, Dec 19, 2006, and published Apr 20, 2006, Dec 22, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $561,800.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

as. (485-318/468-84193) Construction of SWD NO. 295, TO SERVE SYCAMORE POND ADDITION, South of 47th Street South, East of Seneca, as authorized by Resolution No. 06-347, adopted Jun 6, 2006, and published Jun 8, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $536,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

at. (485-321/468-84204) Construction of SWD NO. 297, TO SERVE BELLECHASE ADDITION & UNPLATTED TRACT, East of 127th Street East, North of Harry, as authorized by Resolution No. 06-490, adopted Sep 26, 2006, and published Sep 29, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $154,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District II)

au. (485-326/468-84260) Construction of SWD NO. 311, TO SERVE VALENCIA ADDITION, East of Meridian, South of 53rd Street North, as authorized by Resolution No. 06-538, resc by 07-176, adopted Oct 17, 2006, Mar 13, 2007, and published Oct 20, 2006, Mar 16, 2007, corr & repub Apr 2, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $214,000.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District VI)

av. (485-324/468-84282) Construction of SWS NO. 623, TO SERVE SANTA FE INDUSTRIAL DISTRICT 3RD ADDITION, West of Seneca, North of Harry, as authorized by Resolution No. 06-655, adopted Dec 12, 2006, and published Dec 15, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $37,900.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District IV)

aw. (485-327/468-84298) Construction of SWS NO. 626, TO SERVE TYLERS LANDING ADDITION, South of 37th Street North, East of Tyler, as authorized by Resolution No. 07-004, adopted Jan 9, 2007, and published Jan 12, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 12/18/2007, in the amount of $328,100.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Assistance to Firefighters Grant Program Award (All Districts)

INITIATED BY: Fire Department

AGENDA: Consent

Recommendation: Approve the grant award.

Background: On May 8, 2007, the City Council approved the submission of a grant application in the amount of $678,044. The Federal Fire Protection and Control Act of 1974 has reauthorized the Assistance to Firefighter Grant and appropriated a total of $547 million for the FY 2007 Assistance to Firefighter Grant. The programs and activities that were eligible for the 2007 grant programs were as follows: Operations and Firefighter Safety and Firefighting Vehicle Acquisition programs. Applicants could only apply for one of the two programmatic areas, however within the selected programmatic area, applicants could apply for a number of activities.

Analysis: The City applied for $678,044 in grant funds for the Operations and Firefighter Safety program category. On January 4, 2008 the Emergency Preparedness and Response Directorate's FY 07 Assistance to Firefighters Grant program announced the award of the grant for Fire Operations and Firefighter Safety Program to the Wichita Fire Department in the amount of $678,041. This grant will be used to establish a comprehensive Health and Wellness program for the Wichita Fire Department. This Health and Wellness program would be designed to do the following: reduce associated health and injury cost from firefighters to the City of Wichita; reduce the number of cardiac related issues to firefighters; reduce lost/time injuries to firefighters due to physical limitations; improve recovery time from injuries that do occur; provide firefighters with a standard for a healthier lifestyle; and provide and promote mental health and stability. This will be accomplished by providing members a health baseline with physicals, certified personal trainers, and appropriate fitness equipment at every fire station. The program also promotes a healthier lifestyle by providing firefighters with fitness, nutrition, cholesterol screening and other pertinent information to assist firefighters in becoming heart-healthy. The program consists of six components: Medical evaluations; fitness and immunization assessments; certified personal trainers; health and wellness education; exercise equipment; and program evaluation. This program would extend well beyond the City's existing Wellness Program.

Financial Considerations: The Emergency Preparedness and Response Directorate's FY 07 Assistance to Firefighters grant award is for the amount of $678,041. The Federal share is 80 percent of the $678,041 or $542,433. The City's required share is 20 percent of the $678,041 or $135,608. Past practices has allowed the use of capital project funds as the match for this type of project.

Legal Considerations: None

Recommendation/Action: It is recommended that the City Council approve the FY 2007 Assistance to Firefighters Grant award, authorize the appropriate signatures, and approve necessary budget transfers.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Enforcing Underage Drinking Laws (EUDL) Grant

INITIATED BY: Police Department

AGENDA: Consent

Recommendation: Approve the application.

Background: For the past five years, the Wichita Police Department has placed an emphasis on eliminating underage alcohol consumption in our community. In an effort to address this problem, the Wichita Police Department, in collaboration with community agencies and citizens, developed and implemented the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program. The goals of the JUDGE program are to educate the public on underage alcohol consumption issues and enhance proactive enforcement of laws applicable to underage alcohol consumption. In an effort to assist with this effort, the Police Department is applying for a grant funded by the Kansas Department of Transportation, Bureau of Traffic Safety. The Enforcing Underage Drinking Laws (EUDL) grant is being made available to communities to support their enforcement activities in the area of preventing underage alcohol consumption. The Wichita Police Department received EUDL funding 2007 and is applying for funding again in 2008.

Analysis: The Kansas Department of Transportation is providing financial support in the form of a three-month mini-grant. Funds would be made available from March 1 through May 31, for overtime to support enforcement activities during Spring break, proms and graduations.

Financial Considerations: The Wichita Police Department grant application requests funding for the JUDGE program in the amount of $30,746.44 for overtime to support enforcement activities. There is no local match.

Goal Impact: Provide a safe and secure community by placing an emphasis on eliminating underage alcohol consumption in our community.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the application and authorize the appropriate signatures.

Attachment No. 1
Please submit 1
Signed application

APPLICATION FOR HIGHWAY SAFETY PROJECT
"Enforcing Underage Drinking Laws (EUDL)" Mini Grant Program

(All rules and regulations apply in accordance with Section 163 of Public Law 83-564)

KANSAS DEPARTMENT OF TRANSPORTATION
DIVISION OF PLANNING AND DEVELOPMENT
BUREAU OF TRAFFIC SAFETY
700 SW HARRISON STREET
TOPEKA, KS 66603-3754

PROJECT TITLE: **J.U.D.G.E. – Wichita P.D.**

LOCATION: **Wichita Police Department**

TYPE OF APPLICATION (Check appropriate box)

DATE OF APPLICATION: **1-12-2008**

[X] **Initial** [ ] Revision [ ] Continuation

APPLICANT

NAME OF AGENCY:

Wichita Police Department

PROJECT DIRECTOR / TITLE:

Norman D. Williams / Chief

ADDRESS OF AGENCY: (Mailing, including zip code)

455 North Main, Wichita, KS 67202

PROJECT COORDINATOR:

Officer Michael Lloyd

TELEPHONE NUMBER: **(316)** 688-9300

FAX NUMBER: **(316) 858-7704**

GOVERNMENTAL UNIT: **City of Wichita, Kansas**

[ ] STATE [X] **CITY** [ ] COUNTY OTHER (Specify)_____

BUDGET (from enclosed Schedule B (s))	PROJECT PERIOD FY: 2008		
COST CATEGORY			
(A) Personal Services	$26,030.88		
(B) Commodities	$ 375.00		
TOTAL ESTIMATED COSTS	$26,405.88		
GRAND TOTAL (All Years)	$26,405.88		

NAME AND ADDRESS OF AUTHORIZING GOVERNMENTAL UNIT

City of Wichita
Name

455 N Main, Wichita, KS 67202
Address

Submitted by: I certify compliance with all criteria applicable for eligibility of the program and implementation in accordance with program requirements.

Please print name and sign under appropriate heading.

Project Director	Authorizing Governmental Official	KDOT Secretary
Norman D. Williams, Chief of Police	H.E. Flentie, Interim City Manager	
_____	_____	_____

For KDOT Bureau of Traffic Safety Use Only

Project Number: JJ 1142-08

Contract Starting Date: 3/01/2008

SP Number: SP 2202-08

Contact Termination Date: 5/31/2008

Federal Funds Benefiting: Local

Amount of Contract: $26,405.88

Federal Funds Obligated: 100%

SCHEDULE A
GENERAL INFORMATION AND NARRATIVE

Proposal should address education and/or enforcement of the traffic safety problem in your local area. Use an additional page if necessary.

1. Describe the Problem (The Problem Statement.)

There has been a proliferation of underage drinking and access to alcohol within the City of Wichita, as well as across the nation over the past ten years. During the year 2007, the Wichita Police Department averaged 891 underage alcohol related arrests. There were also 1964 DUI arrests in 2007 with 194 (9.8%) of them being offenders under the legal drinking age. Of these, there was one fatality accident with a driver under the legal drinking age. During the course of the EUDL mini-grant in 2007, we were able to make approximately 132 arrests related to underage drinking and seized approximately 790 containers. We also had contact with 464 juveniles and 69 parents about the dangers and cost of underage drinking.

This is just the tip of the iceberg regarding the extent of the problem. As noted in an article in the American Medical Association, alcohol is the most frequently used drug by high school seniors, with the first time use between the ages of 11-13.

The City of Wichita and metro area have 21 high schools (16 in the corporate City limits) along with 3 colleges with on-site student housing. There are over 20,000 high school students within the City of Wichita metro area. Many of the students of Goddard, Valley Center, Andover and Maize live within the corporate City limits of Wichita.

2. Describe the project. (The Problem Solution)

Throughout 2007 the JUDGE coalition has continued to meet and work towards reducing the ways the juveniles can access or obtain alcohol. The coalition is still comprised of members of public schools, private schools, concerned parents and Law Enforcement. Members of the coalition have also been working with the Stand Together Coalition of Wichita. This is a joint effort to reach more members of the community and to educate as many people as possible.

The EUDL grant would allow us to expand our efforts in the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program combating underage drinking within the City of Wichita. The monies would be allocated to provide six, 7-hour special assignments for each of the four police patrol bureaus. Each assignment would be planned in conjunction with the following school events: Spring break, prom, and graduation.

The assignments will be multi-faceted, including aspects of compliance checks, third party sales interdiction, and party patrols.

3. Describe the outcome expected. (Quantifiable Performance Objectives)

Again this year we will be monitoring Juvenile contacts, underage drinking arrests, drug arrests, containers seized, as well as Juvenile party calls. We will be tracking compliance checks, third hand sales, and other community contacts.

By increasing enforcement measures, we hope to deter underage drinking as well as other associated illegal activity such as disturbance calls, vandalisms, and assaults. We will measure the success of the grant through statistical methods regarding enforcement and education.

Please submit budget information for each year applicable

Year: FFY 08

SCHEDULE B
BUDGET INFORMATION

For the contract period itemize the cost of each applicable category.	Cost	KDOT use only Federal Share
Personnel Services:		
Supervisor base pay $26.91 x 1.5 hourly rate $40.37 x 144 (no. of estimated hours dedicated) = $5,813.28 Total	$5,813.28	
Officer base pay $23.40 x 1.5 hourly rate $35.10 x 576 (no. of estimated hours dedicated) = $20,217.60 Total	$20,217.60	
Total Personnel Services:	$26,030.88	
1 CMI SD-5 Preliminary Breath Test	$375.00	
Grand Total for Budget:	**$26,405.88**	

KDOT BTS Project No: JJ 1142-08

KANSAS DEPARTMENT OF TRANSPORTATION
HIGHWAY SAFETY PROJECT AGREEMENT

PARTIES:

Debra L. Miller, Secretary of Transportation
Department of Transportation for the State of Kansas
(Secretary)
Eisenhower State Office Building
700 SW Harrison Street
Topeka, KS 66603-3754

and:

Norman D. William, Chief
Wichita Police Department
455 North Main
Wichita KS 67202

PURPOSE: To promote highway safety improvement. This highway safety improvement is identified by the Project No. above, in the city or county listed above. It will hereinafter be referred to as the Project, and further identified by the Application for Highway Safety Project Contract, Attachment No. 1, which is incorporated by reference and made a part of this Agreement.

EFFECTIVE DATE: The Parties shall be mutually obligated to perform in accordance with this Agreement as of:

March 1, 2008

TERMS OF THE AGREEMENT

Article I - THE SECRETARY AGREES:

1) To reimburse the project Applicant for the work completed and actual costs incurred for commodities in the performance of this Agreement in an amount not to exceed a total price of as provided in the Project Application Attachment 1, which is incorporated by reference and made a part of this Agreement.

2) To make payments to the Project Applicant at intervals of not less than one calendar month.

Article II - THE PROJECT APPLICANT AGREES:

1) To furnish the necessary personnel, facilities, and such other professional services as may be required to fulfill the work identified and described in the Project.

2) To begin the Project upon receipt of Secretary's written notice to proceed and shall execute this Project to completion on or before:

May 31, 2008

3) To prepare and deliver to the Secretary during and upon completion of the Project all reports as required.

4) To pay actual project costs prior to any reimbursement claim to the Secretary and submit, at a minimum, reimbursement invoices to the Secretary after costs have been incurred.

5) That funds provided under this Agreement shall not supplant any activity or expenditure provided for by Project Applicant's current budget.

6) To maintain accounting records, which shall be made available at all reasonable times during the agreement period and for three years from the date of the final payment.

7) That the services to be performed by the Project Applicant are personal and cannot be assigned, sublet, or transferred without consent of the Secretary.

8) That the Secretary shall at all reasonable times have access to the premises to review and inspect the work and related records. Arrangements for all reviews and inspections by the appropriate federal agency shall be made by the Secretary.

9) The Project Applicant, by acceptance of this Agreement, acknowledges that the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement as set forth in the Federal O.M.B. Circular A-133, Audits of State and Local Governments, attached hereto and made a part of this Agreement. The Secretary and the Project Applicant agree that as the Single Audit Report becomes available for the reimbursement period, that the Secretary will review it for items which are declared as not eligible for reimbursement. If such non-eligible-for-reimbursement items are subsequently found by audit, the Project Applicant will refund to the Secretary the total amount paid for same.

10) That the Project Applicant may be allowed one, 90-day extension upon showing good reason and submitting his request to the Secretary in writing 30 days prior to the completion date. This extension must have the concurrence of the appropriate federal agency.

11) Disputed matters arising under this Agreement that are not mutually resolved, shall be decided by the Secretary, whose decision shall be final and binding.

12) That this Agreement, for any reason, may be terminated upon thirty (30) days written notice by either party; Provided, however, the Project Applicant shall not be paid more than that which would be received under the terms of the Agreement for that portion of services rendered to the date of termination. The parties further agree that termination due to Project Applicant's default shall result in forfeiture of any retainage of compensation due the Project Applicant as of the day of termination.

13) The provisions found in the Contractual Provisions Attachment, Attachment No. 4 (form DA-146a) are incorporated into this Agreement and made a part hereof.

14) Attachment No. 3, pertaining to the implementation of the Civil Rights Act of 1964, is incorporated by reference and made a part hereof.

15) The Certification of the Project Applicant, Attachment No. 2, is incorporated by reference and made a part hereof.

16) This Agreement shall be binding upon the parties hereto and their successors and assigns.

17) It is expressly agreed that no third party beneficiaries are intended to be created by this Agreement, nor do the parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

LOCAL AUTHORIZING OFFICIALS

X

H.E. Flentie, Interim City Manager

X

Norman D. William, Chief
Wichita Police Department

KANSAS DEPARTMENT OF TRANSPORTATION

Deb L. Miller
Secretary of Transportation for
the State of Kansas

Certification of the PROJECT APPLICANT

I hereby certify that I am authorized representative of the: **Norman D. William, Chief** **Wichita Police Department** and I am the duly

and that neither I nor the above agency I here represent has:

(a) employ or retain for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above agency) to solicit or secure this Agreement; or

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or

(c) paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above agency) any fee, contribution, donation, or consideration of any kind for or in connection with, procuring or carrying out this Agreement;

except as here expressly stated (if any):

I acknowledge that this Certificate is to be furnished to the Secretary of Transportation of the State of Kansas in connection with this Agreement, and is subject to applicable state and federal laws, both criminal and civil.

X

Norman D. William, Chief
Wichita Police Department

Date:

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS (1994), and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively insure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following seven "Nondiscrimination Clauses".

CLARIFICATION

Where the term "consultant" appears in the following seven "Nondiscrimination Clauses", the term "consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the consultant, or the consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

(1) Compliance with Regulations: The consultant will comply with the Regulations of the U. S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Parts 21, 23 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The consultant, with regard to the work performed by the consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontractors, Including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

(4) **Information and Reports:** The consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.

(5) **Employment:** The consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.

(6) **Sanctions for Noncompliance:** In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,

(a) withholding of payments to the consultant under the contract until the contractor complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(7) Disadvantaged Business Obligation:

(a) Disadvantaged Businesses as defined in the Regulations, shall have a level playing field to compete fairly for contracts financed in whole or in part with Federal funds under this contract.

(b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.

(c) The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Federally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

(8) Executive Order 12898: To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the state of Kansas and use such information in complying with this Order.

(9) **Incorporation of Provisions**: The consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the consultant may request the State to enter into such litigation to protect the interests of the State.

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provisions:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

1) **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

2) **Agreement With Kansas Law**: All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

3) **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4) **Disclaimer Of Liability**: Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total $5,000 or less during the fiscal year of such agency.

6) **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7) **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8) **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9) **Responsibility For Taxes**: The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10) **Insurance**: The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

11) **Information**: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12) **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Agenda Item No. 17.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Contigency Fund Use to Promote Conventions and Events by Greater Wichita Convention & Visitors Bureau (All Districts)

INITIATED BY: City Manager's Office
Arts and Cultural Services Division

AGENDA: Consent

- -

Recommendation: Approve the allocation.

Background: In an effort to make it possible to bring different conventions and events to Wichita, City Council established a "Convention Promotion Contingency" as part of the Tourism and Convention Fund in the annual budget. This allocation is funded from the transient guest tax, a 6% transient guest tax on hotel and motel rooms in Wichita. It is earmarked to fund special activities as deemed appropriate by the Greater Wichita Convention and Visitors Bureau to approach City Council for approval. The dollar amounts for each event reflects committed financial support of that event. After reviewing with City staff, the following funds are requested to support the GWCVB's efforts to sponsor a variety of events outlined below:

2008 Sponsorships:

PROGRAM	AMOUNT	SPONSORSHIPS
Ad Valorem Taxation Conference	$ 1,500	Convention
Business Retention and Expansion International	$ 7,000	Convention
Drums Across Kansas	$ 200	Event
Jehovah's Witnesses	$ 1,125	Convention
Kansas Farm Bureau	$ 200	Convention
KS Association of School Principals	$ 500	Convention
KS High School Athletic Associations, Tracks & Fields	$ 8,000	Event
KS Motor Carriers Association	$ 1,000	Convention
Midwest Catholic Family Conference	$ 2,000	Convention
National Square Dance Convention, 57th	$ 37,095	Convention
North American Association for Environmental Education	$ 5,000	Convention
Preferred Health Systems Wichita Open	$ 3,000	Event
Professional Bowling Association Southwest Tournament	$ 200	Event
Region VI Sports	$ 4,000	Event
Shrine Bowl Hall of Fame	$ 1,000	Event
U.S. Bowling Congress Inter-Collegiate Team	$ 5,000	Event
New Requests	$ 50,000	
Total 2008 Request	**$ 126,820**	

Analysis: It is anticipated that these investments will be paid back through the transient guest tax fund and through their attendees spending money in the community at area retail, dining and entertainment facilities.

Financial Considerations: The 2008 Adopted Budget has $150,000 allocated for "Convention Promotion Contingency" in the Tourism and Convention Fund. There is sufficient funding to grant these requests.

Goal Impact: Economic Vitality: Conventions are a component of Economic Development. Quality of Life: Sponsorship opportunities add value to the events and activities in Wichita for citizens and visitors.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the City Council approve GWCVB's 2008 Sponsorships request and fund it from budget allocation included in the 2008 Adopted Budget within Tourism and Convention Fund.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: HOME Program; Housing Development Loan Program Funding (Districts I and VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent Agenda

Recommendation: It is recommended that the City Council approve the amendment to the 2007-2008 Consolidated Plan, the recommended funding allocations, and authorize the necessary signatures.

Background: During the 2007-2008 Consolidated Plan funding process, a total of $225,000 in HOME funding was allocated for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding may be provided to non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding may be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), as well as Local Investment Areas (LIA). Requests for funding under the program are received on an open application basis.

Analysis: The Housing and Community Services Department has received an HDLP application from Mennonite Housing Rehabilitation Services, Inc. (MHRS), in the amount of $200,000, for development of homes in a newly platted housing development near 29th and Woodland. Completed homes will be sold to income-eligible owner-occupant homebuyers receiving down payment and closing costs assistance through the City's HOMEownership 80 Program. Power CDC has also submitted an application for funding in the amount of $150,000, in order to subsidize the development of single-family homes in its Millair Creek subdivision, near 27th and Minnesota. The Millair Creek site was donated to Power CDC by the City in 2001.

The homes to be constructed under the applications will require HOME program subsidy. HOME funds are usually provided as development subsidy in order to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The total of these costs cannot be entirely recovered from sale proceeds due to market constraints and the need to keep the homes affordable for low-income families. Typically, the development subsidy for homes constructed with HOME program funding is between $25,000 and $40,000, depending on acquisition costs and the cost of building materials and construction. Currently, the maximum selling price for a home constructed with HOME Program funding is $85,700.

Housing and Community Services has determined that both applications meet the criteria of the HDLP, and that the proposed projects will assist the City in achieving its neighborhood revitalization and consolidated plan goals. Therefore, staff recommends funding the MHRS application, in the amount of $200,000, in order to subsidize the construction of at least seven homes. Staff also recommends funding the Power CDC application in the amount of $120,000, in order to subsidize the construction of at least three new homes in the Millair Creek subdivision.

The additional $95,000 required to complete the proposed funding is available from unallocated HOME program funding available due to loan repayments. Housing and Community Services proposes to amend the City's 2007-2008 HUD Consolidated Plan in order to provide this funding as CHDO set-aside funding for MHRS and Power CDC. The amendment does not qualify as a substantial amendment, as the proposed funding

does not exceed 20% of the City's 2007-2008 HOME funding allocation, and does not involve the creation of new activities, as MHRS and Power CDC have already received CHDO set-aside funding for the construction of single-family homes.

As part of this action, Housing and Community Services is also requesting an additional allocation of $24,672.40 for HOME Program Administration. HOME regulations permit the retention of 10% of program income receipts for HOME administration expenses. The additional funding for HOME Program Administration is also available from loan repayments previously allocated for eligible HOME projects, and is needed to ensure proper staff administration of the HOME program.

Financial Considerations: HOME funding for the proposed HDLP projects will be provided in the form of zero-interest, forgivable participation construction loans. Typically, local banks provide construction loans equivalent to 75% of the appraised value of a home to be constructed under the HDLP. Allocated funding will provide for construction of a minimum of 10 homes.

Goal Impact: Projects to be funded under the subject HOME funding agreement will contribute to the goal of Economic Vitality and Affordable Living.

Legal Considerations: Funding provided under the Housing Development Loan program must be approved by the City Council. The funding agreement has been drafted by Housing and Community Services staff and approved as to form by the City Law Department. Assistance loans provided to homebuyers for the purchase of homes constructed under the HDLP are secured with a mortgage on the property. This mortgage serves as the long-term deed restriction required under the HOME regulation to preserve affordability.

Recommendations/Actions: It is recommended that the City Council approve the amendment to the 2007-2008 Consolidated Plan, the recommended funding allocations, and authorize the necessary signatures.

Attachments: Funding Agreements.

GRANT AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Power CDC, Inc.
(Power CDC)

HOUSING DEVELOPMENT LOAN PROGRAM

HOME Investment Partnerships
Program

2007-2008 Program Year

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated to be effective the 12th day of February, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Power CDC, Inc. (POWER CDC, a Community Housing Development Organization/Non-profit Developer hereinafter referred to individually as the Developer).

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program (hereinafter referred to as HOME) grant, from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department" or "HUD").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

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

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The

construction phase of this contract shall be complete by January 31, 2010. Costs must be incurred by the Developer prior to that date, and not before the date of this contract in order to qualify for reimbursement under this contract. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 20 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections.

1. The Developer shall at any time and as often as the Department, City and/or Comptroller General of the United States may deem necessary make available to the City for examination all its records and data for the purpose of making audits, examinations, excerpts and transcriptions.

2. The Developer shall comply with the provisions of OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations, as applicable.

SECTION 4. CONFLICT OF INTEREST. No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or

redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto. **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed $120,000 as referenced in Exhibit B. Contract payments above $120,000 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 28, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), as amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.)) as amended, and Section 504 of the Rehabilitation Act of 1973.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with and adhere to Office of Management and Budget (OMB) Circular No. A-110, Uniform Administrative Requirements of Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, OMB Circular No. A-122, Cost Principles for Nonprofit Organizations, OMB Circular No. A-21, Cost Principles for Colleges and Universities, and OMB Circular No. A-133, Administrative Requirements for Grantees, as applicable.

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is

terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows: Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.); The Fair Housing Act (42 U.S.C. 3601-3620); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); and, Age Discrimination Act of 1975, as Amended (42 U.S.C. 6101). HOME regulations also require adherence to the three following regulations governing the accessibility of federally assisted buildings, facilities and programs. They are as follows: Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225); Fair Housing Act (Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19)); and, Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department,

payments to the Developer will be provided on a reimbursement basis. The amount of each request will be limited to the amount needed.

SECTION 27. PROPERTY STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

SECTION 28. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Power CDC, Inc.
(POWER CDC)

_____
Signature

_____
Title of Power CDC Housing Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Gary E. Rebenstorf, City Attorney Date
and Director of Law of the
City of Wichita

Exhibit A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting Developer;

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 Developer;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its Developer; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal Developer involved.

Exhibit B

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Power CDC, Inc., hereinafter referred to as the "City" and "Developer" (or Power CDC) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the $120,000 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the construction of at least 3 new single-family homes on vacant lots located in its Power CDC 3rd Addition.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92
92.250, Maximum Per Unit Subsidy,
92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,

92.254, Qualification as Affordable Housing, Homeownership,
92.257, Religious Organizations.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, and the developer fees earned in connection with completion of each unit.

III. Administration

The MHRS Executive Director will supervise operations and administration on a day-to-day basis. The MHRS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to MHRS for this project will be $120,000, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $120,000 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition Expenses, Construction Expenses, Developer Fees, other HOME-eligible project soft costs)	$120,000
TOTAL	$120,000

C. Method of Payment: The DEVELOPER agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and MHRS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. MHRS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. **The DEVELOPER will provide, for the year ending June 30 of each year, beginning June 30, 2008, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses.

   The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership. Said document will be filed of record by the City. In accordance with the current policy of the City, should the housing cease to be the principal residence of the purchasing family, the HOME funds contributed for each unit of construction shall be re-captured. The HOME investment will be recaptured on a pro-rata basis, for the time the homeowners have owned and occupied the housing, measured against the affordability period.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in Power CDC, Inc. (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

G. Developer will obtain any and all permits required by the City prior to undertaking construction.

H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Developer and the U.S. Department of Housing and Urban Development.

J. Prior to executing any contracts for sale of the assisted properties the Developer must provide the City with a certification that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

K. The Developer must provide the City with a Certificate of Builder's Risk/Hazard Insurance equivalent to or exceeding the amount of any financing to be provided for the project, including the HOME Program investment/loan for the property. The City must be reflected as a loss payee on said certificate.

V. Other Program Requirements

A. The **DEVELOPER** shall comply with the applicable provisions of 24 CFR 84.21, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed.

B. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance. (24 CFR 92.251 of the HOME regulation.)

C. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the developer will take to provide

information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Housing and Community Services Department.

4. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which: (1) the Developer plans to begin initial marketing activities; (2) accepts purchase contracts; and (3) start initial sales.

D. The City and agents designated by the City shall, at all times have the right at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

E. The Developer shall provide a project sign throughout the project listing the use of federal Home Investment Partnerships Program funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

> Redevelopment Project is financed in part by the City of Wichita and HUD using Home Investment Partnerships Program funds, in partnership with Power CDC, Inc..

The language to be used on the sign shall be submitted to he City for prior review and approval before the sign is constructed. The Developer is responsible to obtain all necessary permits to erect the sign.

F. The Developer shall have the responsibility of maintaining and insuring the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

G. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements may include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Developer must provide a one-year warranty for all homes constructed or rehabilitated under this contract.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in Section I, B. of this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Construction Expenses, Developer Fees, other HOME-eligible project soft costs)	$120,000
TOTAL	$120,000

GRANT AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Mennonite Housing Rehabilitation Services, Inc.
(MHRS)

HOUSING DEVELOPMENT LOAN PROGRAM

HOME Investment Partnerships
Program

2007-2008 Program Year

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated to be effective the 12th day of February, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Mennonite Housing Rehabilitation Services, Inc. (MENNONITE HOUSING, a Community Housing Development Organization/Non-profit Developer hereinafter referred to individually as the Developer).

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program (hereinafter referred to as HOME) grant, from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department" or "HUD").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

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

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The

construction phase of this contract shall be complete by January 31, 2010. Costs must be incurred by the Developer prior to that date, and not before the date of this contract in order to qualify for reimbursement under this contract. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 20 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections.

1. The Developer shall at any time and as often as the Department, City and/or Comptroller General of the United States may deem necessary make available to the City for examination all its records and data for the purpose of making audits, examinations, excerpts and transcriptions.

2. The Developer shall comply with the provisions of OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations, as applicable.

SECTION 4. CONFLICT OF INTEREST. No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or

redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto. **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed $200,000 as referenced in Exhibit B. Contract payments above $200,000 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 28, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), as amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.)) as amended, and Section 504 of the Rehabilitation Act of 1973.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with and adhere to Office of Management and Budget (OMB) Circular No. A-110, Uniform Administrative Requirements of Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, OMB Circular No. A-122, Cost Principles for Nonprofit Organizations, OMB Circular No. A-21, Cost Principles for Colleges and Universities, and OMB Circular No. A-133, Administrative Requirements for Grantees, as applicable.

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is

terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows: Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.); The Fair Housing Act (42 U.S.C. 3601-3620); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); and, Age Discrimination Act of 1975, as Amended (42 U.S.C. 6101). HOME regulations also require adherence to the three following regulations governing the accessibility of federally assisted buildings, facilities and programs. They are as follows: Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225); Fair Housing Act (Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19)); and, Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department,

payments to the Developer will be provided on a reimbursement basis. The amount of each request will be limited to the amount needed.

SECTION 27. PROPERTY STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

SECTION 28. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Mennonite Housing Rehabilitation Services, Inc.
(MHRS)

_____
Signature

_____
Title of Mennonite Housing Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Gary E. Rebenstorf, City Attorney Date
and Director of Law of the
City of Wichita

Exhibit A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting Developer;

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 Developer;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its Developer; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal Developer involved.

Exhibit B

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Mennonite Housing Rehabilitation Services, Inc., hereinafter referred to as the "City" and "Developer" (or MHRS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the $200,000 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the construction of a minimum of 6 single-family homes on vacant lots located in a new subdivision located between Woodland Avenue and Mascot Drive, south of 29th Street North, as approved by the City. To be eligible for this program properties acquired under this agreement must be vacant residential lots or sites, or residential lots with vacant, blighted residential structures that must be demolished.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92.

B. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, property standards, tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR Part 92
92.250, Maximum Per Unit Subsidy,
92.251, Property Standards, Compliance with Quality Standards in 24 CFR 982.4018,
92.254, Qualification as Affordable Housing, Homeownership,
92.257, Religious Organizations.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, and the developer fees earned in connection with completion of each unit.

III. Administration

The MHRS Executive Director will supervise operations and administration on a day-to-day basis. The MHRS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to MHRS for this project will be $200,000, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $200,000 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed projects and extended grant authority as a result of repayments generated by the project. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition Expenses, Construction Expenses, Developer Fees, other HOME-eligible project soft costs)	$200,000
TOTAL	$200,000

C. Method of Payment: The DEVELOPER agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and MHRS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. MHRS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

2. **The DEVELOPER will provide, for the year ending June 30 of each year, beginning June 30, 2008, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses.

   The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force for the period of affordability, which will expire 20 years following the completion of each unit, as defined in 24 CFR 92.2, depending on the amount of funds invested in the project. Deed restrictions/covenants shall remain in force without regard to the repayment of HOME funds or transfer of ownership. Said document will be filed of record by the City. In accordance with the current policy of the City, should the housing cease to be the principal residence of the purchasing family, the HOME funds contributed for each unit of construction shall be re-captured. The HOME investment will be recaptured on a pro-rata basis, for the time the homeowners have owned and occupied the housing, measured against the affordability period.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, as well as other file documentation requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in Mennonite Housing Rehabilitation Services, Inc. (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.

G. Developer will obtain any and all permits required by the City prior to undertaking construction.

H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted

project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Developer and the U.S. Department of Housing and Urban Development.

J. Prior to executing any contracts for sale of the assisted properties the Developer must provide the City with a certification that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

K. The Developer must provide the City with a Certificate of Builder's Risk/Hazard Insurance equivalent to or exceeding the amount of any financing to be provided for the project, including the HOME Program investment/loan for the property. The City must be reflected as a loss payee on said certificate.

V. Other Program Requirements

A. The **DEVELOPER** shall comply with the applicable provisions of 24 CFR 84.21, Standards for financial Management Systems, requiring independent financial and programmatic audits not less frequently than every two years. In addition to the financial and programmatic audit, the audit shall indicate whether the organization has complied with laws and regulations that may have a material effect on its financial statements and on each Federal assistance program reviewed.

B. Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance. (24 CFR 92.251 of the HOME regulation.)

C. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Action Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. Send a copy of the materials sent to community contacts announcing housing availability to the City of Wichita Housing and Community Services Department.

4. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which: (1) the Developer plans to begin initial marketing activities; (2) accepts purchase contracts; and (3) start initial sales.

D. The City and agents designated by the City shall, at all times have the right at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

E. The Developer shall provide a project sign throughout the project listing the use of federal Home Investment Partnerships Program funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

> Redevelopment Project is financed in part by the City of Wichita and HUD using Home Investment Partnerships Program funds, in partnership with Mennonite Housing, Inc..

The language to be used on the sign shall be submitted to he City for prior review and approval before the sign is constructed. The Developer is responsible to obtain all necessary permits to erect the sign.

F. The Developer shall have the responsibility of maintaining and insuring the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

G. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements may include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

H. Warranty: The Developer must provide a one-year warranty for all homes constructed or rehabilitated under this contract.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in Section I, B. of this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Construction Expenses, Developer Fees, other HOME-eligible project soft costs)	$200,000
TOTAL	$200,000

Agenda Item No. 19.

City of Wichita
City Council Meeting
February 12, 2008

TO:	Mayor and City Council
SUBJECT:	Selection of an Underwriter (STAR Bonds)
INITIATED BY:	City Manager's Office
AGENDA:	Consent

Recommendation: Authorize staff to negotiate a contract for underwriter services for the purpose of issuing special obligation (STAR) bonds.

Background: On December 12, 1995, the City of Wichita adopted Ordinance No. 42-966 establishing the East Bank Redevelopment District ("the District"). On June 25, 2002, the City of Wichita adopted Ordinance No. 45-339 amending reduced boundaries of the District. On November 27, 2004, the City of Wichita adopted Ordinance No. 46-407 expanding the boundaries of the District to include extended areas along the river bank. The general comprehensive plan for the District identifies the potential redevelopment project areas located within the District and the suitability of each such area for redevelopment.

On January 27, 2004, the governing body of the City adopted Ordinance No. 45-983 establishing a redevelopment plan for the WaterWalk Project Area within the East Bank Redevelopment District. On July 17, 2007, the City established the River District Project ("River District Project") within the District qualifying the project as a special bond project, through special designation by the State Secretary of Commerce. A "Special Bond Project" means a redevelopment project with at least a $50,000,000 capital investment and $50,000,000 in projected gross annual sales revenues.

On October 26, 2007 the City received approval from the Secretary for designation of the River District Project as a "Special Bond Project", as defined under Chapter 179 of the 2007 Session Laws of Kansas (the "Act"). The Secretary's approval was for a STAR Bond issuance of up to a maximum principal amount of $14,720,000.

On December 4, 2007 the City Council authorized staff to work with Springsted financial consultants to solicit underwriter services to assist in the marketing of these bonds, through a negotiated sale.

Analysis: The City will offer special obligation bonds in an amount not to exceed $14,720,000. The bond proceeds will be used to provide permanent financing for the City's River Corridor project providing pedestrian bridges, bike path improvements, and the Keeper of the Plains Plaza. The City's objective is to obtain the most efficient bond financing program within the constraints of the STAR Bond's statutory requirements and security provisions.

It is anticipated the STAR Bonds will be tax-exempt securities. The City intends to issue STAR Bonds with a 15-year term yielding relatively constant annual debt service coverage. As the amount of STAR Bond issuance from the District has been limited, it is not anticipated that additional STAR Bonds will be issued. As the Secretary and the City share the objective of retiring the STAR Bonds as soon as possible it is anticipated the STAR Bonds will have accelerated prepayment provisions. The STAR Bonds will be secured by the incremental State and City sales taxes collected within the District. The City will use the services of a single underwriting firm to serve as Senior Underwriter for the issuance of the STAR Bonds. The services required of the Senior Underwriter are generally defined as follows:

- Work with members of the City's financing team;
- Assist in the structuring of the transaction and the terms of sale;
- Assist in development of the security provisions and any final decision on credit rating(s) and/or enhancement, though it is anticipated that the STAR Bonds will be sold on a non-rated basis;
- Assist in the development of all sale related documentation;
- Lead the marketing and underwriting of the STAR Bonds, performing those functions customary to the position of senior managing underwriter;
- Assist in the coordination of services provided by other agents in the sale process; and
- Assist in the closing and bond settlement process.

Springsted Public Financial Advisors have been the City's financial consultant throughout the STAR bond financing application process and have assisted the City in selecting an Underwriter for this complex and unique bond issue. An RFP was prepared and distributed. Five firms provided responses: George K. Baum & Company, Wachovia Securities, Oppenheimer, Stern Brothers & Co., and Piper Jaffray . Proposals were first evaluated based upon professional credentials to identify the firm with the highest probability of achieving the overall objectives of the financing, Compensation proposals were submitted separately and were evaluated only after firms were ranked by their capacity to achieve the overall financing objectives. The City seeks permission to designate George K. Baum as underwriter for the STAR Bond issue.

Financial Considerations: The estimated cost of the underwriter's fees will not exceed $14 per $1,000 of bond amount. These costs, as well as the cost of the financial advisory services, and other expenses such as rating fees, escrow agent fees, paying agent fees, Bond Counsel fees and other expenses associated with the issuance of bonds are all anticipated and are included in the principal amount of the bonds as issuance costs.

Goal Impact: The City Council's goal for Economic Vitality and Affordable Living is advanced through the use of STAR bonds to partner with and leverage investment from local developers to create a commercial, residential, tourist and recreational site that will add jobs and other economic value to the City. The Quality of Life goal is also served by providing new and unique entertainment and retail venues that will enhance the satisfaction of residents and improve Wichita's competitive position as a desirable place to live and work.

Legal Considerations: Solicitation of underwriting services was accomplished by the issuance of a formal Request for Proposals (RFP). Proposals were evaluated by the City's financial advisor and by City staff.

Recommendations/Actions: It is recommended that the City Council designate George K. Baum & Company as underwriter for the purpose of assisting in a negotiated sale of special obligation STAR Bonds.

Agenda Item No. 20.

CITY OF WICHITA
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Results of Litigation

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Acknowledge transfer of property by court order.

Background: Beginning in the 1920s, and for decades thereafter, the Old Mission Mausoleum at 21st and Hillside served as a final resting place for many Wichita families, including several prominent in the City's history. The conservative investment requirements of its perpetual trust fund, coupled with escalating maintenance costs, has depleted the funds available for continued maintenance. Kansas state statute requires that a cemetery or mausoleum which can no longer be self-sufficient reverts for control and maintenance to the municipality in which it is found. Therefore, a District Court order dissolving the perpetual care trust of Old Mission Mausoleum has directed a reversion of the property to the City of Wichita.

Analysis: Public policy and explicit state statute require that locations used for public internment shall not be abandoned, and shall, by default, be maintained by the municipalities in which they are found. By accepting this inevitable transfer at this stage, the City can benefit from receiving the closing balance of the existing trust fund. The current trustee, Bank of America, appears to have maintained the building in good repair, and leaves the City with minimal initial maintenance requirements.

Goal impact: The City's participation in appropriate care and operation of Old Mission Mausoleum positively impacts the city's quality of life.

Financial Considerations: The final accounting to be approved by the court will show approximately $20,500 available for transfer to the City for maintenance of this property. These funds can be deposited to and ultimately expended from the City trust fund used to operate the two other cemeteries which the City has acquired under an identical process. The ongoing costs may be trimmed by operational efficiencies the City may be able to employ, reliance in at least some measure on the City's ability to self insure, and using the protections of the Kansas Tort Claims Act.

Legal Considerations: The Law Department has reviewed all court documentation and has found it to be in order. City legal staff participated in the court proceedings to insure that the specific tort claims protection for the City allowed by statute was retained.

Recommendations/Actions: Acknowledge court transfer of the Old Mission Mausoleum property to City ownership, and direct City staff to evaluate and appropriately assign internally the maintenance obligations.

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_____FIRST PUBLISHED IN THE WICHITA EAGLE ON_____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF JULIUS PROPERTIES, LP AND ZTM, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Julius Properties, LP and ZTM, Inc. request an ad valorem tax exemption on a proposed expansion project of 100% for a five-year term on the construction of a new 26,000 sq. ft. building and purchase of certain new manufacturing equipment, and 100% for a second five-year term on the building addition and equipment; and

WHEREAS, ZTM, Inc. has operated within the City for more than 11 years as a manufacturer of close-tolerance machined parts; and

WHEREAS, ZTM, Inc. proposes a $3,010,838 expansion by the construction of a 26,000 sq. ft. building expansion and lease from Julius Properties, LP, and purchase of machinery and equipment to be located at 4011 E. 31st S. in southeast Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Julius Properties, LP and ZTM, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 5, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Julius Properties, LP and ZTM, Inc. is an existing business located in Wichita, Kansas and has expanded its business by construction of a new building and the purchase of certain personal property.

2. The construction of the new building and purchase of personal property for which exemption is given occurred after December 23, 2005. No exemption will be given for construction or purchases which occurred before that date.

3. Such building expansion and property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Julius Properties, LP and ZTM, Inc. will create new employment for 22 employees within four years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion and purchase of certain personal property as reflected in Exhibits I & II attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council for the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Julius Properties, LP and ZTM, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted will be used exclusively for manufacturing articles of commerce.

2. Julius Properties, LP and ZTM, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a new building and purchase of personal property, and 100% for a second five-year term (subject to City Council review) on such building expansion and equipment purchases, started after December 23, 2005, and located within the Wichita City limits at 4011 E. 31st S. in southeast Wichita at an estimated cost of $2,270,366, as further defined in Exhibits I & II attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Julius Properties, LP and ZTM, Inc. may be required to repay amounts previously abated), in the event of any failure by Julius Properties, LP and ZTM, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Julius Properties, LP and ZTM, Inc. is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of Julius Properties, LP and ZTM, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Julius Properties, LP and ZTM, Inc.’s written request for ad valorem tax exemptions as presented to the

City Council and to administrative staff and dated October 23, 2007, and as stated in Julius Properties, LP and ZTM, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Julius Properties, LP and ZTM, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Policy of the City of Wichita and the terms of the Economic Development Incentive Agreement which Julius Properties, LP and ZTM, Inc. has executed with the City.

7. The City Council may, at its discretion, require Julius Properties, LP and ZTM, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Julius Properties, LP and ZTM, Inc. has executed with the City.

8. Upon finding that Julius Properties, LP and ZTM, Inc. has failed to meet its obligation under the Economic Development Incentives Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Julius Properties, LP and ZTM, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____ day of February, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Julius Properties, LP/ZTM, Inc., hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing close-tolerance machined parts, and, as of December 31, 2006, has completed an expansion by constructing a building addition and acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between December 23, 2005 and December 31, 2006, the Company will have completed the construction of a building addition and the acquisition and installation of manufacturing equipment at its manufacturing facility, located at 4011 E. 31st Street South, Wichita, Kansas, at a cost of $3,010,838, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to December 23 2009, employment of not less than fifty-nine (59) employees at such manufacturing facility;

   C. On or prior to December 23, 2009, the Company will add an additional twenty-two (22) new jobs at such manufacturing facility, and thereafter, maintain

employment of not less eighty-eight (88) employees at such manufacturing facility, through at least December 31, 2016;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. If the City approves an extension of the period of abatement to 2016, then in each year from 2012 through 2016, inclusive, the Company shall make a payment-in-lieu-of-taxes to the City, equal to the amount of additional ad valorem tax that would have been paid in such year on the personal property beginning in year 2012, had the period of abatement not been extended.

H. The 100% payment-in-lieu referred to in the foregoing subparagraph shall be calculated according to the tax that would be due based on the retail cost of the personal property when new, less depreciation and with an appropriate reduction for exempt property disposed of prior to the tax year to which payment pertains.

I. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

J. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

K. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that building addition and machinery and equipment acquired and installed by the Company pursuant to Section 1.A., above, shall be entitled to a 100% exemption from *ad valorem* taxation on real and personal property for a period of five (5) calendar years, commencing January 1, 2007, and provided proper application is made therefore. It is the City's further intention that the 26,000 square foot building expansion and machinery and equipment shall be entitled to a 100% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2012 to December 31, 2016, subject to the approval, in 2011, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2016.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall

be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf
Director of Law

ZTM, Inc

_____

Name: _____

Title: _____

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination-Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Agenda Item No. 22.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Tax Exemption Request
(ZTM, Inc.)(District III)

INITIATED BY: City Manager's Office

AGENDA: Unfinished Business

RECOMMENDATION: Approve first reading of the Ordinance and tax exemption request.

BACKGROUND: On December 19, 2000, City Council approved a five-plus-five year 98% ad valorem tax exemption to ZTM, Inc. (ZTM) for an expansion that included acquisition of an existing facility and purchase of new manufacturing equipment. On November 20, 2001, City Council also approved a 74.5% five-year tax exemption on acquisition of new manufacturing equipment, February 3, 2004, approved a 61% tax exemption on new manufacturing equipment, and on May 3, 2005, City Council approved a 62.5% tax exemption on new manufacturing equipment. On April 18, 2006, City Council approved a 50% tax exemption on new manufacturing equipment.

Since establishment, ZTM has sustained consistent growth in manufacturing parts for the aerospace industry. ZTM has once again expanded its manufacturing capacity, to include construction of a 26,000 s.f. building addition and acquisition of new manufacturing equipment in the amount of $3,010,838. ZTM is now requesting approval of an Economic Development Tax Exemption on the construction of a building addition and acquisition of new manufacturing equipment in conjunction with the expansion project. This item was deferred from the February 5 City Council meeting to allow for certain technical adjustments.

ANALYSIS: ZTM located at 4011 E. 31st S. in southeast Wichita, was locally formed in 1996. ZTM is a manufacturer of large, complex precision machine parts and assemblies for the aerospace industry. ZTM mills close-tolerance component aircraft parts in support of Wichita's major aircraft manufacturers. ZTM has assembled an impressive and efficient array of equipment, including 3-axis and 4-axis machines. ZTM also performs tooling and prototype work for the aircraft industry. ZTM utilizes sophisticated computer-controlled manufacturing equipment for their precise milling work. ZTM uses state of the art computer automated part loading, high-speed tool changer and chip removal, for speed and efficiency. Their capabilities include manufacturing parts from aluminum, steel, titanium and inconell.

Staff conducted a site-monitoring visit on September 11, 2007; ZTM is in compliance with all the terms and conditions under which the City granted the 2006 exemption. ZTM currently employs 59 employees, which the company has added 12 new employees since 2004. ZTM projects to add an additional 22 new jobs over the next four years, at an average annual salary of $39,341.

ZTM's major customers include Spirit Aerosystems/Boeing Wichita and Boeing Seattle. ZTM exports 100% of all production of out Kansas.

The expansion project is itemized in Exhibits I attached hereto. Under the Economic Development Incentive Policy, ZTM is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
67.0%	New Job Creation:	ZTM will create at least 22 new jobs.
32.5%	Capital Investments:	ZTM will invest at least $3,010,838.
99.5%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	

00.0% Location Premium: ZTM is not located in the central redevelopment area.

99.5% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, ZTM is eligible for a 100% tax exemption for a five-year term on the identified real and personal property, plus a 100% tax exemption for a second five-year term on real and personal property, subject to City Council approval. A notice of public hearing has been published. ZTM has agreed to comply with the conditions set forth in the Economic Development Incentive Agreement.

Financial Considerations: The estimated first year taxes on the proposed $3,010,838 expansion would be $85,035 on real and personal property, based on the 2007 mill levy. ZTM made $740,742 worth of equipment purchases after June 30, 2006, which makes it automatically exempt from personal property taxes. The estimated first year taxes on that personal property would be $21,861. The estimated first year real and personal property taxes on the expansion that requires City Council approval would be $63,173. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) $63,173 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $17,113; County/State - $17,570; and USD 259 - $28,490.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	2.28 to one
Sedgwick County	1.78 to one
USD 259	1.25 to one
State of Kansas	6.21 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the Ordinance as to form. Kansas Board of Tax Appeals requires that the exempt periods for leased and non-leased property be the same. The company has agreed to sign a Payment in Lieu of Taxes (PILOT) agreement on the second five years of personal property to be in compliance with the City's Economic Development Incentive Policy.

Recommendations/Actions: It is recommended that the City Council approve the first reading of the Ordinance, granting a 100% tax exemption on the identified real and personal property improvements for a five-year term, plus a 100% tax exemption for a second five-year term on real and personal property, subject to City Council approval and PILOT payments on personal property.

Attachments: Ordinance and Economic Development Incentive Agreement

Exhibit I

ZTM, INC.
2006 Property Tax Exemption Application

Building Expansion on which an exemption is requested:
26000 SQ Ft Expansion

Description	Date Purchased	Cost	
Smith Constructino, Inc. building expansion	11/30/2006	1,231,470.00	
Parking Lot Repair	9/27/2006	18,679.92	
Wiring	9/30/2006	45,076.25	
Steele's Landscape	10/8/2006	6,041.00	
Westar rransformer for building addition	11/8/2006	3,432.04	
Trane furnace	11/2/2006	9,006.52	
Exhaust venilator	11/21/2006	3,687.79	
Trane furnace	11/30/2006	9,196.64	
Gaffey Crane	7/7/2006	36,196.28	
			1,362,786.44

Equipment on which an exemption is requested:

Description	Date Purchased	Cost	
6 Tombstones	1/25/2006	29,700.00	
Shelving	2/1/2006	600.79	
Arbor Press #4-R	2/15/2006	5,600.00	
Shelving	3/3/2006	7,084.98	
Toyoda load station	3/31/2006	14,257.00	
2 Amork Cube Tombstones	4/26/2006	9,452.50	
2 Toyoda Access Station Work Platforms	5/2/2006	3,794.00	
Tooling for Toyodas	5/31/2006	23,084.67	
2 Amork Cube Tombstones	6/9/2006	9,452.50	
Tooling for Toyodas	6/30/2006	4,400.85	
Toyoda #5	5/11/2006	400,076.50	
Toyoda #5	6/24/2006	400,076.50	
			907,580.29

Equipment purchased after June 30,2006:
Statutorily exempt: 740,471.54

3,010,838.27

Agenda Item No. 23.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: Improvement to the Intersection of Central and Tyler (District V)

INITIATED BY: Department of Public Works

AGENDA: Unfinished Business

Recommendations: Approve the project.

Background: The proposed 2007-2016 Capital Improvement Program (CIP) includes a project to improve the intersection of Central and Tyler. District V Advisory Board sponsored a January 10, 2006, neighborhood hearing on the project. The Board voted 5-0 to recommend approval of the project. This agenda item has been deferred from the February 5th City Council Meeting. Engineering staff has met with adjacent business owners who had concerns with parking and parking lot circulation.

Analysis: The project will reconstruct the intersection to provide dual left turn lanes at all four approaches and improved drainage. New traffic signals will be installed. Construction is planned to begin this spring and be completed this fall.

Financial Considerations: The CIP budget is $2,800,000, with $2,000,000 paid by the City and $800,000 paid by Federal Grants administered by KDOT. The funding source for the City share is General Obligation Bonds. The current construction estimate is $3,000,000 with $2,200,000 paid by the City and $800,000 by Federal Grants. The increased local share is due to the cost of the improved drainage system and less than anticipated Federal funding. Funding for the increased cost is available from savings from other CIP projects.

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

Legal Considerations: The Law Department has approved the authorizing Ordinance as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the project, place the Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP Sheet, and Ordinance.

132019

First Published in the Wichita Eagle

ORDINANCE NO. _____

AN ORDINANCE DECLARING THE **INTERSECTION OF CENTRAL AND TYLER (472-84655)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. l2-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. l2-685 et seq., and

WHEREAS, K.S.A. l2-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. l2-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

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

SECTION l. That the **intersection of Central and Tyler (472-84655)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. l2-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to the **intersection of Central and Tyler (472-84655)** as a main trafficway in the following particulars:

The design, construction of a roadway, acquisition of right-of-way, installation of traffic signals, relocation of utilities and landscaping, as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be **Three Million Dollars ($3,000,000)** exclusive of the cost of interest on borrowed money, with **$2,200,000** paid by the City of Wichita and **$800,000** paid by Federal Grants, administered by the Kansas Department of Transportation. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. l2-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Quarterly Financial Report for the quarter ending December 31, 2007

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Receive and file the quarterly financial report.

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

Analysis: Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise funds, consistent with requirements of revenue bond covenants. The quarterly financial report does not contain all the entries and adjustments that will be reflected in the Comprehensive Annual Financial Report for fiscal 2007.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Information supplementary to the financial statements begins on page 63, including information on the performance of invested funds, the City's bonded indebtedness relative to the legal debt limitations, capital projects currently underway, tax abatements, the status of the Debt Service fund relative to any debt service payments due from the tax increment financing districts, and a quarterly summary of disadvantaged and emerging business activity.

Financial Considerations: The Director of Finance will provide a financial overview and stand for questions.

Goal Impact: The Internal Perspective is advanced with the Quarterly Financial Report providing information on the financial condition of City to the City Council, to the Citizens of Wichita and to investors. In addition, the report demonstrates budgetary compliance with applicable laws and ordinances for the reporting year.

Legal Considerations: No consideration necessary.

Recommendations/Actions: It is recommended that the City Council receive and file the Quarterly Financial Report for the quarter ended December 31, 2007.

CONTRACT
for
Integrated Library System

THIS CONTRACT entered into this ____day of _____, 2008 by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, herein after called "**CITY"**, and GIS Information Systems, Inc., d/b/a **POLARIS LIBRARY SYSTEMS**, (a qualified Subchapter S subsidiary of The Croydon Company, Inc.,) a corporation organized under the laws of the State of New York, with its principal place of business at 103 Commerce Boulevard, Liverpool, New York, hereinafter called **"CONTRACTOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for (Formal Proposal – FP0700052); and

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

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. CONTRACTOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP0700052, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the **CITY** of Wichita as part of the proposal letting process for Formal Proposal – FP0700052, shall be considered a part of this contract and is incorporated by reference herein attached as Exhibit B and Schedules A through G.

2. **Compensation. CITY** agrees to pay to **CONTRACTOR** One Hundred and Seventy Three Thousand Four Hundred and Seventy Two ($173,472) for the Integrated Library System as per the proposal, plans, specifications, addenda and **CONTRACTOR**'s proposal FP0700052 and as approved by the **CITY** Council on February 12, 2008.

3. **Term.** This Contract is effective on the date of final signature and for an initial term ending one (1) year from the Operational Date. At which time the **CITY** has the option to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual Contract of the parties. This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **CONTRACTOR.**

4. **Indemnification and Insurance.**

a. **CONTRACTOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors,

omissions or negligent acts of **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONTRACTOR** will carry insurance coverage during the term of this Contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Workers' Compensation	As required by statute
Employers Liability	$100,000 each accident

The Insurance Certificate must contain the following:

A. Statement that the Contractual Liability includes the Liability of the **CITY** of Wichita assumed by the **CONTRACTOR** in the contract documents.

B. Cancellation – should any of the above polices be canceled before the expiration date thereof the issuing company will mail ten (10) days written notice to certificate holder.

5. **Independent CONTRACTOR.** The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent **CONTRACTOR**. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws. CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. **No Assignment.** Both parties agree that no sublicensing, or assignment of their rights or interest, nor delegation of their duties under this Contract shall be made or become effective without the prior written consent of the other party. Any attempted sublicensing, assignment or delegation without prior written consent shall be wholly void and ineffective for all purposes.

8. **Non-Discrimination. CONTRACTOR** shall comply with all applicable requirements of the **CITY** of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Contracts attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create in the public or any member thereof third-party beneficiary status hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration**. The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

12. **Representative's Authority to Contract.** By signing this contract, each employee, officer or agent **CONTRACTOR** represents that he or she is duly authorized by the **CONTRACTOR** to execute this contract, and that the **CONTRACTOR** has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

_____
Karen Sublett
City Clerk

CITY OF WICHITA, KANSAS

_____
Carl Brewer
Mayor

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law and
City Attorney

APPROVED AS TO FORM:

_____

By: _____

Manager, Contracts and Proposals

POLARIS LIBRARY SYSTEMS

_____

By: _____

President, Polaris Library Systems

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR CONTRACTS

During the term of this contract, the Contractor or subcontractor 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 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 Contractor.

C. Requirements of the city of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The Contractor, supplier 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 Contractor, supplier 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 Contractor, supplier or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier 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 Contractor, supplier or subcontractor shall include the phrase, "equal opportunity employer", or a similar phrase;

3. The Contractor, supplier 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 Contractor, supplier 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 Contractor, supplier or subcontractor shall be deemed to have breached the present contract, purchase order or contract 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 Contractor, supplier or subcontractor shall include the provisions of subsections 1 through 3 inclusive, of this present section in every subcontract, sub-purchase order or subcontract so that such provisions will be binding upon each subcontractor or sub-supplier.

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, or suppliers who have less than four (4) employees, whose contracts, purchase orders or Contracts 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 Contractors, suppliers, 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, or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the federal agency involved.

EXHIBIT B

1. Definitions

1.1. "Software" is defined as POLARIS ILS computer programs, including, but not limited to, (a) the integrated library system software in the system server(s), and (b) the client software resident in the workstation(s). The Software is listed in Schedule D and includes all corrections, modifications and updates thereof.

1.2. "Software Materials" is defined as any machine readable or printed material, including but not limited to documentation stored on CD, On-Line Help files and hard-copy guides, which are designated by **CONTRACTOR** as available under license to libraries who have licensed the program to which those materials relate.

1.3. "Services" is defined as all services provided by **CONTRACTOR**, including but not limited to Data Migration, Installation and Training, as identified in the Schedules attached herein.

1.4. "Operational Date" is defined as the day on which **CONTRACTOR** and the **CITY** mutually declare in writing operation and use of the Software as purchased under this Contract to be available to the **CITY**.

1.5. "System" is defined as the total complement of and Software and Services as sold to the **CITY** by **CONTRACTOR** under this Contract and which is installed at the **CITY** location(s) noted herein. For the purposes of this Contract, components supplied by any party other than **CONTRACTOR** shall not be considered as part of the "System".

1.6. "Third-Party", when used in conjunction with hardware and/or software, is defined as any device, component or program not supplied by **CONTRACTOR** under this or future Contracts, Addendums and Purchase Orders.

2. Furnishing of Deliverables

Based on the statistics in Schedule A, which the **CITY** agrees are reasonably correct as of the date of this Contract, and subject to any special conditions appended in Schedule G, Additional Considerations, **CONTRACTOR** will provide deliverables detailed in the following Schedules at the fees indicated in said Schedules:

Schedule B: Database Services
Schedule C: POLARIS ILS Software Licenses
Schedule D: Services
Schedule E: Software Maintenance and System Support
Schedule F: Payment Schedule
Schedule G: Additional Considerations

3. Installation Schedule

3.1. Following the signing of this Contract, the **CITY** and **CONTRACTOR** will develop a mutually agreeable Implementation Plan which shall include, but not be limited to, identification of all required tasks, a timeline of all required tasks, an indication of which party is responsible for completion of each task, and expected duration of each task. Upon

completion of installation and implementation, both parties shall mutually agree to an Operational Date pursuant to Article 1.4. herein.

3.2. If, following the execution of this Contract and the signing of the Implementation Plan, the delivery and/or installation of the Software is postponed until after the proposed Operational Date provided in the then current Implementation Plan due to extensions requested by the **CITY** or the failure of the **CITY** to perform its responsibilities under the terms of the Implementation Plan, then **CONTRACTOR**, at its option, shall be entitled to invoice the **CITY** for any balance due on delivery and/or installation, pursuant to Schedule G, Payment Schedules.

4. Termination

4.1. If either party is considered to be in material breach of any of the terms and conditions of this Contract, the aggrieved party shall give written notice thereof, including a reasonably detailed statement of the nature of such alleged breach, to the other party. The party considered to be in breach of this Contract will have thirty (30) days after notice is received to cure such breach, or, if the breach cannot reasonably be cured within thirty (30) days, the party shall provide a written estimate of the time needed to cure such breach, shall commence to cure such breach within ten (10) days of notice from the aggrieved party and shall diligently continue to prosecute such cure to completion. If the party considered to be in breach fails to cure, commence to cure in timely manner, or diligently prosecute such cure to completion, the aggrieved party, at its option, shall be entitled to terminate this Contract or suspend its performance under the Contract for as long as the breach remains uncorrected, and avail itself of any and all remedies available under this Contract, at law or in equity.

4.2. In the event either party becomes insolvent or voluntarily or involuntarily bankrupt or a receiver, assignee or other liquidating officer is appointed for all or substantially all of the business of either party, or if either party makes an assignment for the benefit of creditors, then the other party, at its option may immediately terminate this Contract by notice to the offending party to that effect. In no event shall this Contract be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise, and any such assignment or attempted assignment shall be void and in no event shall this Contract or any rights or privileges hereunder be an asset of either party under any bankruptcy, insolvency or reorganization proceedings.

4.3 Subject to the conditions of Article 4.1, if this Contract is suspended or terminated by the **CITY**, whether for cause or convenience, then, effective upon the date of suspension or termination, the **CITY** shall be relieved of further payment obligations, and shall be liable for payment only for those goods and Services satisfactorily received prior to the date of suspension or termination. If the Contract is terminated, any pre-paid maintenance fees shall be refunded to the **CITY** to the date of termination on a pro-rated basis. If the Contract is mutually reinstated, then the **CITY** shall reassume its payment obligations.

5. Return or Destruction of Licensed Software

If this Contract is terminated, whether for cause or convenience, and the right to continued use of the Software and Software Materials under the conditions set forth herein is withdrawn, then all Software and Software Materials must be returned to **CONTRACTOR**, or if so requested in writing by **CONTRACTOR**, destroyed. Within one (1) month after the date of cessation or termination of any license granted hereunder, the **CITY** will furnish to **CONTRACTOR** if requested, a certification that through the **CITY**'s best efforts and to the best of the **CITY**'s knowledge, the original and all copies of the Software and Software Materials received from **CONTRACTOR** or made in connection with such license have been returned or destroyed. This requirement will apply to all copies in any form, including translations, whether partial or complete, and whether or not modified or merged into other Software Materials as authorized herein.

6. Payment

6.1. Fees enumerated in Schedules B through E are summarized in Schedule F herein.

6.2. Payment for all deliverables shall be made in accordance with the terms set forth in Schedule F herein.

6.3. Payment in full on all invoices is due according to the terms of this contract or within 30 days of the invoice date, whichever date is later. Within twenty (20) days of receipt of the invoice, the **CITY** may serve **CONTRACTOR** with written notice disputing any charge. If the dispute is not resolved within twenty-five (25) days of receipt of said written notice, then either party may file for arbitration.

6.4. In the event that payment is not made in full according to the specified terms, a service charge will be added to the undisputed balance after deducting all payments and credits. For any payment considered past due and undisputed by the **CITY**, the **CITY** agrees to pay interest at 1% per month (effective annual rate of 12%) on the unpaid balance or the highest rate permitted by law, whichever is less.

6.5. If failure to pay according to the terms of this Contract causes this account to be assigned for collection, or causes legal action to be taken, the **CITY** agrees to pay all costs of collection incurred by **CONTRACTOR**, including court costs and reasonable attorney fees, if the **CITY** is found to be at fault.

6.6. In the event the Operational Date is other than the first day of the month, maintenance and subscription service fees will be pro-rated accordingly.

- Subscription service fees are subject to change annually, such change commencing one (1) year from the Operational Date and effective upon one hundred and twenty (120) days written notice to the **CITY**.

- Maintenance fees are subject to change annually, such change commencing two (2) years from the Operational Date and effective upon one hundred and twenty (120) days written notice to the **CITY**.

If the charge for any service provided under this Contract is increased by **CONTRACTOR**, the **CITY** may, with ninety (90) days prior written notice, terminate this Contract upon the effective date of such increase. Otherwise the new charges will become effective upon the date specified in the notice.

6.7. **CONTRACTOR** reserves the right to offer new goods and/or services at any time during the initial or extended term of this Contract. Where such goods and/or services involve a one-time and/or an ongoing fee, **CONTRACTOR** shall provide the **CITY** with ninety (90) days written notice of any such offer.

7. <u>Licenses</u>

7.1 **CONTRACTOR** and the **CITY** agree that the following terms and conditions will apply to any **CITY** order for **CONTRACTOR** licensed Software programs and Software Materials that is accepted by **CONTRACTOR**. **CONTRACTOR** will (1) furnish such licensed Software and Software Materials to the **CITY**; (2) grant to the **CITY** a non-transferable, non-exclusive, and non-sublicenseable license to use the Software and Software Materials; (3) provide Software Service and maintenance, as described herein.

7.2. Each license granted under this Contract authorizes use of the licensed Software and Software Materials by the **CITY**(s) specified herein. The **CITY** may not rent or lease the Software to any other entity, or use the Software as part of a commercial time-sharing, subscription bureau or service bureau operation.

7.3. All licensed Software, including any subsequent updates purchased and any part thereof, may only be used on the system server(s) or hardware configuration purchased from, or authorized by, **CONTRACTOR**, and in such quantities as may be determined under Schedule C herein. POLARIS ILS server Software may be run on one Production server and on one or more Training servers. The Client Software is for the use of the **CITY** with no implied rights to distribute beyond reasonable use for **CITY** functions. Following **CONTRACTOR**'s written authorization, all licensed Software may be copied, in whole or in part, only for use on the system server(s) or specified hardware configuration.

7.4. No title to or ownership of the Software or Software Materials is transferred to the **CITY**, and they remain the proprietary property of **CONTRACTOR**.

7.5. The **CITY** shall not allow the Software or any portion thereof to be reverse compiled, disassembled, or in any way altered. The **CITY** shall not modify any licensed Software in machine-readable form nor merge such Software with other Software programs. The **CITY** may customize Software Materials and on-line help files, but **CONTRACTOR** disclaims any responsibility for their maintenance.

7.6. The **CITY** must notify **CONTRACTOR** of the **CITY**'s intention to change the designation of the location at which licensed Software is to be used. The change of designation will be effective upon the date set forth in the notice confirming the change in designated location

furnished to the **CITY** by **CONTRACTOR**.

7.7. **CONTRACTOR** may terminate all proprietary licenses granted hereunder and require return of the Software and Software Materials upon written notice to the **CITY** if the **CITY** fails to comply with these terms and conditions.

8. <u>The CITY's Responsibilities</u>

8.1. The **CITY** acknowledges the network and workstation requirements set forth under Section 2, Schedule G herein, and will assume responsibility for purchasing, installing, configuring and maintaining all other hardware components necessary, including but not limited to:

- Production Server (minimum specifications listed under Schedule H herein)
- Test/Training Server (minimum specifications listed under Schedule H herein)
- PAC Server (minimum specifications listed under Schedule H herein)
- Phone Notification Server (minimum specifications listed under Schedule H herein)
- Domain Controller
- network components,
- PC Workstations,
- Scanners,
- Printers,
- Uninterruptible Power Supplies,
- cables,

except where such components are sold by **CONTRACTOR** as a part of this Contract or are included under Installation Services as listed in Schedule D herein. The **CITY** will also assume responsibility for determining, in consultation with **CONTRACTOR**, the viability of existing hardware components in conjunction with the System.

8.2. The **CITY** will provide a staff member as system administrator. If appropriate, based on the size and complexity of the system, a second staff member should be designated as PC/network administrator. Experience with Windows 2000/2003 and SQL is an advantage but not a requirement. The following are areas in which the staff member (s) will be expected to be knowledgeable following implementation and training:

- Installation, booting and basic troubleshooting of Windows 2000/2003
- Fault tolerance and backup/recovery
- Security, user/group management
- Server management, licensing, registry management, remote access
- Network configuration/management in a TCP/IP environment (WINS,DNS,DHCP)
- Server-based tools for Win9x and NTWS
- Network Client Administration

The **CITY** shall designate no more than these two (2) key personnel for special training in the use of the System. Should either assignment change, the **CITY** shall promptly inform **CONTRACTOR**. Training will be scheduled as mutually agreed by both parties. The key personnel shall be **CONTRACTOR**'s sole point(s) of contact with the **CITY** following execution of this Contract.

8.3. The **CITY** will accept responsibility for all server operations, including, but not limited to, regularly scheduled backups, server configuration updates, system software upgrades

subject to **CONTRACTOR**'s Contract, installation and maintenance of current service packs and security patches, and Software updates pursuant to Article 8.5. Failure by the **CITY** to administer server operations may result in written notice from **CONTRACTOR** to limit, or withhold, its maintenance Services if, following a thirty (30) day cure period, the **CITY**, in **CONTRACTOR**'s reasonable opinion, is unable to provide a satisfactory performance level for server operations. Written notice shall identify all alleged deficiencies in server operations. **CONTRACTOR** shall resume its maintenance service when, in **CONTRACTOR**'s reasonable opinion, server operations are resumed to a satisfactory performance level. **CONTRACTOR**'s approval will not unreasonably be withheld.

8.4. The **CITY** will provide **CONTRACTOR** with reliable and immediate remote access to the POLARIS ILS System. This access must be sufficient, in **CONTRACTOR**'s reasonable opinion, to satisfy the implementation and on-going performance requirements and warranties set forth under this Contract. At its sole discretion, the **CITY** may provide **CONTRACTOR** with access to Third-Party hardware components in the event one or more of those components adversely affect the performance of the POLARIS ILS System. Access should be provided via the Internet through Port 3389 on the **CITY**'s firewall. Failure by the **CITY** to provide minimal access via the Internet may result in unresolved performance issues and may suspend **CONTRACTOR**'s obligations with respect to on-going performance requirements and warranties until resolved. The **CITY**'s failure in this regard should not be considered just cause for delaying the setting of an Operational Date, as specified in article 1.5 herein.

8.5. The **CITY** will accept responsibility for the installation, performance and maintenance of all Third-Party hardware/software components on the POLARIS ILS System that are not supplied by **CONTRACTOR** under this Contract.

8.6. The **CITY** will provide **CONTRACTOR** with remote access to the **CITY**'s current integrated library system to allow **CONTRACTOR** to perform the data extraction(s) service as listed under Schedule B herein.

8.7. The **CITY** will accept responsibility for the data concerning the **CITY**'s system profile and system parameters that it has provided to **CONTRACTOR** based on guidelines for the profile and parameters set by **CONTRACTOR**. **CONTRACTOR** agrees to provide prompt written notice of any material discrepancy of which it becomes aware between data provided by the **CITY** and data required for effective functioning of the Software.

9. Site Preparation

It is understood and agreed that the aforesaid fees do not include any site preparation or installation costs except as described in Schedule D, Services. The **CITY** shall, at its own expense, prepare the site to house the hardware in accordance with the installation specifications presented in **CONTRACTOR**'s Proposal or supplied to the **CITY** immediately following contract signing. Pursuant to those specifications, the **CITY** shall provide suitable electric service for operation of the Hardware and a reliable connection to the network via the Internet. The **CITY** is also solely responsible for preparing an

environment free of any and all impediments, including, but not limited to, asbestos, hazardous materials, and/or hazardous conditions, that may interfere with **CONTRACTOR**'s ability to perform a successful and timely installation of the System components. Site preparation shall be completed by the **CITY** within forty-five (45) days of contract signing.

10. Privacy of Data

CONTRACTOR agrees not to use patron details such as names, addresses, etc., for any purpose other than providing requested service to the **CITY** and agrees not to transmit **CITY** data to any third party, except as requested by the **CITY**.

11. Protection and Security

11.1. The **CITY** will take appropriate action, by instruction, Contract or otherwise, with any persons permitted access to licensed Software so as to enable the **CITY** to satisfy its obligations under Article 7 herein.

11.2. All licensed Software Materials contain **CONTRACTOR** proprietary information, use of which is limited by the licenses granted in this Contract. The **CITY** will not disclose or otherwise make available, except as required by law, any licensed Software Materials in any form to any third party except to the **CITY**'s employees, or to agents directly concerned with licensed use of the program. Subject to the limitations of this article, the **CITY** may make additional copies of the Software Materials.

12. Warranty

12.1. **CONTRACTOR** warrants that **CONTRACTOR** has the right to license the Software listed in Schedule C, POLARIS ILS Software Licenses hereunder. **CONTRACTOR** further warrants that the Software will perform substantially in accordance with **CONTRACTOR**'s Response to the **CITY**'s Request for Proposal and with the Software Materials in effect when shipped to the **CITY**. **CONTRACTOR** agrees to make reasonable efforts to correct all reproducible material errors in the Software and discrepancies between the Software Materials and the actual Software performance, contingent upon the **CITY** advising **CONTRACTOR** of such errors within one (1) year from delivery. **CONTRACTOR** disclaims any responsibility for the use or function of the Software beyond the parameters set forth in the Software Materials. Pursuant to, but not limited by, Paragraph 12.2 herein, **CONTRACTOR** does not warrant that the operation of the licensed program will be uninterrupted or error-free or that all program defects will be corrected. In addition, due to the continual development of new techniques for intruding upon and attacking networks, **CONTRACTOR** does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY OTHER TYPE WHETHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL.

12.2. Pursuant to Article 8.5 herein, **CONTRACTOR** disclaims any responsibility for correcting any adverse effects on either the performance or operation of the POLARIS ILS System, or on the individual components of said System, as a result of the **CITY**'s use of (a) Third-Party hardware or software, and/or (b) databases and networks external to the POLARIS ILS System, in conjunction with the POLARIS ILS System except where such Third-Party hardware or software has been approved by **CONTRACTOR** in writing prior to its installation, or has been provided by a **CONTRACTOR** business partner. **CONTRACTOR** may provide consultation Services or diagnostic support relating to the **CITY**'s use of such Third-Party hardware and software, external databases and networks, and shall reserve the right to charge, at the rate of $200 per hour with a minimum $400 charge. Assistance by **CONTRACTOR** staff in the re-building of server due to virus or "hacker" intrusion will be billed at $500 per server.

13. <u>Software Maintenance and System Support</u>

13.1. Telephone support and general release updates for the Software will be provided as part of the annual Software Maintenance fee. Service coverage and limitations are set forth under Schedule E herein.

13.2. Software updates will be made available periodically. **CONTRACTOR** shall have full discretion as to the timing and content of Software updates during the term of this Contract. Failure to release Software updates during any specific term does not constitute default on the part of **CONTRACTOR** because of the continuation of the right to use telephone support and other support-related Services. Given the complexity of the library automation environment, including such factors as evolving standards, developmental tools, and market demands, **CONTRACTOR** reserves the right to modify its development plan for future releases for the best interests of its current customers, its organization (from a support perspective) and future marketability.

13.3. **CONTRACTOR** and the **CITY** will accept mutual responsibility for implementing Software updates. All mandatory Software updates must be installed within one (1) year of their release to insure proper program performance and continued support. In conjunction with Article 8.3 herein, failure by the **CITY** to install Software updates within the agreed time frame may result in the termination of program service and maintenance, or in the increase of program service and maintenance fees where appropriate.

13.4. Each type of program service and maintenance specified will be available unless discontinued by **CONTRACTOR** upon one hundred and eighty (180) days written notice.

13.5. **CONTRACTOR** reserves the right to charge at $200 per hour with a minimum $400 charge for any additional effort that results from providing Services for a licensed program altered by the **CITY**.

14. <u>Patent and Copyright</u>

14.1. **CONTRACTOR** will defend the **CITY** against any claim that licensed Software and/or Software Materials furnished and used within the scope of the license granted herein infringe a U.S. patent or copyright and **CONTRACTOR** will pay resulting costs,

damages and attorney fees finally awarded, provided that: (a) the **CITY** promptly notifies **CONTRACTOR** in writing of the claim, and (b) **CONTRACTOR** has sole control of the defense and all related settlement negotiations.

14.2. If such claim has occurred, or in **CONTRACTOR**'s opinion is likely to occur, the **CITY** agrees to permit **CONTRACTOR** at its option at no additional expense to the **CITY** either to procure for the **CITY** the right to continue using the licensed Software and/or Software Materials, or to replace or modify the same so that they become non-infringing. If neither of the foregoing alternatives is reasonably available, the **CITY** agrees on one (1) month's written notice from **CONTRACTOR** to return or destroy all copies of the licensed Software and/or Software Materials received from **CONTRACTOR** and all copies thereof, and to receive a refund for any monies paid for said licensed Software and/or Software Materials, exclusive of any periodic maintenance fees.

14.3. **CONTRACTOR** shall have no obligation to defend the **CITY** or to pay costs, damages, or attorney's fees for any claim based upon the **CITY**'s use of licensed Software that has been altered by the **CITY** without **CONTRACTOR**'s express permission and in direct breach of Article 7.5. herein.

14.4. The foregoing states the entire obligation of **CONTRACTOR** with respect to infringement of patents or copyrights.

15. <u>Limitation of Remedies</u>

15.1. For any claim concerning performance or non-performance by **CONTRACTOR** pursuant to or in anyway related to the subject matter of this Contract and any supplement hereto, the **CITY** shall be entitled to recover actual damages to the limits set forth in this section. No action, regardless of form, arising out of this Contract, may be brought by either party more than two (2) years after the cause of action has arisen.

15.2. **CONTRACTOR**'s maximum aggregate liability, whether for breach of contract, breach of warranty or in tort, including negligence, will be limited to a maximum of all monies paid for the Software, exclusive of any maintenance fees. **CITY**'s maximum aggregate liability, whether for breach of contract or in tort, including negligence, will be limited to a maximum of all monies which would be due for the balance of the pending annual contract term yet to be completed.

15.3. This limitation of liability will not apply to Articles 14 and 25 herein, or to claims for personal injury to the extent caused in whole or in part by **CONTRACTOR**'s negligence.

15.4. IN NO EVENT WILL CONTRACTOR BE LIABLE FOR ANY DAMAGES ARISING FROM THE USE, OPERATION, OR MODIFICATION OF THE SYSTEM BY THE CITY, OR FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES, EVEN IF CONTRACTOR HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES.

16. Waiver of rights

The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

17. Severability

If any provision of this Contract is invalid, illegal or unenforceable under any applicable statue or rule of law, it is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.

18. Headings

The headings of the various Paragraphs and Subparagraphs herein are for convenience only and shall not control or affect the meaning or construction of any provisions of this Contract.

19. Saving Clause

Typographical errors are subject to correction.

20. Taxes not included

The charges shown on this Contract do not reflect applicable state and local taxes that may be added to the amounts shown at the time of invoicing.

21. Whole Contract

This Contract and the documents listed below which are defined in aggregate as the Contract Documents constitute the entire Contract between the parties and supersedes all proposals, presentations, representations, and communications, whether oral or in writing, between the parties on this subject. Neither party shall be bound by any warranty, statement, nor representation not contained herein. The signatories acknowledge reading and agree to comply with all terms and conditions. In the event of an inconsistency in the provisions of this Contract or a dispute as to a subject not specifically addressed by this Contract, the following documents shall be consulted to resolve the dispute in the following order of precedence:-

1. This Contract;
2. **CONTRACTOR**'s Response, dated August 24th, 2007, to the **CITY**'s Request for Proposal;
3. The **CITY**'s Request for Proposal FP700052;

22. Force Majeure

Any delay or nonperformance of any provision of this Contract caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Contract, provided that the delayed party has taken reasonable measures to notify the other of the delay in writing. The delayed party's time for performance shall be deemed to be extended for a period mutually agreeable to both parties. Conditions beyond a party's reasonable control include, but are not limited to, natural disasters, acts of government after the date of the Contract, power failure, fire, flood, acts of God, labor disputes, riots, acts of war and epidemics. Failure of subcontractors and inability to obtain materials shall

not be considered a condition beyond a party's reasonable control. This provision does not relieve the **CITY** of its obligation to make payments then owing.

23. <u>Amendments</u>

Amendments and modifications to all, or any part, of the Contract and to the appendices and referenced attachments, may be made, and shall be binding, only if in writing and signed by duly authorized representatives of both parties.

24. <u>Funding</u>

CITY represents that funding has been appropriated sufficient to purchase the deliverables set forth in the Schedules attached to this Contract.

Schedule A
Library Statistics

1.	Estimated Number of Patrons		150,000
2.	Estimated Number of Items		914,366
3.	Estimated Number of Titles		397,662
4.	Estimated Number of Authority Records		N/A
5.	Items Issued Annually		2,000,000
6.	Estimated Number of Concurrent Workstations/In-bound Internet (total of categories below)		163
		#1	
6.1	Staff Client Licenses:	x 106	
6.2	Dedicated PAC workstations:	x 57 (Unlimited licenses)	

7. Name and address for central server location:

   Wichita Public Library (Central)
   223 South Main
   Wichita, KS 67202

8. Other Locations:

   Lionel D Alford Branch
   Maya Angelou Northeast Branch
   Comotara Branch
   Evergreen Branch
   Linwood Park Branch
   Orchard Park Branch
   Planeview Community
   Ford Rockwell Branch
   Westlink Branch

Schedule B
Database Services

1. Data Migration

Number of MARC Records:	397,662
Number of Item Records:	914,366
Number of Patron Records:	150,000

Source: Dynix Classic

	Total Cost
Bibliographic and Authority Record Migration /Load – 397,662 records	$4,800
Item Record Migration/Load – 914,366 records	$10,800
Patron Record Migration/Load – 150,000 records	$3,200
Circulation Transaction Migration/Load (includes reserves and patron account information)	$11,200
Dynix Classic Data Extraction	$4,000

Total – Database Services	**$34,000**

Schedule C
POLARIS ILS Software Licenses

Pursuant to Exhibit B, Paragraph 12.1 herein and subject to the terms and conditions of this Contract, **CONTRACTOR** will grant non-transferable and non-exclusive licenses for the following Software for use by the **CITY**.

		Total Cost
1.	POLARIS ILS server Software *Includes: POLARIS ILS Database, Z39.50 Server, SMTP for email notification, Remote Patron Authentication, System Administration, System Reports.*	$50,000
2.	Polaris ILS Test/Training Server License x 1	N/C
3.	Client Software *Includes: Find Tool, Acquisitions, Serials, Cataloging, Circulation, Z39.50 Client, PowerPAC.* Total Staff Licenses: - 106	$74,200
4.	Unlimited PowerPAC/Internet access licenses	N/C
5.	Spanish language interface to PAC (Site License)	N/C
6.	Children's interface to PAC (Site License)	N/C
7.	Phone Notification – Outbound/Inbound x 4 lines	$12,000
8.	Self-Check interface x 3 units	$1,500
9.	Collection Agency interface to Unique Management Services	$7,500
10.	Outreach Services	$5,000
11.	SimplyReports x 5 users	$7,500
12.	Polaris Inventory Manager x 1	$2,000
13.	POLARIS ILS Software Materials – Complete set of Polaris ILS documentation on CD + one set of User Guides	N/C
Total - POLARIS ILS Software Licenses		**$159,700**

Schedule D
Services

1. Implementation Services

Overview
CONTRACTOR shall provide implementation services involving project consultation and training. These services shall include, but are not limited to:

- Assigning an Implementation Manager whose role will be to work in conjunction with the **CITY** during the implementation phase of the contract.
- Providing trainers to instruct the **CITY** on the operation of the POLARIS ILS application/system administration consistent with the provisions set forth below.

Purpose of the Implementation Site Visit
CONTRACTOR's Implementation Manager will schedule a two-day site visit to the **CITY** to discuss:

- Policy file creation
- Data migration issues
- Project planning
- Implementation Process
- Staff Client System Administration

The Implementation Site Visit requires the participation of the **CITY**'s System Administrator as well as representatives from each of the **CITY**'s administrative units involved or affected by the implementation of POLARIS ILS.

Training Philosophy and Fees
Train-the-Trainer Approach: **CONTRACTOR**'s approach to training is to thoroughly train a core group (numbers indicated below) at the customer site. This core group will receive in-depth training on the various subsystems. This core group will, in turn, train the remainder of the **CITY** staff. System Administration training is offered as a three-day session at **CONTRACTOR**'s headquarters in Syracuse, NY.

Prerequisites: Prior training on Windows 98, Windows XP Professional and/or Windows NT/2000 is required for all trainees. Up to ten (10) trainees allowed at each training session. Training materials will be provided for each session. Additional training days can be contracted for at a cost of $1,650 per trainer per day including expenses. Training should take place in a room away from public areas and have the capacity to hold the number of trainees (up to 10) and the **CONTRACTOR** trainer. It is strongly recommended that each trainee have the use of a **CITY** workstation with the POLARIS ILS Staff client software installed.

Implementation Manager site visit and on-site training will be charged in whole days at $1,650 a day for each **CONTRACTOR** staff member, all expenses included.

Project Consultation:
2 Days On-Site Project Implementation Visit (including expenses) $3,300

- Policy File Creation, Data Migration, Project Planning
- Implementation Process, Staff Client System Administration

POLARIS ILS Application Training/Consultation:
7 Days on-site training covering the following subsystems (including expenses) $11,550
(To occur after system installation and initial database load)
Up to ten (10) trainees allowed per session.

- PAC
- Patron Services
- Cataloging
- Acquisitions
- Serials
- Workflow

POLARIS ILS System Administration:
3 Days Syracuse-based training covering the following: $3,300

- POLARIS ILS System Administration Interface (Prerequisite: Windows 2000 Operations)
- POLARIS ILS Database Structure and Reports
- Database Maintenance, User Management, Client Installation
- Basic SQL and Report Authoring

Cost quoted applies to 2 **CITY** staff members at $550 per day per person
All CITY staff travel expenses are the responsibility of the CITY.

EDI Vendor Set-up/Training:
3 Vendors listed in the Request for Proposal $3,000
Set-up - $1,000 per approved vendor
Annual maintenance - $250 per approved vendor
(Vendors: Book Wholesalers, Inc.; Brodart; Ingram)

Sub-Total: Implementation Services	**$21,150**
(includes all CONTRACTOR personnel expenses)	

Optional Service

- additional days follow-up training/consultation: to address workflow efficiencies, new functionality, outstanding questions @1,650 per day inc. expenses.

2. Installation.

2.1 The installation fee for server Hardware and Software covers the integration, configuration, and installation of all server Software, the staging of all server Hardware, and the on-site integration of the server Hardware. Said services will be performed initially at **CONTRACTOR**'s offices and subsequently on-site by **CONTRACTOR** technicians at the rates set forth below. Any additional days that are required on-site as a result of the failure of non-**CONTRACTOR** equipment will be charged at $1,650 a day including expenses. The **CITY** will be responsible for the physical installation of the servers.

Server and server Software - Installation and On-site Integration:

- Production server	$1,500
- Test/Training Server	$750
- PAC Server	$750
- Phone Notification Server	$750
On-site integration of servers (includes travel expenses)	$3,800

Sub-Total: Installation POLARIS ILS servers & server Software $7,550

Total: Implementation and Installation Services $28,700

For servers purchased or provided by the **CITY**, the installation fees are as follows:-

- Production server	$1,500
- Other servers (e.g. Training server, PAC server, Phone Notification server)	$750 each

Optional Pre-Production Integration Service: POLARIS ILS Training server Hardware

On-site integration of Training server Hardware is an optional service offered by **CONTRACTOR**. Only the actual travel expenses incurred would be charged.

3. Subscription Service.

CONTRACTOR is a reseller for Syndetic Solutions, which offers enriched content for display in the PAC, including tables of contents, first chapters, full color cover images, reviews, etc. Pricing for Syndetic Solutions is an annual subscription, based on annual circulation statistics. Price increases may occur on an annual basis, at the time of subscription renewal. The **CITY**'s reported annual circulation is 2,000,000. Based on this

figure, the first-year annual subscription would be set as follows (the **CITY** may de-select elements as required to the minimum annual rate of $550):

Component	**Annual Cost**
Table of Contents	$880
Fiction Profile	$760
Find Similar Titles (must buy Fiction Profile)	$760
Series Information	$960
Cover Images	$1,160
First Chapters/Excerpts	$640
PW Review (includes Criticas Review)	$960
LJ Review	$960
SLJ Review	$960
Booklist Review	$960
Horn Book Review	$960
Kirkus Review	$960
Spanish	$720
Video & Music 1	$960
Total Annual Subscription Fee	**$12,600**

Note: Annual Subscription Fee will become due on the Operational Date of the system.

Schedule E
Software Maintenance and System Support

1. Telephone diagnostic service: is available during the following hours: 8:30am – 8:00pm, Eastern Standard Time, Monday through Friday, excluding standard **CONTRACTOR** holidays. From 8:30-5:00pm Eastern Standard Time customers will be able to call Customer Support and reach their Site Manager or Technical Support Specialist. From 5:00pm-8:00pm Eastern Standard Time customers will reach the Site Manager or Technical Support Specialist working at **CONTRACTOR** headquarters that night. At 8:00pm the phones will be transferred to the answering service. Emergency referrals from **CONTRACTOR**'s Operations Center to on-call personnel will be available 24 hours per day, 7 days per week. Emergency assistance is limited to work in correcting problems which impact critical functionality of the System. Software service calls that cannot be solved immediately will be referred to specialists within the Operations Center. Services performed by **CONTRACTOR** beyond the scope of those services listed in 2.1, 2.2. and 2.3. below, or beyond the limitations listed in 3.1., 3.2. and 3.3. below, will be billable at the rate of $200 an hour with a minimum $400 charge.

2. Software maintenance covers:
   2.1. trouble-shooting of any POLARIS ILS Software related problem;
   2.2. provision of updates to the latest version of the POLARIS ILS Software;
   2.3. support for SQL Reports interface with POLARIS ILS Software;

3. Service limitations:
   3.1. no on-site Software support service is included under this Contract. Any on-site service requested by the **CITY** will be provided at **CONTRACTOR**'s per-call rates and terms then in effect.
   3.2. service will not be provided as a result of:
      - fault or negligence on the part of the **CITY**;
      - failure of Third-Party hardware/software;
      - operator error that deviates from standard operating procedures as described in the Software Materials;
      - data loss and/or corruption as a result of any hardware failure
   3.3. Software support service does not include:
      - server operating systems;
      - client operating systems;
      - Third-Party PC software;
      - network/communications software;
      - web server/browser software (except where supplied by **CONTRACTOR**);
      - PC trouble-shooting;
      - virus protection, detection or removal; or repair of damage incurred through the infection of a virus;

4. Software Maintenance Fees:		Annual
4.1	POLARIS ILS server Software	$9,000
4.2	POLARIS ILS Test/Training server	N/C
4.3	POLARIS ILS client Software	$13,356
4.4	Unlimited PowerPAC/Internet License	N/C
4.5	Spanish interface to PAC	$900
4.6	Children's interface to PAC	$650
4.7	Phone Notification	$2,160
4.8	Self-Check	$270
4.9	Collection Agency	$1,350
4.10	Outreach Services	$1,200
4.11	SimplyReports x 5	$1,875
4.12	Polaris Inventory Manager	$500
4.13	Polaris ILS Software Materials	N/C
4.14	EDI Vendor setup ($250 x 3)	$750

Total: Annual Software Maintenance and System Support Fee. Commencing one (1) year from the Operational Date	**$32,011**

Schedule F
Payment Schedule

System Costs	Purchase Price
Database Services (Schedule B)	$34,000
POLARIS ILS Software Licenses (Schedule C)	$159,700
Services (Schedule D)	$28,700
Sub-Total: System Cost	**$222,400**
Less Discount	**($48,928)**
Total: System Cost	**$173,472**

1. Payment on Delivery and Acceptance

1.1 Services (Schedule D) $28,700

2. Payment for Database Services

2.1 Total Cost (Schedule B) $34,000
Payment for this cost to be made as follows:
50% upon acceptance of test load $17,000
50% upon acceptance of final load $17,000

3. Payment for Hardware and Software

3.1 Sub-Total Costs (Schedule C) $159,700
Less Discount ($48,928)
Total Costs $110,772

Payment for these costs to be made as follows:-
25% due upon signing the Contract $27,693.00
40% due upon completion of Hardware/Software delivery $44,308.80
25% due upon Operational Date $27,693.00
10% due 90 days after Operational Date $11,077.20

Annual Payments to Commence on the Operational Date

4.1. Subscription Service Enhanced Data Content PAC (Schedule D) $12,600

Annual Payments to Commence One (1) Year from the Operational Date

5.1. Software Maintenance and System Support (Schedule E) $32,011

Schedule G
Additional Considerations

1. Returned Goods Authorization.

1.1 Goods mistakenly configured or shipped by **CONTRACTOR** will be picked up at **CONTRACTOR**'s expense and a full credit will be applied to the customer's account. In order to assure the timely handling of your return, a Returned Materials Authorization number must accompany all returns.

1.2 Goods mistakenly ordered by the **CITY** may be returned within 30 days of sale. If the return is in its original packaging and fit for resale as new, the **CITY**'s account will be credited for the selling price less a 20% restocking fee and less any shipping and handling charges. The **CITY** must obtain a Returned Materials Authorization number and ship the return at their own expense, including insurance for the replacement value of the return. If the return is lost in shipment, the **CITY** remains liable to **CONTRACTOR** for the full purchase price as invoiced and must collect from the carrier or insurer. If the return is shipped to **CONTRACTOR** without a Returned Goods Authorization, an additional tracing fee may be deducted from the value of the return. If the return is in a condition that prevents its resale as new, the **CITY** will receive credit only for the value as determined by **CONTRACTOR** for use as maintenance spares or for sale as used equipment. Software licenses, barcode labels and all custom goods are not returnable.

2. Network and Workstation Requirements

The POLARIS ILS system is based on TCP/IP protocols over an Ethernet network, and uses industry standard techniques and technology for networking. POLARIS ILS network topologies and protocols include powerful Ethernet 10BaseT and 100BaseT local area networks, high-speed fiber links, and wide-area digital communications, running a variety of protocols, including TCP/IP. **CONTRACTOR** supports Ethernet LANs using TCP/IP. All existing network hardware components must be TCP/IP compatible and manageable. POLARIS ILS is a PC-based system requiring Staff workstations running under Windows XP Pro or Vista. For a PC Workstation running under Vista, the memory requirement is a minimum of 1GB, with a separate video card with 128MB memory (not shared memory). Existing dumb terminals cannot be re-deployed. MACs with Ethernet cards and Internet Explorer capability may also be used as PAC workstations. The required wiring is Category 5 (802.3 Ethernet compliant), capable of handling bandwidth from 10Mbps to 100Mbps. Analog equipment is not compatible with the network. As an additional service, the **CITY** may contract with **CONTRACTOR** for detailed network plans, including design criteria, hardware, and pricing at the then current rates.

3. Ownership of Data

CONTRACTOR acknowledges the **CITY**'s ownership of the various databases installed upon the System. Upon termination of this Contract by either party, or upon conclusion of the Contract term, **CONTRACTOR** agrees to assist the **CITY** in extracting all **CITY**-owned data from the System. Such assistance shall include personnel time and

CONTRACTOR's best efforts, provision of documentation regarding the format and contents of the extracted data, verification that extracted data is complete and in a form suitable for use by the **CITY**, and other assistance necessary for the extraction of data. Such assistance shall be provided by **CONTRACTOR** at no charge to the **CITY** if termination of this Contract by the **CITY** comes as a direct result of a breach, by **CONTRACTOR**, of any of the terms and conditions set forth herein; in all other circumstances concerning termination, **CONTRACTOR** shall be entitled to charge the **CITY** at its then current rates for data extraction services, including any actual expenses for travel to **CITY**. The data shall include all contents of all files created, maintained, and owned by the **CITY**, including all bibliographic data, holdings data, patron data, in-process transaction data associated with circulation control, cataloging, acquisitions, serials control, and any other activity or subsystem in use by the **CITY**. Wherever standards such as MARC exist for the format of that data, **CONTRACTOR** will furnish such data in the standard format. Appropriate documentation shall be provided. These Services will not be delayed or withheld by **CONTRACTOR** in the event of any legal proceeding initiated by either party.

4. Minimum specifications for server hardware and server software:

Production Server - Rackmount

Quad Core Xeon 2.33GHz, 1333MHz CPUs, 8GB RAM, RAID

Hardware

Qty	Product Description
1	Dell PowerEdge 2900 Quad Core Intel Xeon 2.33 GHz, 1333MHz CPUs (4MB cache) 8GB 667MHz memory Rackmount, Dell Rapid Rails Redundant power supply No Monitor, No Keyboard, No Mouse DVD-ROM drive Floppy drive RAID controller Dual Ethernet NIC DAT72 tape backup (internal) (2) 36GB 15,000 rpm SCSI hot swap disks (System-RAID 1) (2) 36GB 15,000 rpm SCSI hot swap disk (Temp-RAID 1) (3) 36GB 15,000 rpm SCSI hot swap disks (Data-RAID 5) 4 Hour Same Day On-Site Response 24 x 7
1	Dell APC 1440VA UPS Rackmount

Backup Media

20	Backup Tapes

Software

1	Microsoft Windows 2003 Server R2 Enterprise License (P72-01871) (quoted cost requires the end-user to have an active Microsoft Academic Open License Contract)
1	Microsoft Windows 2003 Server Enterprise - Media (P72-01780)
1	Microsoft SQL 2005 Server per-processor License (228-03378)
1	Microsoft SQL Server 2005 – x32 Media (228-05236)
1	Microsoft SQL Server 2005 – x64 Media (228-05237)
106	Microsoft Windows 2003 Client Access License (R18-00210)
1	Brightstor ARCServe r11.5 w/media (BABWBR1150S00G4)
1	Brightstor ARCServe r11.5 SQL Agent (BABWBR1150S17G4)
1	WS_FTP Professional 2006

Annual maintenance on Brightor ARCServe is estimated at $350 after year 1.

Test/Training Server – 10 users - Rackmount

Dual Core Pentium D 2.8GHz CPU, 2GB memory, 160GB disk

Hardware

Qty	Product Description
1	Dell PowerEdge 860 Dual Core Intel Xeon 2.4GHz, 1066MHz CPU (4MB Cache) 2GB memory Rackmount, Dell Rapid Rails No Monitor, No Keyboard, No Mouse DVD-ROM drive Ethernet NIC (1) 80GB 7.2K rpm SATA disk (System/Temp DB) (1) 160GB 7.2K rpm SATA disk (Logs/Database) 3 Year On-Site Next Business Day Warranty
1	Dell 15” LCD Monitor

Software

1	Microsoft Windows 2003 Server License (P73-01871)
1	Microsoft SQL 2005 Server License (228-04471)
10	Microsoft SQL 2005 Server Client Access Licenses (359-01927)

PAC Server - Rackmount

Quad Core Intel Xeon 2.0GHz CPU, 4GB memory, 72GB disk

Hardware

Qty	Product Description
1	Dell PowerEdge 1950 Quad Core Intel Xeon 2.0 GHz, 1333MHz CPUs (2x4MB cache) 4GB, 667MHz memory Rackmount, Dell Rapid Rails No Monitor, No Keyboard, No Mouse DVD-ROM drive RAID Controller Ethernet NIC 73GB 15,000 rpm SCSI disk 4 Hour Same Day On-Site Response 24 x7
1	Dell APC 1440 AV UPS Rackmount

Software

1	Microsoft Windows 2003 Server R2 License (P73-01871)
1	Microsoft Windows 2003 Server - Media (P73-01780)

Phone Notification Server (4-line system)

Dual Core Pentium 2.8GHz CPU, 1GB memory, 80GB disk

Hardware

Qty	Product Description
1	Dell PowerEdge 860 Dual Core Intel Pentium D 2.8GHz CPU (2x2MB cache) 1GB memory Rackmount, Dell Rapid Rails No Keyboard, No Mouse, No Monitor Ethernet NIC DVD-ROM 80GB 7.2K rpm SATA disk 4 Hour Same Day On-Site Response 24x7
1	Dell APC 1440VA UPS Rackmount
1	Dialogic Board (4 port)

Software

1	Microsoft Windows 2003 Server License (P73-01871)

Agenda Item No. 25.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and Members of the City Council

SUBJECT: Library Computer Migration Project (All districts)

INITIATED BY: Library/ IT Departments

AGENDA: New Business

Recommendation: Approve the project.

Background: Since 1992, the Library has used integrated library automation systems from the Dynix Company to manage its materials inventory, customer accounts, library catalog and several corresponding technology features such as the TeleCirc automated calling and renewal system and HIP, the remote version of the library catalog. This system ceased ongoing development in 2002. On November 1, 2005, the City Council authorized staff to proceed with a migration to the Horizon system, designated by the SirsiDynix Company as the upgrade path for the Dynix system. The Library was in process of completing the migration when the company announced plans to suspend release of Horizon. Finding the vendor's proposed replacement product an unacceptable fit for the Library's needs, a request for proposals was released to all vendors in the library automation market. On November 8, 2007, the Staff Screening and Selection Committee selected Polaris as the company and system best able to provide integrated library automation services for the Wichita Public Library customers and staff.

Analysis: As technologies and information formats have changed, the Library has become increasingly dependent upon its integrated automation system as a foundation for providing customers with reliable and convenient access to library materials and services. The current Dynix system is based on outdated architecture with limited compliance to state of the art standards for database design and information exchange. The product has not been enhanced for nearly eight years and the quality and availability of technical support has diminished as libraries have moved away from this product to other systems. As a result, the Library has been limited in its ability to make complete use of a variety of technology efficiencies such as electronic ordering, full self-service access to public computers and materials checkout, multilingual catalogs, built-in remote patron authentication to enable out of library use of subscription databases by library customers, the ability to provide email notifications to customers when the library receives new materials in their author, subject or genre interests, etc. In contrast, the selected Polaris system is a third generation of automation technology that will enable the library to make use for all of the technologies the library desires but finds unavailable from Dynix as well as other enhancements to improve customer service and effectiveness. Because the company ensures compliance with all current information exchange protocols, the system will afford the Library expanded opportunities for interconnectivity with automations in use by other public, school and academic libraries. A recently released survey by Marshall Breeding, an expert in library automation systems, reported Polaris as the highest-rated integrated library system in terms of customer satisfaction with the product, the company, and the company's customer support.

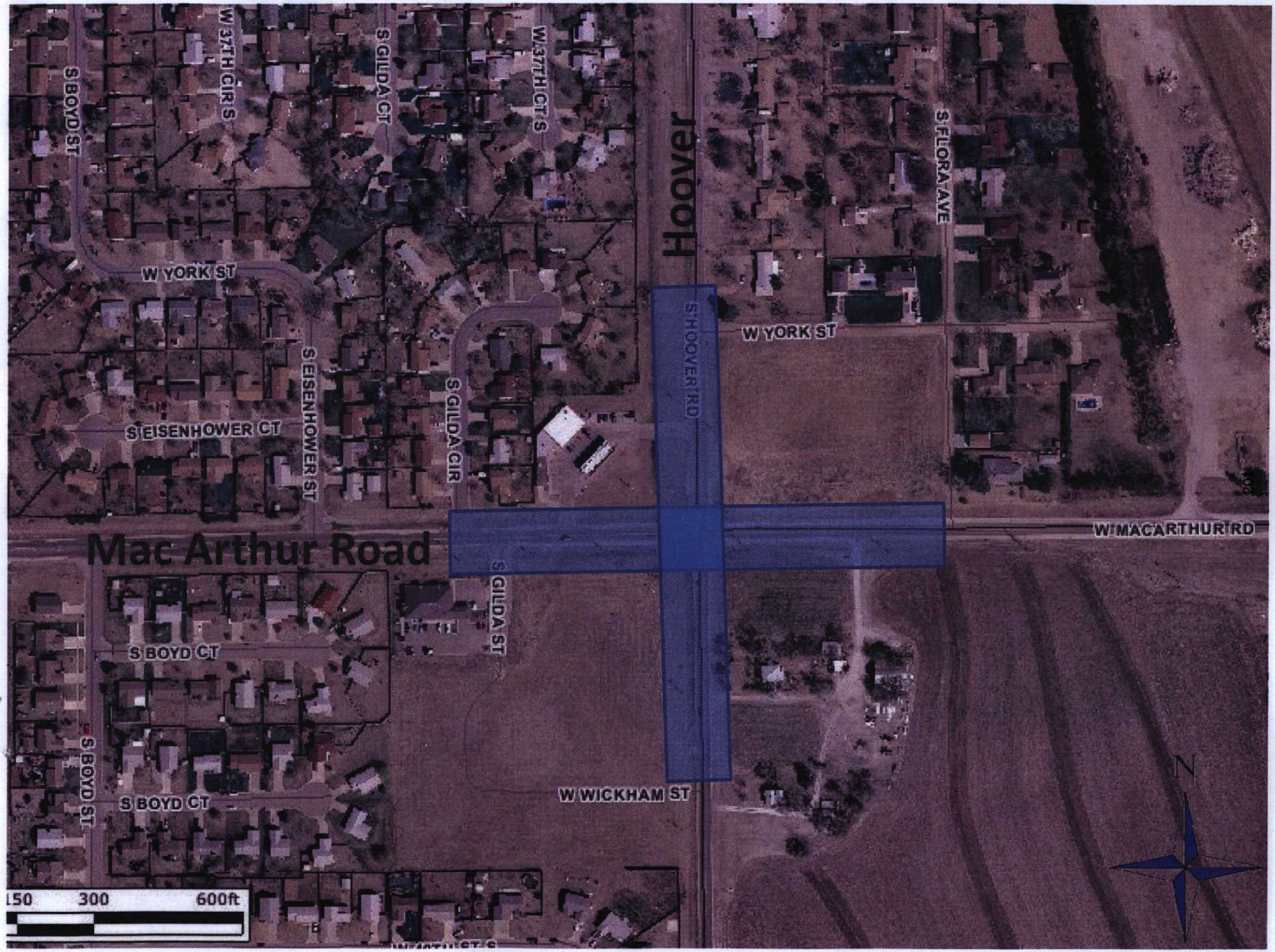
Financial Considerations: $117,400 of the original $230,000 project budget was expended to replace workstations and servers as work began on the Horizon migration. All of these pieces of equipment are compatible and can be used in an installation of the Polaris system. An additional $99,990 will be required to complete the project. Library grants will fund 60% of the project. The remaining balance will be funded by a loan from the IT Equipment Replacement Fund to be repaid by the Library over no more than a five-year period. Ongoing maintenance costs for the Polaris system are nearly identical to the current fees being paid for the Dynix system, so no additional general fund support for ongoing use of the system is needed.

Goal Impact: Completing migration to an integrated library system allows the Wichita Public Library to more effectively and efficiently conduct business, manage its print and electronic collections, streamline processes relating to customer use of technology and resource sharing with citizens and other libraries in the Sedgwick County as well as throughout Kansas, and to better integrate the ways changing formats and technologies are used to deliver library service. The outcomes from these changes impact the Quality of Life goal through ensuring a positive return on the City's quality of life investments in its library system and the Internal Perspectives goal through increased productivity and improved technology efficiencies.

Legal Considerations: The Internal Auditor has reviewed the work of the staff screening committee and confirms compliance with the City's vendor selection process. The proposed contract has been reviewed by the Department of Law and approved as to form.

Recommendation/Action: It is recommended that the City Council authorize staff to initiate the project, authorize the necessary signatures and the necessary budget adjustments.

Attachment: Proposed contract


Hoover
Mac Arthur Road
S BOYD ST
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S GILDA CT
W 37TH CT S
S FLORA AVE
W YORK ST
S HOOVER RD
S EISENHOWER CT
S EISENHOWER ST
S GILDA CIR
W MACARTHUR RD
S GILDA ST
S BOYD CT
W WICKHAM ST
150
300
600ft
N

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	**2. Initiating Division** Eng	**3. Date** 1/28/2008	**4. Project Description & Location** 2006-2007 Traffic Signal Program
5. CIP Project Number MS-200432	**6. Accounting Number**	**7. CIP Project Date (Year)** 2006-2007	**8. Approved by WCC Date**
9. Estimated Start Date As Required	**10. Estimated Completion Date** As Required	**11. Project Revised**	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals	$1,050,000			$1,050,000
Totals	$1,050,000			$1,050,000
Total CIP Amount Budgeted	1050000			1050000
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

Adds funding

472-84424

13. Recommendation: Approve the Project and adopt the amending Resolution

Division Head	Department Head	Budget Officer	City Manager
Jim Aumon	[signature]	[signature] Date	Date

Agenda Item No. 26.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: 2006 and 2007 Traffic Signalization Program (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the revised budget.

Background: On July 11, 2006, the City Council approved the 2006 and 2007 funding for the CIP Traffic Signalization Program. A priority list was established with the understanding that funding was not sufficient for all proposed project locations. The top four intersections were: 34th St. North at Woodlawn, Gatewood at 13th, Hoover at MacArthur and I-235 at north Meridian. Construction contracts have been awarded on 3 of the 4 intersections. Based on the 2007 bid prices, there was not sufficient funding for Hoover/MacArthur location. The Adopted 2007-2016 CIP provided an additional $350,000 for the 2006-07 signalization program, which will cover the needed improvements to the intersection of Hoover and MacArthur.

Analysis: The Hoover/MacArthur location improvement will consist of constructing left turn lanes at all four approaches to the intersection, which work is planned to begin this spring. The traffic signals will be installed in conjunction with the turning lane improvements. The project is being expedited so that a three-week street closure can occur with one week during spring break to minimize the impact on Oatville Elementary School morning and afternoon traffic.

Financial Considerations: The 2006 traffic signalization budget was $700,000. 34th Street North & Woodlawn and Gatewood & 13th were bid as one project for a total of $307,760. Signalization costs for I-235 & Meridian totaled $270,037. The two projects totaled $577,797 leaving $122,203 in the budget. Estimated project cost for Hoover & MacArthur is $400,000. The additional $350,000 is included in the 2007-2016 CIP, which will increase traffic signalization budget to a total of $1,050,000. The funding source for these improvements will be funded with General Obligation Bonds.

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

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

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

Attachments: Map, CIP Sheet and Resolution.

132019

Published in the Wichita Eagle on

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. **06-389** AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT **TRAFFIC SIGNAL SYSTEMS AT THE INTERSECTIONS OF 34TH ST. NORTH AT WOODLAWN, HOOVER AT MACARTHUR, GATEWOOD AT 13TH, I-235 AT SOUTH MERIDIAN, 135TH ST. WEST AT KELLOGG, 21ST AT GREENLEAF, PAWNEE AT WEBB AND K-96 AT OLIVER 472-84424.**

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

SECTION 1. SECTION 2 of Resolution **06-389** is hereby amended to read as follows:

"SECTION 2. The costs of the construction of the above described improvements is estimated to be $**1,050,000,** exclusive of the cost of interest on borrowed money. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds."

SECTION 2. The original of SECTION 2 of Resolution No. **06-389** is hereby rescinded.

SECTION 3. 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_____day of_____, 2008

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf
Director of Law

Agenda Item No. 27.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Mixed Martial Arts Event at Century II

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

- -

Recommendation: Approve the resolution for the Mixed Martial Arts Event at Century II.

Background: Promoter Sean Carpenter has requested usage of Century II for a Mixed Martial Arts event on May 10, 2008. State statute **74-50,189** requires a license from the Kansas Athletic Commission and the governing body of the city to adopt a resolution approving professional and amateur boxing, kickboxing, full-contact karate, and mixed martial arts.

Event staff investigated Mixed Martial Arts events that were held in Tulsa and Oklahoma City and received positive reports from the facilities where these events took place. In addition, Century II event staff inquired into the business references of Mr. Carpenter. Both references gave positive statements regarding Mr. Carpenter's business professionalism.

Analysis: Mr. Carpenter has successfully obtained a promoters license with the Kansas Athletic Commission to conduct professional and amateur Mixed Martial Arts. Mr. Carpenter has requested to lease Convention Hall at Century II to conduct this event on May 10, 2008.

Mr. Carpenter is expecting 2,000 attendees and will sign a facility use lease. Mr. Carpenter assured Century II that they would have a $1,000,000 liability insurance policy on file for the event. Event security will consist of six (6) uniformed police officers and six (6) t-shirt security personnel.

After Council action, Century II staff will finalize all other agreements and contracts for this event, to include not limited to the concessions and ticketing of this event.

Financial Considerations: Century II could expect approximately $3,000 in hall rental revenue from this event, plus additional revenues from concession, merchandise and ticketing sales.

Goal Impact: This project will impact the Quality of Life goal by providing a variety of entertainment options to citizens.

Legal Considerations: The City Attorney has approved the resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the resolution for Mr. Sean Carpenter to hold the Mixed Martial Arts Event on May 10, 2008 at Century II.

Attachments:
1. Kansas Athletic Commission Application for Mr. Sean Carpenter
2. Resolution

(First Published in The Wichita Eagle on _____)

RESOLUTION NO. _____

A RESOLUTION BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS APPROVING MIXED MARTIAL ARTS EVENT AT CENTURY II CONVENTION HALL.

WHEREAS, the City recognizes that substantial community benefits may result from community events. They can provide cultural enrichment, promote economic vitality and serve to promote downtown and community development.

WHEREAS, promoter Sean Carpenter, has requested the City to enter into a rental agreement to utilize Century II Convention Hall for a professional boxing/mixed martial arts event on May 10, 2008;

WHEREAS, the proposed event is required to be approved by City Council pursuant to K.S.A. 74-50,189.

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

1. The use of Century II Convention Hall for a professional boxing/mixed martial arts event promoted by Sean Carpenter to be held on May 10, 2008 under a rental agreement with the City is hereby approved.
2. This resolution shall be effective upon adoption by City Council.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this _____ day of _____, 2008.

_____

Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf
City Attorney

KANSAS ATHLETIC COMMISSIC
Department of Commerce
1000 SW Jackson, Suite 100
Topeka, KS 66612-1214
Phone: (785) 296-1913
Fax: (785) 296-6809

RECEIVED
DEC 2 0 2007
COMMERCE LEGAL

FOR OFFICE USE ONLY
DATE 12/20/07
LICENSE TYPE Matchmaker/promoters
LICENSE NUMBER KS005535
☐ RENEWAL ☒ NEW
ENTERED BY GM
DATE ENTERED 12/20/07

APPLICATION FOR PROMOTER'S LICENSE

The application fee for a Promoter's license is $400.00.

Upon issuance, the licensee is licensed to promote the following events in Kansas:

- Professional and Amateur Boxing
- Professional and Amateur Kick-Boxing & Full-Contact Karate
- Professional and Amateur Mixed Martial Arts

RECEIVED
DEC 2 0 2007
COMMERCE LEGAL

A Surety Bond, liability insurance, or evidence of indemnity coverage, in the amount of at least $5,000 must be attached in accordance with K.S.A. 74-50,196 to guarantee payment of athletic taxes and license fees.

Approved

In lieu of the above, the Promoter may submit a irrevocable letter of credit in the amount of $5,000 pursuant to K.A.R. 128-4-1(a).

A check or money order for the license fee, payable to the Kansas Athletic Commission, must be submitted with this application. Do not send cash.

NAME OF PROMOTER	TELEPHONE NUMBER
Shawn Carpenter	(316) 733-7790, (316)204-17

PROMOTER'S LEGAL NAME: Shawn David Carpenter

STREET ADDRESS OR PO BOX: 1422 Chaumont Circle

CITY	STATE	ZIP CODE
Andover	KS	67002

1. Have you or any owner of the promotion company ever been convicted of any offense other than minor traffic violations? (False statements may result in denial of license.) If yes, provide a detailed statement.	☐ Yes	☒ No
2. Have you or the promotion company ever been suspended or disciplined by the Kansas Athletic Commission or any other Athletic Commission? (If you, explain on the back of this application.)	☐ Yes	☒ No

I certify (or declare), under penalty of perjury, that I have read the foregoing application for promoter's license, and that all the answers given are my own; That all the answers are true of my own knowledge; Further, I understand and agree that any false statement of a material fact in this application will constitute grounds for revoking this license.

APPLICANT'S SIGNATURE	DATE
Shawn Carpenter MD	12/17/07

KANSAS ATHLETIC COMMISSION
Department of Commerce
1000 SW Jackson, Suite 100
Topeka, KS 66612-1214
Phone: (785) 296-1913
Fax: (785) 296-6809

RECEIVED
DEC 20 2007
COMMERCE LEGAL

29
RECEIVED
DEC 20 2007
COMMERCE LEGAL

APPLICATION FOR PERMIT

☐ Professional Boxing ☒ Professional Kick-Boxing & Full-Contact Karate

INSTRUCTIONS:
The promoter shall obtain a separate permit for each event from the office before each event. This office should receive the re

PROMOTER'S NAME (Required)
Shawn Carpenter

STREET ADDRESS OR PO BOX
1422 Chaumont Circle

CITY
Andover, KS 67002

TELEPHONE NUMBER
(316) 204-1760

DATE OF EVENT
May 10th 2008

TIME OF EVENT
7 PM

PLACE OF EVENT
Century II - Convention Hall

STREET ADDRESS OF EVENT
225 W. Douglas Wichita, KS 67202

MATCHMAKER'S NAME
Shawn Carpenter

FEES:

PROFESSIONAL BOXING, KICKBOXING & FULL-CONTACT KARATE, AND MIXED MARTIAL ARTS ..... $25.00 per contest per day

PROFESSIONAL WRESTLING ..... $150.00 per performance day

PERMISSION IS GRANTED ONLY AFTER SIGNED
Permission is hereby granted for the above event for the above date and no other. A copy of this permit must be posted at th

INSPECTOR ASSIGNED

OFFICE OF ATHLETICS

Approved

Agenda Item No. 28.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Professional Boxing / Mixed Martial Arts Event at Century II

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

- -

Recommendation: Approve the resolution for the Professional Boxing / Mixed Martial Arts Event at Century II.

Background: Promoter Justin Willms of Havic Prizefighting Promotions, Wichita, Kansas, has requested usage of Century II for a Professional Boxing / Mixed Martial Arts event on March 29, 2008. State statute **74-50,189** requires a license from the Kansas Athletic Commission and the governing body of the city to adopt a resolution approving professional and amateur boxing, kickboxing, full-contact karate, and mixed martial arts.

Century II event staff inquired into the business references of Mr. Willms. Three individuals gave positive statements regarding Mr. Willms' business professionalism.

Analysis: Mr. Willms has successfully obtained a promoters license with the Kansas Athletic Commission to conduct professional and amateur Boxing and Mixed Martial Arts events. Mr. Willms has requested to lease Convention Hall at Century II to conduct this event on March 29, 2008.

Havic Prizefighting Promotions is expecting 5,000 attendees and will sign a facility-use lease. Havic Prizefighting Promotions assured Century II that they would have a $1,000,000 liability insurance policy on file for the event. Event security will consist of six (6) uniformed police officers and six (6) t-shirt security personnel.

After Council action, Century II staff will finalize all other agreements and contracts for this event, to include not limited to the concessions and ticketing of this event.

Financial Considerations: Century II could expect approximately $3,500 in hall rental revenue from this event, plus additional revenues from concession, merchandise and ticketing sales.

Goal Impact: This project will impact the Quality of Life goal by providing a variety of entertainment options to citizens.

Legal Considerations: The City Attorney has approved this resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the resolution for Mr. Justin Willms and Havic Prizefighting Promotions to hold their Professional Boxing / Mixed Martial Arts Event on March 29, 2008 at Century II.

Attachment:
1. Kansas Athletic Commission Application for Mr. Justin Willms
2. Resolution

(First Published in The Wichita Eagle on _____)

RESOLUTION NO. _____

A RESOLUTION BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS APPROVING MIXED MARTIAL ARTS EVENT AT CENTURY II CONVENTION HALL.

WHEREAS, the City recognizes that substantial community benefits may result from community events. They can provide cultural enrichment, promote economic vitality and serve to promote downtown and community development.

WHEREAS, promoter Justin Willms of Havic Prizefighting Promotions, L.L.C., has requested the City to enter into a rental agreement to utilize Century II Convention Hall for a professional boxing/mixed martial arts event on March 29, 2008;

WHEREAS, the proposed event is required to be approved by City Council pursuant to K.S.A. 74-50,189.

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

1. The use of Century II Convention Hall for a professional boxing/mixed martial arts event promoted by Havic Prizefighting Promotions, L.L.C. to be held on March 20, 2008 under a rental agreement with the City is hereby approved.
2. This resolution shall be effective upon adoption by City Council.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this _____ day of _____, 2008.

_____

Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf
City Attorney

KANSAS
DEPARTMENT OF COMMERCE

Kathleen Sebelius, Governor
David D. Kerr, Secretary

www.kansascommerce.com

January 9, 2008

Justin Willms
5131 Memory Lane
Wichita, Kansas 67212

Re: Application for Permit

Dear Mr. Willms:

Enclosed please find for your records a copy of your Approved Application for Permit with the Kansas Athletic Commissioner.

If you have any questions, please contact me at 785-296-6321.

Sincerely,

Aaron M. Davis
Kansas Boxing Commissioner

AMD:gh

Enclosure

1000 S.W. Jackson St., Suite 100; Topeka, KS 66612-1354 • (785) 296-1913 • Fax: (785) 296-6809
TTY: (785) 296-3487 • E-mail: legal@kansascommerce.com

KANSAS ATHLETIC COMMISSION
Department of Commerce
1000 SW Jackson, Suite 100
Topeka, KS 66612-1214
Phone: (785) 296-1913
Fax: (785) 296-6809

RECEIVED
JAN 07 2008
COMMERCE LEGAL

APPLICATION FOR PERMIT

PLEASE PRINT ALL INFORMATION

☒ Professional Boxing	☐ Professional Kick-Boxing & Full-Contact Karate	☒ Professional Mixed Martial Arts	☐ Professional Wrestling

Approved

INSTRUCTIONS:
The promoter shall obtain a separate permit for each event from the office before each event. This office should receive the request for the permit before any advertisement of the event. Failure to do so will result in denial of permit and cancellation of the event.

PROMOTER'S NAME (Required) (Justin Willms) HAVIC Prizefighting Promotions, LLC.	PROMOTER'S LICENSE # (Required)
STREET ADDRESS OR PO BOX 5131 Memory Lane	
CITY Wichita / STATE KS / ZIP CODE 67212	
TELEPHONE NUMBER (316) 833-3624 / CHECK NUMBER / AMOUNT	
DATE OF EVENT March 29, 2008 / TIME OF EVENT 7pm / TIME OF WEIGH-INS (BOXING, KICKBOXING, KARATE & MIXED MARTIAL ARTS) 7pm March 28, 2008	
PLACE OF EVENT Century II Convention Hall	
STREET ADDRESS OF EVENT 225 W. Douglas / CITY & STATE OF EVENT Wichita KS 67202 / COUNTY OF EVENT Sedgwick	
MATCHMAKER'S NAME	MATCHMATER'S LICENSE # (Required)

FEES:

PROFESSIONAL BOXING, KICKBOXING & FULL-CONTACT KARATE, AND MIXED MARTIAL ARTS ..... $25.00 per contest per day

PROFESSIONAL WRESTLING ..... $150.00 per performance day

PERMISSION IS GRANTED ONLY AFTER SIGNED

Permission is hereby granted for the above event for the above date and no other. A copy of this permit must be posted at the event.

INSPECTOR ASSIGNED	EVENT #
OFFICE OF ATHLETICS	DATE

Agenda Item No. 29.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Amend Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) Agreement

INITIATED BY: Department of Park & Recreation - Century II

AGENDA: New Business

Recommendation: Approve the amendment to the Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) Agreement.

Background: Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) provides the skilled labor required for the Century II stages. This Local 190 has provided the skilled labor for the City of Wichita for over 75 years. The labor cost for these stagehands is paid directly by Century II clients and does not represent an operating cost for Century II.

Analysis: In December 2007, Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) was notified that their workers compensation insurance was doubling for 2008. In addition, Local 190 is experiencing increases in liability and unemployment insurance. These factors are causing an increase in its hourly rate fees by 5.9626%. They will need to pass this increase on to the clients.

On February 5, 2008, Century II management staff and their tenant groups, Wichita Music Theater, Wichita Grand Opera and the Wichita Symphony Orchestra discussed Local 190 IATSE's request for a rate increase. The tenants were in accordance with this request.

Financial Considerations: This increase will not affect Century II's operating budget, as stagehands are paid directly by clients of Century II who use the four main stages in the facility. Bad debts are the responsibility of the Local 190 payroll company. The Local 190 also maintains personal liability insurance.

Goal Impacts: This project will impact the Quality of Life by ensuring that citizens receive a positive return on their investments.

Legal Considerations: This amendment to the Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) agreement has been approved as to form by the City Attorney.

Recommendations: It is recommended that the City Council approve the amendment to the Local 190 of the International Alliance of Theatrical Stage Employees (IATSE) Agreement.

Attachment: Amended Agreement.

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT is entered into by and between the City of Wichita, Kansas, hereinafter referred to as "City", and Local 190 of the International Alliance of Theatrical Stage Employees, hereinafter referred to as "Local 190".

WITNESSETH:

WHEREAS, the parties have heretofore entered into an agreement with Century II on the 29th day of January, 1991 which they wish to amend.

NOW, THEREFORE, IT IS AGREED as follows:

1. Section V (Wages) of said Agreement is amended by changing the percentage in the first sentence thereof from twenty four percent (24%) to twenty five and one half percent (25.5%) Implementation of the new rate would cause hourly rates charged to the client as follows:

Position	Old Rate	New Rate
Department Heads	17.61	18.66
Assistants	15.92	16.86
Riggers	33.55	35.54

3. These amended changes shall take effect on January 1, 2008.

2. All other provisions of said Agreement not herein amended are reaffirmed by the parties and shall continue in full force and effect according to the terms thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate the day and year first above written.

CITY OF WICHITA, KANSAS

By_____
Carl Brewer, Mayor

I.A.T.S.E. LOCAL 190,
A KANSAS CORPORATION

By_____
President, I.A.T.S.E. LOCAL 190

ATTEST:

By_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Carlson Hydraulics) (District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Carlson Hydraulics, located at 3525 W Esthner in southwest Wichita, was purchased by the current owners in 1998. Carlson Hydraulics is a manufacturer of welded hydraulic cylinders for many different types of industries. Carlson Hydraulics has experienced rapid growth in sales since the acquisition and as a result has expanded its manufacturing capacity to include additional manufacturing space and acquisition of new manufacturing equipment in the amount of $861,176. Carlson Hydraulics is now requesting approval of an Economic Development Tax Exemption on the construction of a building addition.

ANALYSIS: Carlson Hydraulics manufactures welded hydraulic cylinders for many different types of industries. The cylinders are used nationwide in mobile equipment, industrial applications, mining, and agricultural markets. Carlson Hydraulics exports 80% of its business out of the State of Kansas. The expansion project will result in new construction owned by MC Properties and will be leased to Carlson Hydraulics. Both companies are owned 100% by Chris and Cynthia Squires.

Carlson Hydraulics currently has 27 employees and plans to add at least 16 new jobs over the next five years. The expansion project includes construction of a 6,000 s.f. building addition with a cost of $252,580, and purchase of additional manufacturing equipment at $609,136. The machinery is statutorily exempt since it was purchased after June 30, 2006.

The expansion project is itemized in Exhibits I attached hereto. Under the Economic Development Incentive Policy, Carlson Hydraulics is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
31.3%	New Job Creation:	Carlson will create at least 16 new jobs.
15.3%	Capital Investment:	Carlson will invest at least $861,716.
46.6%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	

00.0% Location Premium: Carlson is not located in the central redevelopment area.

47% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, Carlson Hydraulics is eligible for a 47% tax exemption for a five-year term on the identified real property, plus a 47% tax exemption for a second five-year term, subject to City Council approval. A notice of public hearing has been published. Carlson Hydraulics has agreed to comply with the conditions set forth in the Economic Development Incentive Agreement.

Financial Considerations: The estimated first year taxes on the $252,580 building expansion would be $22,594 on real and personal property, based on the 2007 mill levy. Using the allowable tax exemption of 47 percent, the City would be exempting (for the first year) $3,503 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $949; County/State - $974; and USD 259 - $1,580.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	3.04 to one
Sedgwick County	2.12 to one
USD 259	1.23 to one
State of Kansas	7.62 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the Ordinance and Economic Development Incentive Agreement as to form.

Recommendations/Actions: It is recommended that the City Council close the public hearing, and approve first reading of the Ordinance, granting Carlson Hydraulics a 47% tax exemption on the identified real property improvements for a five-year term, plus a 47% tax exemption for a second five-year term, subject to City Council approval.

Attachments: Ordinance and Economic Development Incentive Agreement

Exhibit I

Carlson Hydraulics
2007 Property Tax Exemption Application

Building Expansion on which an exemption is requested:

Description	Date Purchased	Cost	
Chief pre-engineered steel building 50' x 120'	2/1/2007	252,580.00	
			252,580.00
Equipment purchased after June 30,2006:			
Statutorily exempt:			609,136.00
Barons & Oliver 2SC-650 CNC Turning Machine			
			861,716.00

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON_____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF CARLSON HYDRAULICS, SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Carlson Hydraulics requests an ad valorem tax exemption on a proposed expansion project of 47% for a five-plus-five-year term on the construction of a building addition; and

WHEREAS, Carlson Hydraulics has operated within the City for more than nine years as a manufacturer of welded hydraulic cylinders; and

WHEREAS, Carlson Hydraulics proposes an $861,716 expansion by the construction a building expansion and purchase of machinery and equipment to be located at 3525 W. Esthner in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Carlson Hydraulics, has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 12, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Carlson Hydraulics is an existing business located in Wichita, Kansas and has expanded its business by construction of a new building and the purchase of certain personal property.

2. The construction of the new building and purchase of personal property for which exemption is given occurred after December 18, 2006. No exemption will be given for construction or purchases which occurred before that date.

3. Such building expansion and property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Carlson Hydraulics will create new employment for 16 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion and purchase of certain personal property as reflected in Exhibit I hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council for the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Carlson Hydraulics is required to retain jobs in the State of Kansas, and that the property to be exempted will be used exclusively for manufacturing articles of commerce.

2. Carlson Hydraulics is hereby granted an ad valorem tax exemption of 47% for a five-plus-five- year term on the construction of a new building started after December 18, 2006, and located within the Wichita City limits at 3525 W. Esthner in southwest Wichita at an estimated cost of $861,716, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Carlson Hydraulics may be required to repay amounts previously abated), in the event of any failure by Carlson Hydraulics to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Carlson Hydraulics is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of Carlson Hydraulics and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Carlson Hydraulics’ written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated October 15, 2007, and as stated in Carlson Hydraulics’ annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Carlson Hydraulics no longer is entitled to such exemption in accordance with the Economic Development Incentive Policy of the City of Wichita and the terms of the Economic Development Incentive Agreement which Carlson Hydraulics has executed with the City.

7. The City Council may, at its discretion, require Carlson Hydraulics to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Carlson Hydraulics has executed with the City.

8. Upon finding that Carlson Hydraulics has failed to meet its obligation under the Economic Development Incentives Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Carlson Hydraulics' expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____ day of February, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Carlson Hydraulics, hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing of precision machined parts, and, as of December 31, 2007, has completed an expansion by acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between December 18, 2006 and December 31, 2007, the Company will have completed the construction of a building addition and the acquisition and installation of manufacturing equipment at its manufacturing facility, located at 3525 W. Esthner, Wichita, Kansas, at a cost of $861,716, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to December 18, 2011, employment of not less than twenty-seven (27) employees at such manufacturing facility;

   C. On or prior to December 18, 2011, the Company will add an additional sixteen (16) new jobs at such manufacturing facility, and thereafter,

maintain employment of not less than forty-three (43) employees at such manufacturing facility, through at least December 31, 2017;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry

into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the building addition by the Company pursuant to Section 1.A., above, shall be entitled to a 47% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2008, and provided proper application is made thereof. It is the City's further intention that the 6,000 square foot building expansion shall be entitled to a 47% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2013 to December 31, 2017, subject to the approval, in 2012, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq*.

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2017.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

CARLSON HYDRAULICS

_____

_____
Gary Rebenstorf
Director of Law

Name: _____

Title: _____

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Triumph Structures 2005 Expansion) (District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Excel Manufacturing located at 3258 S. Hoover Road in southwest Wichita, was locally formed in 1971. Since its establishment, Excel Manufacturing, Inc. has maintained consistent growth in its manufacturing of parts for the aerospace industry. In 2002, the City Council approved a five-plus-five year 100% Economic Development tax exemption to Excel Manufacturing, Inc. ("Excel") for an expansion project that resulted in the construction of a building addition and acquisition of new machinery and equipment. In 2004, City Council approved an 83% property tax exemption on personal property for a five-year term. In 2005, City Council also approved a 100% property tax exemption on personal property for a five-year term.

In 2005, Excel Manufacturing again expanded its manufacturing capacity, through acquisition of new machinery and equipment. In 2006, prior to City Council approval of the tax exemption for the 2005 expansion, Excel was purchased by Triumph Structures –Wichita, Inc. ("Triumph"), a subsidiary of The Triumph Group, an aerospace conglomerate with headquarters in Wayne, Pennsylvania. At the request of the Sedgwick County Appraiser's Office, Triumph (formerly Excel) withdrew its application for an Economic Development Tax Exemption on the 2005 expansion project (which was originally submitted by Excel) and has now resubmitted it under the name of the new company (Triumph).

ANALYSIS: Triumph Structures is a precision manufacturer of high quality machining, fabricated components and assemblies for aerospace and commercial industries. Excel was purchased by Triumph Structures – Wichita in 2006. Triumph specializes in 3, 4, and 5 axis machining of complex parts, such as bulkheads, wing ribs, floor sections and large monolithic parts. In 1985, Triumph began an aggressive move into the development of advanced metal cutting capability, utilizing features such as measuring probes and palletized machining. Triumph is a leader of aircraft components and parts with thin walls and cross sections. At Triumph, these parts are machined from one piece rather than the conventional metal assemblies. Triumph also has sheet metal and assembly capabilities to enhance their presence in the aerospace market. Triumph exports its products out of the State of Kansas via customers such as Spirit Aerosystems, Boeing, Cessna, Raytheon, Bombardier, Sikorsky and AeroFlex.

Triumph employed, at the time of the 2005 expansion, 132 employees and plans to add at least 38 new jobs over a five-year period from the start of the expansion. The expansion project includes purchase of machinery and equipment at a cost of $1,970,418.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Triumph is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
74.0%	New Job Creation:	Triumph will create at least 38 new jobs.
27.0%	Capital Improvements:	Triumph will invest at least $1,813,585.
101.0%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	
00.0%	**Location Premium:**	Triumph is not located in the central redevelopment area.
100.0%	**TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY**	

Under the Economic Development Incentive Policy, Triumph Structures – Wichita Inc., is eligible for a 100% tax exemption on the identified personal property for a five-year term. A notice of public hearing has been published. Triumph has agreed to comply with the conditions set forth in the attached Economic Development Incentive Agreement.

Financial Considerations: The estimated first year taxes on the expansion would be $50,542, based on the 2006 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) $50,542 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $13,489; County/State - $13,853; and USD 261 - $23,200.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.44 to one
Sedgwick County	2.56 to one
USD 261	1.30 to one
State of Kansas	6.78 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the Ordinance as to form.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Triumph Structures – Wichita Inc. a 100% tax exemption on the identified personal property improvements for a five-year term.

Attachments: Ordinance and Economic Development Incentive Agreement.

Exhibit I

TRIUMPH STRUCTURES - WICHITA, INC.
FORMERLY KNOWN AS EXCEL MANUFACTURING, INC
Equipment Additions
2005 Property Tax Exemption

	Description	Installation Date	Cost
1	Mori Seiki NV4000 DCG milling machine	2/6/2005	$ 125,627
2	DNC computer used with machinery	3/6/2005	3,620
3	Precision Workstation PC used with machinery	4/6/2005	2,461
4	2 ea. Mitsui Seiki Model HU-63A CNC machines	5/6/2005	200,000
5	Rotary Table & Slotted Faceplate for NV4	6/6/2005	22,932
6	Nissan N-NI-9E4655 forklift	7/6/2005	29,700
7	Mori Seiki NL2000SMC Turning Center	7/6/2005	192,112
8	Aluminum plate for base on new Vortex 1400/160	8/6/2005	4,881
9	Mazak Vortex 1400/160	9/6/2005	845,000
10	Vacuum Hoist for MAG3	8/10/2005	4,359
11	Chip Dumpster - Model 1000	8/11/2005	672
12	Chip Dumpster - Model 2000	8/16/2005	875
13	Amanda Table Saw VM3800	8/22/2005	200,000
14	3 Forklifts, 1 walk behind sweeper	8/31/2005	14,119
15	Amanda Band Saw	8/31/2005	18,800
16	Raw Material Storage Racks	9/29/2005	16,440
17	Steel for Shelving	11/15/2005	8,303
18	Storage Cabinet	11/15/2005	1,350
19	Chip Dumpster	11/15/2005	575
20	Mori Seiki NH4000/2	11/30/2005	221,548
21	Wire deck for shelving	12/21/2005	1,116
22	5 ea. Tool Blox for NH4000	12/29/2005	8,902
23	Jib Cranes for Mazaks	12/31/2005	16,536
24	Shelving for raw material storage	12/31/2005	998
25	Shelving for raw material storage	12/31/2005	3,395
26	Z axis way covers for Mazak FH680	12/31/2005	3,530
27	Tooling for Mazak 1400/160	12/31/2005	17,278
28	Double end live tool holder	12/31/2005	5,290
			$ 1,970,418

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF TRIUMPH STRUCTURESWICHITA, INC. FORMERLY KNOWN AS EXCEL MANUFACTURING, INC. SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-year term on the purchase of certain new manufacturing equipment; and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., has operated within the City for more than thirty-five years as a manufacturer of high quality machining, fabricated components and assemblies for aerospace and commercial industries**;** and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., proposes a $1,970,418 expansion by the purchase of new equipment to be located at 3258 S. Hoover Rd. in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 12, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion and the purchase of certain personal property.

2. The construction of the expansion and purchase of personal property for which exemption is given occurred after October 25, 2004. No exemption will be given for construction or purchases, which occurred before that date.

3. Such property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. will create new employment for 38 employees within five years after the start of the project.

5. Tax exemption will be given only for the purchase of certain personal property as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the purchase of personal property started after October 25, 2004, and located within the Wichita City limits at 3258 S. Hoover Rd. in southwest Wichita, at an estimated cost of $1,970,418, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. may be required to repay amounts previously abated), in the event of any failure by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.’s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated March 23, 2006, and as stated in Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.’s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has executed with the City.

7. The City Council may, at its discretion, require Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has executed with the City.

8. Upon finding that Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this _____ day of February, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Triumph Structures – Wichita formerly known as Excel Manufacturing, Inc., hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing high quality components and assemblies for aerospace and commercial industries, and, as of December 31, 2005, has completed an expansion by acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between October 25, 2004 and December 31, 2005, the Company will have completed the acquisition and installation of manufacturing equipment at its manufacturing facility, located at 3258 S. Hoover Rd, Wichita, Kansas, at a combined cost of $1,970,418, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to October 25, 2009, employment of not less than one-hundred thirty-two (132) employees at such manufacturing facility;

C. On or prior to October 25, 2009 the Company will add an additional thirty-eight (38) new jobs at such manufacturing facility, and thereafter, maintain employment of not less than one-hundred seventy (170) employees at such manufacturing facility, through at least December 31, 2010;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the machinery and equipment acquired and installed by the Company pursuant to Section 1.A., above, shall be entitled to a 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2006, and provided proper application is made thereof. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2010.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

TRIUMPH STRUCTURES – WICHITA, INC. FORMERLY KNOWN AS EXCEL MANUFACTURING, INC.

APPROVED AS TO FORM:

_____
Name: _____
Title: _____

_____
Gary Rebenstorf
Director of Law

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Triumph Structures 2006 Expansion) (District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Triumph Structures – Wichita formerly known as Excel Manufacturing, Inc., located at 3258 S. Hoover Road in southwest Wichita, was locally formed in 1971. Excel was purchased in 2006 by Triumph Structures – Wichita, Inc. ("Triumph"), a subsidiary of The Triumph Group, an aerospace conglomerate with headquarters in Wayne, Pennsylvania. Since its establishment, Excel/Triumph has maintained consistent growth in its manufacturing of parts for the aerospace industry.

In 2002, the City Council approved a five-plus-five year 100% Economic Development tax exemption for an expansion project that resulted in the construction of a building addition and acquisition of new machinery and equipment. In 2004 and 2005, City Council approved property tax exemptions on personal property for five-year terms. Concurrently with this item, the City Council is considering an exemption for personal property acquired in a 2005 expansion, which had to be resubmitted at the request of the County Appraiser's Office.

In 2006, Excel Manufacturing went through another expansion of its manufacturing capacity, again through acquisition of new machinery and equipment. Triumph (formerly Excel) is now requesting approval of an Economic Development Tax Exemption on the newly acquired manufacturing equipment in connection with the 2006 expansion project.

ANALYSIS: Triumph Structures – Wichita is a precision manufacturer of high quality machining, fabricated components and assemblies for aerospace and commercial industries. Triumph specializes in 3, 4, and 5 axis machining of complex parts. Triumph is well known for its machining of detail parts such as bulkheads, wing ribs, floor sections and large monolithic parts. In 1985, Triumph began an aggressive move into the development of advanced metal cutting capability, utilizing features such as measuring probes and palletized machining. Triumph is a leader of aircraft components and parts with thin walls and cross sections. At Triumph, these parts are machined from one piece rather than the conventional metal assemblies. Triumph also has sheet metal and assembly capabilities to enhance their presence in the aerospace market. Triumph exports its products out of the State of Kansas via customers such as Spirit Aerosystems/Boeing, Cessna, Raytheon, Bombardier, Sikorsky and AeroFlex.

At the time of the 2006 expansion, Triumph had 136 employees with a promised base employment of 170 based on the 2005 expansion (being considered separately). Triumph plans to add another 32 new jobs over a five-year period from the start of expansion, bringing total employment to 202 by 2011. The expansion project includes purchase of machinery and equipment at a cost of $2,987,366, as set forth in Exhibit I (attached hereto).

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Triumph is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
68.0%	New Job Creation:	Triumph will create at least 32 new jobs.
32.0%	Capital Investment:	Triumph will invest at least $2,987,366.
100.0%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	
00.0%	**Location Premium:**	Triumph is not located in the central redevelopment area.
100.0%	**TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY**	

Under the Economic Development Incentive Policy, Triumph, is eligible for a 100% tax exemption on the identified personal property for a five-year term. A notice of public hearing has been published. Triumph has agreed to comply with the condition set forth in the attached Economic Development Incentive Agreement.

Financial Considerations: The estimated first year taxes on the expansion would be $54,710, based on the 2007 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) $54,710 of new taxes from the personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $14,143; County/State - $14,520; and USD 261 - $26,045.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.02 to one
Sedgwick County	2.28 to one
USD 261	1.30 to one
State of Kansas	8.88 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the attached Ordinance as to form.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting an 100% tax exemption on the identified personal property improvements for a five year term.

Attachments: Ordinance and Economic Development inducement Agreement.

Exhibit I

TRIUMPH STRUCTURES - WICHITA, INC.
FORMERLY KNOWN AS EXCEL MANUFACTURING, INC.
Equipment Additions
2006 Property Tax Exemption

Description	Invoice Date	Cost
Centralized Coolant Tank System	1/19/2006	$ 2,144
Mazak Protector - 6 step	1/24/2006	6,919
Mitsui Coolant Tanks Chip Conveyors	1/31/2006	47,390
2 Model 1000 Self Dumping Hoppers	1/31/2006	1,376
Tooling for Mazak 1400 & 815	1/31/2006	31,971
Probe Kit for Mori Seiki 4000	2/9/2006	6,349
LK Rail Style CMM Ultima	2/22/2006	289,900
Mazak Vortex 1400/160 Mark II	2/22/2006	901,000
Mazak Vortex 815/120 Mark II	2/22/2006	699,000
2 Model 2000 Self Dumping Hoppers	2/28/2006	1,745
Probe Kit for Mori Seiki 4000	3/31/2006	9,802
Shelving	3/31/2006	2,478
Used Sullair LS20S-125H Air Compressor	4/26/2006	19,000
Used ZEKS 600HSEA 400 Air Dryer	4/26/2006	2,000
Assy. Two Piece Mandrel	5/10/2006	895
Jaw, FMCX MB, Piloted	5/10/2006	641
Rod, Bushing Seating Tool	5/10/2006	671
FAN 759 Seating Disk	5/10/2006	251
Spindle 12,000 RPM	6/7/2006	14,921
Tool Storage Cabinet	1/18/2006	1,798
Surface Plate Standridge 48 x 276 x 20	4/27/2006	23,988
		$ 2,064,238

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF TRIUMPH STRUCTURES - WICHITA, INC. FORMERLY KNOWN AS EXCEL MANUFACTURING, INC. SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-year term on the purchase of certain new manufacturing equipment; and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., has operated within the City for more than thirty-five years as a manufacturer of high quality machining, fabricated components and assemblies for aerospace and commercial industries**;** and

WHEREAS, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., proposes a $2,987,366 expansion by the purchase of new equipment to be located at 3258 S. Hoover Rd. in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 12, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion and the purchase of certain personal property.

2. The purchase of personal property for which exemption is given occurred after April 26, 2005. No exemption will be given for construction or purchases, which occurred before that date.

3. Such property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. will create new employment for 32 employees within five years after the start of the project.

5. Tax exemption will be given only for the purchase of certain personal property as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the purchase of personal property started after April 26, 2005, and located within the Wichita City limits at 3258 S. Hoover Rd. in southwest Wichita, at an estimated cost of $2,987,366, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. may be required to repay amounts previously abated), in the event of any failure by Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.’s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated November 2, 2007, and as stated in Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.’s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has executed with the City.

7. The City Council may, at its discretion, require Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has executed with the City.

8. Upon finding that Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Triumph Structures – Wichita, Inc. formerly known as Excel Manufacturing, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____day of February, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Triumph Structures – Wichita formerly known as Excel Manufacturing, Inc., hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing high quality components and assemblies for aerospace and commercial industries, and, as of December 31, 2006, has completed an expansion by acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between April 26, 2005 and December 31, 2006, the Company will have completed the acquisition and installation of manufacturing equipment at its manufacturing facility, located at 3258 S. Hoover Rd, Wichita, Kansas, at a combined cost of $2,987,366, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to April 26, 2010, employment of not less than one-hundred thirty-six (136) employees at such manufacturing facility;

C. On or prior to April 26, 2010 the Company will add an additional thirty-two (32) new jobs at such manufacturing facility, and thereafter, maintain employment of not less than two-hundred two (202) employees at such manufacturing facility, through at least December 31, 2011;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the machinery and equipment acquired and installed by the Company pursuant to Section 1.A., above, shall be entitled to a 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2007, and provided proper application is made thereof. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2011.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

TRIUMPH STRUCTURES – WICHITA FORMERLY KNOWN AS EXCEL MANUFACTURING, INC.

APPROVED AS TO FORM:

_____
Name: _____
Title: _____

_____
Gary Rebenstorf
Director of Law

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Agenda Item No. 33.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Globe Engineering Co., Inc.) (District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Globe Engineering Company, Inc. ("Globe Engineering"), located at 1539 S. Saint Paul in southwest Wichita, is a manufacturer of aircraft and aerospace components. Globe Engineering has had consistent growth in sales, and as a result, the company has expanded its manufacturing capacity to include construction of a new building addition located at 2924 W. Harry, behind their principal location on Saint Paul, and purchase of new machinery and equipment, for a total project cost of $2.3 million. The company submitted a letter of intent to the City, stating its intention to request an Economic Development Tax Exemption, prior to the expansion. Globe Engineering is now requesting approval of a 5+5 year exemption on the building addition and a 5-year exemption on the equipment acquired after July 1, 2006 in conjunction with the expansion project.

ANALYSIS: Globe Engineering began in 1947 by making high chairs and booster seats, which later evolved into bending tubes for the aircraft industry. Globe Engineering has grown into a state of the art company manufacturing complex aircraft and aerospace components. Their capabilities include tube-bending, hydro-forming, spinning, laser cutting, welding and heat treating. More than 67% of the company's production is exported outside of the State of Kansas.

Globe Engineering currently has 173 employees and plans to add at least 9 new jobs over the next five years, bringing total employment to 182 by 2012. The expansion project includes construction of a 13,500 s.f. building addition at a cost of $1,137,045 and purchase of additional machinery and equipment at $1,161,558.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Globe Engineering is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
28.0%	New Job Creation:	Globe Engineering will create at least 9 new jobs.
28.75%	Capital Improvements:	Globe Engineering will invest at least $2,298,603
56.75%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	

00.0% **Location Premium:** Globe Engineering is not located in the central redevelopment area.

57.0% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, Globe Engineering Co., Inc., is eligible for an 57% tax exemption on the identified real and personal property for a five-year term, plus an 57% tax exemption for a second five-year term on real property only, subject to City Council approval. A notice of public hearing has been published. Globe has agreed to comply with the condition set forth in the attached Economic Development Incentive Agreement.

Financial Considerations: The estimated first year real and personal property taxes on the total expansion would be $65,926, based on the 2007 mill levy. A portion of the personal property was purchased after June 30, 2006; $21,937 of personal property tax is statutorily exempt. The estimated real and personal property tax that requires City Council approval would be $43,989. Using the allowable tax exemption of 57 percent, the City would be exempting (for the first year) $25,073 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $6,792; County/State - $6,974; and USD 259 - $11,305.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	2.89 to one
Sedgwick County	2.32 to one
USD 259	1.75 to one
State of Kansas	8.14 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the attached Ordinance and Economic Development Incentive Agreement as to form.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Globe Engineering a 57% tax exemption on the identified real and personal property improvements for a five year term, plus an 57% tax exemption for a second five-year term on real property only, subject to City Council review.

Attachments: Ordinance and Economic Development inducement Agreement.

Exhibit I

Global Engineering Company Inc.
2007 Property Tax Exemption Application

Building Expansion on which an exemption is requested:

Description	Date Completed	Cost	
13,500 Sq Ft building	7/31/2007	1,137,045.00	
			1,137,045.00

Equipment on which an exemption is requested:

Description	Date Purchased	Cost	
Despatch Drop bottom	1/6/2006	418,236.00	
			418,236.00

Equipment purchased after June 30,2006:
Statutorily exempt:

Ipsen Vacuum Furnace	12/3/2007	692,200.00	
DMP Cryosystems cryogenic freezer	9/17/2007	51,122.00	
			743,322.00
			2,298,603.00

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF GLOBE ENGINEERING COMPANY, INC. SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Globe Engineering Company, Inc., requests an ad valorem tax exemption on a proposed expansion project of 57% for a five-plus-five-year term on the construction of a new building expansion and the purchase of certain new manufacturing equipment; and

WHEREAS, Globe Engineering Company, Inc., has operated within the City for more than fifty-five years as a manufacturer of complex aircraft and aerospace components; and

WHEREAS, Globe Engineering Company, Inc., proposes a $2,298,603 expansion by the construction of a new building addition and newly purchased equipment to be located at 2924 W. Harry in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Globe Engineering Company, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 12, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Globe Engineering Company, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion and the purchase of certain personal property.

2. The construction of the expansion and purchase of personal property for which exemption is given occurred after November 21, 2005. No exemption will be given for construction or purchases, which occurred before that date.

3. Such property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, Globe Engineering Company, Inc. will create new employment for 9 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion and purchase of certain personal property as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Globe Engineering Company, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Globe Engineering Company, Inc. is hereby granted an ad valorem tax exemption of 57% for a five-year term on the construction of a building expansion and purchase of personal property and of 57% for a second five years, solely on the building addition started after November 21, 2005, and located within the Wichita City limits at 2924 W. Harry in southwest Wichita, at an estimated cost of $2,298,603, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Globe Engineering Company, Inc. may be required to repay amounts previously abated), in the event of any failure by Globe Engineering Company, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Globe Engineering Company, Inc. is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of Globe Engineering Company, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Globe Engineering Company, Inc.’s written request for ad valorem tax exemptions as presented to the

City Council and to administrative staff and dated October 1, 2007, and as stated in Globe Engineering Company, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Globe Engineering Company, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Globe Engineering Company, Inc. has executed with the City.

7. The City Council may, at its discretion, require Globe Engineering Company, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Globe Engineering Company, Inc. has executed with the City.

8. Upon finding that Globe Engineering Company, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Globe Engineering Company, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____day of February, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Globe Engineering Company, Inc., hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing complex aircraft and aerospace components, and, as of December 31, 2007, has completed an expansion by constructing a new building expansion and acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between November 21, 2005 and December 31, 2007, the Company will have completed the construction of a building expansion and acquisition and installation of manufacturing equipment at its manufacturing facility, located at 2924 W. Harry, Wichita, Kansas, at a combined cost of $2,298,603, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to November 21, 2010, employment of not less than one-hundred seventy-three (173) employees at such manufacturing facility;

C. On or prior to November 21, 2010, the Company will add an additional nine (9) new jobs at such manufacturing facility, and thereafter, maintain employment of not less than one-hundred eighty-two (182) employees at such manufacturing facility, through at least December 31, 2017;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 13,500 square foot building expansion and machinery and equipment acquired and installed by the Company pursuant to Section 1.A., above, shall be entitled to a 57% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2008, and provided proper application is made therefor. It is the City's further intention that the building expansion shall be entitle to a 57% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2013 to December 31, 2017, subject to the approval, in 2012, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2017.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In

the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

GLOBE ENGINEERING COMPANY, INC

APPROVED AS TO FORM:

_____
Name: _____
Title: _____

_____
Gary Rebenstorf
Director of Law

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Fiber Dynamics, Inc.)(District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing, approve first reading of the Ordinance and tax exemption request.

BACKGROUND: Fiber Dynamics, Inc. ("Fiber Dynamics"), located at 3730 Midco Street in southwest Wichita, was locally formed in 1990. Fiber Dynamics produces high-quality composite parts for aerospace and other OEM manufacturers. Fiber Dynamics has had consistent growth in sales, and as a result, the company has expanded its manufacturing capacity to include construction of a new building and purchase of new machinery and equipment, pursuant to a letter of intent submitted prior to the expansion. Fiber Dynamics is now requesting approval of an Economic Development Tax Exemption on the construction of a new facility and newly acquired equipment in conjunction with the expansion project.

ANALYSIS: Fiber Dynamics produces high-quality composite parts for aerospace and other OEM manufacturers. The owners sought to commercialize the composites manufacturing technologies developed in the Composites Research Laboratory of the National Institute for Aviation Research. Fiber Dynamics has developed a competence in "one-shot" complex structures with molded in fittings, creating cost savings and eliminating secondary operations. Fiber Dynamics has grown from small projects like sporting goods and small aircraft into higher volume products. The company has grown into producing products for the aerospace, biomedical, transportation, military industries. Fiber Dynamics exports 95% of its business out of the State of Kansas.

The expansion project will result in new facilities owned by TTR, LLC and will be leased to Fiber Dynamics, Inc. Both companies are owned 100% by Darrin and Lori Teeter.

Fiber Dynamics currently has 55 employees and plans to add at least 67 new jobs over the next five years, for a total employment of 112 by 2012. The expansion project includes construction of a 35,000 s.f. facility with a cost of $2,845,218, and purchase of additional machinery at $332,960, as set forth in Exhibit I hereto. Fiber Dynamics plans to grow its facilities to over 100,000 s.f. in the next five years.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Fiber Dynamics is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
89.0%	New Job Creation:	Fiber Dynamics will create at least 67 new jobs.
33.5%	Capital Investment:	Fiber Dynamics will invest at least $3,178,178.
122.5.0%	***Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)***	

00.0% **Location Premium:** Fiber Dynamics is not located in the central redevelopment area.

100.0% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, Fiber Dynamics, Inc., is eligible for a 100% tax exemption on the identified real and personal property for a five-year term, plus a 100% tax exemption for a second five-year term on real and personal property, subject to City Council approval. A notice of public hearing has been published. Fiber Dynamics has agreed to comply with the conditions set forth in the attached Economic Development Incentive Agreement.

Financial Considerations: The estimated first year real and personal property taxes on the $3,178,178 expansion would be $93,175, based on the 2007 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) $93,175 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - $25,240; County/State - $25,914; and USD 265 - $42,020.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	2.34 to one
Sedgwick County	1.66 to one
USD 265 Goddard	1.00 to one
State of Kansas	8.18 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the attached Ordinance and Economic Development Incentive Agreement as to form. Kansas Board of Tax Appeals requires that the exempt periods for leased and non-leased property be the same. The company has agreed to sign a Payment in Lieu of Taxes (PILOT) agreement on the second five years of personal property to be in compliance with the City's Economic Development Incentive Policy.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Fiber Dynamics an 100% tax exemption on the identified real and personal property improvements for a five year term, plus an 100% tax exemption for a second five-year term on real and personal property, subject to City Council review and PILOT payments on personal property.

Attachments: Ordinance and Economic Development Incentive Agreement

Exhibit I

Fiber Dynamics, Inc
2007 Property Tax Exemption Application

Building Expansion on which an exemption is requested:

Description	Cost	
Land Purchase	320,000	
Mies Construction, Inc.	2,525,218	
		2,845,218

Equipment on which an exemption is requested:

Description	Cost	
Paint Spray Booth	51,730	
CNC 5 Axis Router	140,807	
Flammable Storage Shed	8,524	
Air compressor and Hydraulic system	29,613	
Equipment racks	1,800	
Insall pressure washer	771	
Temperature controller	2,695	
Walk-in oven	24,922	
Core injection part	13,068	
Temperature controller	2,835	
Dust colleciton unit	634	
Pallet racks	506	
Shelving	993	
26" floor Scrubber	4,395	
chest freezer	300	
Vertical bar rack	200	
Temperature controller	3,149	
Pallet racks	2,583	
Toolbox	966	
Data loggers	740	
Miller welder	3,053	
Shelving	2,305	
36x 70 workbench	1,371	
Artco presses	35,000	
		332,960
		3,178,178

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF TTR, LLC/FIBER DYNAMICS, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, TTR, LLC and Fiber Dynamics, Inc., request an ad valorem tax exemption on a proposed expansion project of 100% for a five-year term on the construction of a new building expansion and the purchase of certain new manufacturing equipment, and 100% for a second five-year term on the building addition and equipment; and

WHEREAS, Fiber Dynamics, Inc., has operated within the City for more than fifteen years as a manufacturer of high-quality composite parts**;** and

WHEREAS, Fiber Dynamics, Inc., proposes a $3,178,178 expansion by the construction of a new building expansion and lease from TTR, LLC, and newly purchased equipment to be located at 3730 Midco in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by TTR, LLC and Fiber Dynamics, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 12, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. TTR, LLC and Fiber Dynamics, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion and the purchase of certain personal property.

2. The construction of the expansion and purchase of personal property for which exemption is given occurred after April 5, 2005. No exemption will be given for construction or purchases, which occurred before that date.

3. Such property purchases are to be used exclusively for manufacturing articles of commerce.

4. By such purchases, TTR, LLC and Fiber Dynamics, Inc. will create new employment for 67 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion and purchase of certain personal property as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

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

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by TTR, LLC and Fiber Dynamics, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. TTR, LLC and Fiber Dynamics, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building expansion and purchase of personal property and of 100% for a second five years (subject to City Council review) on such building expansion and equipment purchases started after April 5, 2005, and located within the Wichita City limits at 3730 Midco in southwest Wichita, at an estimated cost of $3,178,178, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and TTR, LLC and Fiber Dynamics, Inc. may be required to repay amounts previously abated), in the event of any failure by TTR, LLC and Fiber Dynamics, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and TTR, LLC and Fiber Dynamics, Inc. is hereby approved.

4. The City Manager’s Office shall be responsible for monitoring the performance of TTR, LLC and Fiber Dynamics, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in TTR, LLC and Fiber Dynamics, Inc.’s written request for ad valorem tax exemptions as presented to the City

Council and to administrative staff and dated January 11, 2008 and as stated in TTR, LLC and Fiber Dynamics, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that TTR, LLC and Fiber Dynamics, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which TTR, LLC and Fiber Dynamics, Inc. has executed with the City.

7. The City Council may, at its discretion, require TTR, LLC and Fiber Dynamics, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which TTR, LLC and Fiber Dynamics, Inc. has executed with the City.

8. Upon finding that TTR, LLC and Fiber Dynamics, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on TTR, LLC and Fiber Dynamics, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this ___ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____day of _____, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and TTR, LLC/Fiber Dynamics, Inc. hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing high-quality composite parts, and, as of December 31, 2007, has completed an expansion by constructing a new building expansion and acquiring and installing certain additional machinery and equipment at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between April 5, 2005 and December 31, 2007, the Company will have completed the construction of a building expansion and acquisition and installation of manufacturing equipment at its manufacturing facility, located at 3730 Midco, Wichita, Kansas, at a combined cost of $3,178,178, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to April 5, 2010, employment of not less than thirty-four (34) employees at such manufacturing facility;

   C. On or prior to April 5, 2010, the Company will add an additional sixty-seven (67) new jobs at such manufacturing facility, and thereafter, maintain

employment of not less than one-hundred one (101) employees at such manufacturing facility, through at least December 31, 2017;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. If the City approves an extension of the period of abatement to 2016, then, in each year from 2012 through 2016, inclusive, the Company shall make a payment-in-lieu-of-taxes to the City, equal to the amount of additional ad valorem tax that would have been paid in such year on the personal property beginning in year 2012, had the period of abatement not been extended;

H. The 100% payment-in-lieu referred to in the foregoing subparagraph shall be calculated according to the tax that would be due based on the retail cost of the personal property when new, less depreciation and with an appropriate reduction for exempt property disposed of prior to the tax year to which payment pertains;

I. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

J. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

K. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 35,000 square foot building expansion and machinery and equipment acquired and installed by the Company pursuant to Section 1.A., above, shall be entitled to an 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2008, and provided proper application is made thereof. It is the City's further intention that the building expansion shall be entitle to an 100% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2013 to December 31, 2017, subject to the approval, in 2012, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2017.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a

conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 12th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: _____
_____
_____
Wichita, Kansas 672__

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

FIBER DYNAMICS, INC.

APPROVED AS TO FORM:

_____
Name: _____
Title: _____

_____
Gary Rebenstorf
Director of Law

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Agenda Item No. 35.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Resolution Considering the Establishment of a Redevelopment District (Tax Increment Financing) (District VI)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Adopt the resolution setting a public hearing for consideration of the establishment of the C.O.R.E. Redevelopment District.

Background: Centercity Organized Revitalization Effort ("C.O.R.E.") was formed in 1996 by downtown civic leaders concerned with the decline of the center city and its neighborhoods. Many steps have been taken over the years to form partnerships and create a sustainable plan for the revitalization of the C.O.R.E. area. More recently New Communities Initiative (NCI) has been working with local governments to address blight and crime in the city's core areas. The C.O.R.E. area is also contained in the NCI defined area. The successful redevelopment by the C.O.R.E. team is considered a catalyst for more projects in the surrounding area. C.O.R.E. has recently teamed with Wichita-based InnerCity Development Company (ICDC) to redevelop the area. The developer has requested financial assistance from the City of Wichita in the form of tax increment financing ("TIF"). As a first step in the process of authorizing TIF funding for this project, the City Council must set the date for a public hearing on the establishment of a redevelopment district for the project.

Analysis: A map of the area proposed for the C.O.R.E. Redevelopment District is shown on Exhibit 'A' to the attached resolution. The proposed boundaries are Murdock on the north, Santa Fe on the east, Central Avenue on the south and the alley ½ block west of Topeka on the west. This is an area that qualifies as a "conservation area" under the state TIF statutes. This area contains various property uses including single and multi-family residential, office, retail, medical, warehouse, light-industrial. Over 75% of the buildings in the area are over 50 years old and a large number of buildings in the area are dilapidated and/or vacant.

The proposed C.O.R.E. redevelopment project consists of redeveloping an eight square block area. The development would include new medical buildings, approximately 140 apartment units throughout the development, 30 brownstone-type town homes, office/retail space, a neighborhood grocery store and a neighborhood park. Tax increment financing would be used to pay for eligible redevelopment project costs, such as land acquisition, demolition, site preparation, utilities, landscaping, paving, and public infrastructure.

Tax increment financing allows the increased tax revenue resulting from the redevelopment of an area to be used to finance eligible costs in the redevelopment project. The base year for calculating the increment of increased property tax revenue is the year in which the redevelopment district is first established.

Once a TIF district is established and a redevelopment project plan is adopted by City Council, the increment of increased tax revenue is set aside by the County Treasurer, to be used by the City to repay bonds issued to finance the eligible costs that are specified in redevelopment project plan. During the term of the bonds, the property taxes not attributable to increased value continue to be paid to the City, County and School District, as normal tax revenue. After the bonds are finally retired, the redevelopment district is terminated and the full amount of property taxes will be distributed to the taxing jurisdictions. More than one project may be undertaken within a redevelopment district through the adoption of additional TIF project plans. Each project must be completed and all bonds retired within 20 years of the adoption of each project plan.

The first step in establishing a redevelopment district is the adoption of a resolution which states that the City Council is considering the establishment of the district and sets the date for a public hearing on the matter. The public hearing must be held not less than 30 days or more than 70 days from the date the resolution is passed. The date proposed for the public hearing is March 18, 2008. After closing the public hearing, the City Council may adopt an ordinance establishing the redevelopment district.

The initiating resolution directs the City Clerk to publish the resolution in the City's official newspaper and to mail copies, by certified mail, to the owners and occupants of all property located within the district and to the Board of County Commissioners and Board of Education. The resolution also includes a map of the proposed district and a proposed district plan identifying potential redevelopment project areas and a general description of buildings and facilities to be constructed or improved.

Financial Considerations: The cost of mailing the Resolution to all owners and occupants of property located within the proposed district will be charged to Economic Development Fund.

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

Legal Considerations: During a 30-day period following the public hearing, the Sedgwick County Board of County Commissioners and the USD 259 Board of Education will have the right to veto the establishment of the redevelopment district. State law allows the proposed redevelopment district to be reduced in size after the public hearing, but not enlarged. The redevelopment can be expanded in the future, without changing the base year, by ordinance, following proper notice and public hearing.

Recommendation/Action: It is recommended that the City Council adopt the resolution providing notice of consideration for the establishment of the C.O.R.E. Redevelopment District and setting a public hearing for March 18, 2008.

Attachments: Resolution and Exhibits

FIRST PUBLISHED IN THE *WICHITA EAGLE* ON _____

Resolution No. _____

A RESOLUTION
STATING THE CITY OF WICHITA IS CONSIDERING THE
ESTABLISHMENT OF A REDEVELOPMENT DISTRICT
FOR THE C.O.R.E. REDEVELOPMENT DISTRICT
UNDER AUTHORITY OF K.S.A. 12-1770 ET SEQ.

WHEREAS, the provisions of K.S.A. 12-1770, et seq., as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the City of Wichita (the "City") is considering the establishment of a redevelopment district in a conservation area to be known as the "C.O.R.E. Redevelopment District" to promote the general and economic welfare of the City and the former enterprise zone area;

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

Section 1. That the City is considering the establishment of a redevelopment district to be known as the C.O.R.E. Redevelopment District.

Section 2. That the City will hold a public hearing to consider the establishment of such redevelopment district on March 18, 2008 at 9:30 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

Section 3. That the boundaries of the proposed redevelopment district are set forth in Exhibit "A" attached hereto.

Section 4. That the redevelopment district plan identifying proposed redevelopment project areas along with a general description of the buildings, facilities, and improvements that are proposed to be constructed or improved in the redevelopment district is attached hereto as Exhibit "B".

Section 5. That a description and map of the proposed redevelopment district shall be available for inspection by the public in the City Clerk's Office, City Hall, 13th Floor, 455 North Main Street, Wichita, Kansas, from 8:00 a.m. until 5:00 p.m., Monday through Friday, from the 13th of February, 2008, until March 17, 2008.

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

Section 7. That a copy of this resolution shall be delivered to the Sedgwick County Board of County Commissioners, and to the Board of Education of Unified School District No. 259. Copies of this resolution shall also be mailed by certified mail, return receipt requested, to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of this resolution.

Section 8. That this resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the proposed redevelopment district in sufficient detail to advise the reader of the particular land proposed to be included within the redevelopment district shall be published with the resolution.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, this _____ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

EXHIBIT "B"

REDEVELOPMENT DISTRICT PLAN FOR THE REDEVELOPMENT OF THE C.O.R.E REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING

February 12, 2008

SECTION 1: PURPOSE

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

SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

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

SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES

All property located between the south right of way line of Central Avenue on the south, the north right of way line of Murdock Avenue on the north, the east right of way line of Santa Fe Avenue on the east and the west lot line of lots 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64 and 66 on Topeka Avenue in J.P. Hilton's addition; and the north 45 feet of lot 10 excluding the west 2 feet, in J.P. Hilton's Addition; and south 75 feet of lot 10, J.P. Hilton's Addition; and beginning at the southeast corner of the reserve on Topeka in J.P. Hilton's addition, then west 140 feet, then north 280 feet, then east 140 feet, then south 280 feet to the point of beginning; in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas.

SECTION 4: BUILDINGS AND FACILITIES

The district includes a nine square block area and property on the west side of Topeka Avenue. The current property uses are highly varied and in some places incompatible, such as residential properties abutting light industrial uses. Examples of the uses are single and multi-family

housing, medical offices, retail, office, warehouse, light industrial, parking lots, and the Wichita Metro High School. Over 75% of the buildings in the area are over 50 years old; many of them are vacant and/or showing signs of dilapidation, particularly the housing.

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

SECTION 5: REDEVELOPMENT AND PROJECT AREAS

It is anticipated that the majority of the district, minus the Fred P. Chang building, Sedgwick County Corrections and property to the west of Topeka Ave., will be designated as the "project area" under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally call for construction medical-use buildings, brownstone-type town homes, market rate apartments, apartments for those with disabilities, a neighborhood grocery store, mixed use office/retail space, and a neighborhood park. The plan would also call for refurbishing some historic buildings and retaining many of the current businesses through location in the new buildings.

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

SECTION 6: CONCLUSION

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

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

Proposed C.O.R.E Redevelopment District

City of Wichita, Kansas

- Proposed C.O.R.E Redevelopment District
- Property Parcels inside Redevelopment District
- Property Parcels outside Redevelopment District

Software: ArcGIS 9.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter

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

Road Centerlines provided by City of Wichita

Wednesday, January 30, 2008 7:55:32 AM
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It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS per

EXHIBIT "A"

Agenda Item No. 37.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: Amendments to the Self-Supported Municipal Improvement District (SSMID) Ordinance (Districts I and VI)

INITIATED BY: City Manager Office

AGENDA: New Business

Recommendation: Close public hearing and approve the first reading of the ordinance.

Background: On March 20, 2001, the City Council adopted on ordinance establishing a self-supported municipal improvement district (SSMID) for downtown Wichita (the "SSMID Ordinance"). The ordinance provides for the levying of an additional ad valorem tax, up to 10 mills, on all taxable real and personal property located within the boundaries set forth in the SSMID Ordinance. The SSMID boundaries generally describe the area from the Arkansas River to Washington and Kellogg to Central. The term of the SSMID Ordinance is 10 years, until December 31, 2011.

On December 18, 2001, the City Council approved a contract with the Wichita Downtown Development Corporation (WDDC) to provide economic development services to the City for the revitalization of the SSMID area described above. The contract for downtown development services with the WDDC provides for payments of SSMID assessment revenues to the WDDC in consideration of the implementation of the scope of services set forth in the contract. The WDDC Board of Directors has requested an amendment to the SSMID Ordinance that would extend the term of the Ordinance. A resolution adopted by the City Council on December 18, 2007 set February 12, 2008 as the date for a public hearing to consider the proposed amendments.

Analysis: The Wichita Downtown Development Corporation, with an estimated annual budget of $500,000 funded by SSMID assessments, focuses its efforts in four major program areas:

1. **Image enhancement and marketing programs** to attract consumers visitors and residents and promote a positive downtown image.
2. **Business retention and recruitment initiatives** to retain, grow and attract jobs, businesses and investment.
3. **Urban vitality improvements** to make downtown more attractive and vital.
4. **SSMID operations** to support program activities

The WDDC Board is in the process of a national search for a new president to lead the organization and believe that the extension of the term of the SSMID Ordinance will assist in that effort by addressing any concern about how long the job might last.

The WDDC Board is asking for an amendment that would extend the term of the SSMID Ordinance by one year, to 2012, then automatically extend it by one year each year that the City Council adopts the annual SSMID budget, starting with the budget adoption in August 2008, unless the City Council affirmively disapproves the extension. This will provide the WDDC and SSMID Advisory Board with a 5-year rolling budget horizon within which to plan future activities.

Financial Considerations: SSMID assessments are billed to property owners by the County Treasurer as part of each year's property tax statement. Assessments are collected by the County Treasurer and distributed to the City along with property taxes. A detailed budget for the use of SSMID revenues is recommended each year by a City-appointed SSMID Advisory Board and submitted to the City Council for approval as part of the normal budget process. The annual tax levy that results has been around 5 mills in past years.

Goal Impact: Core Area and Neighborhoods, Quality of Life, Economic Vitality and Affordable Living, Safe and Secure Neighborhoods, Efficient Infrastructure: Downtown revitalization is crucial to all aspects of community betterment.

Legal Considerations: K.S.A. 12-1794 *et seq.* provides the authority and procedures for establishing and operating self-supported municipal improvement districts, including amendments to the SSMID Ordinance. To amend provisions to the SSMID Ordinance, the City Council must first adopt a resolution setting a public hearing to consider the amendments. The public hearing must be held not-less-than 30 days or more than 60 days following the adoption of the resolution. The resolution must be mailed to all property owners in the District and published three times with the last publication not less than one week prior to the date set for the public hearing. Following the public hearing, the City Council must wait at least 30 days before final adoption of an ordinance amending the SSMID Ordinance. The City Council shall not take final action to amend the SSMID Ordinance if the City Clerk receives a petition opposing the amendment within 30 days of the public hearing, signed by 40% of all owners of property located within the SSMID boundaries who also own 40% of the total assessed valuation of the SSMID.

Recommendation/Action: It is recommended that the City Council close the public hearing and approve the first reading of the amended SSMID Ordinance.

Attachment(s): Ordinance.

PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5 OF ORDINANCE NO. 44-895 (DOWNTOWN SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT) OF THE CITY OF WICHITA AND REPEALING THE ORIGINAL SAID SECTION PURSUANT TO K.S.A. 12-1794

WHEREAS, by Ordinance No. 44-895 adopted March 20, 2001, the City of Wichita established a Self-Supported Municipal Improvement District pursuant to K.S.A. 12-1796 et. seq., as amended, known as the Downtown Self-Supported Municipal Improvement District; and

WHEREAS, Section 5 of Ordinance No. 44-895, pertains to the Term of the District and provides as follows:

> "Term. The term of the existence of the District shall be from the effective date of this Ordinance, and terminating on December 31, 2011, unless sooner dissolved pursuant to K.S.A. 12-1779, and shall include not to exceed ten (10) assessments for the operation of the District during each subsequent year during the term of the District."

WHEREAS, the City and WDDC Board desire to amend the Ordinance to provide as follows:

"Term. The term of existence of the District shall be from the effective date of Ordinance No. 44-895 and terminating December 31, 2012, provided that beginning in 2008 and in each subsequent year, such termination date shall be deemed extended by one additional year without further amendment of the ordinance, upon the approval of the budget for the District by the governing body, unless the governing body disapproves of such extension in any such year or unless the District is sooner dissolved pursuant to K.S.A. 12-1799."

WHEREAS, the Governing Body of the City of Wichita, Kansas, by Resolution number R-07-740 adopted December 18, 2007, set a public hearing to consider the Downtown Self-Supported Municipal Improvement District Ordinance amendment on the 12th day of February, 2008, at 9:30 a.m. or thereafter, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas; and

WHEREAS, on February 12, 2008, the date being not less than 30 nor more than 60 days following the date of the adoption of Resolution No. R-07-740 fixing the date of such hearing, a public hearing was held by the governing body of the City of Wichita on the amendment to the Downtown Self-Supported Municipal Improvement District Ordinance; and

WHEREAS, the Wichita/Sedgwick County Metropolitan Area Planning Commission has found that the amendment of the term of the District is consistent with the comprehensive plan for the development of the City; and

WHEREAS, a copy of Resolution No. R-07-740 was mailed by certified mail to each owner of land within the district not less than 15 days prior to the date of public hearing; and

WHEREAS, more than 30 days have passed since the public hearing on the amendment of the District Ordinance was held and no adequate petition opposing the amendment of the District Ordinance has been filed with the City Clerk prior to the adoption of this Ordinance; and

WHEREAS, the Governing Body is authorized following the public hearing to adopt the Amendment to the Ordinance.

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

Section 1. Section 5 of Ordinance No. 44-895 is hereby amended to read as follows:

> "Term. The term of existence of the District shall be from the effective date of Ordinance No. 44-895 and terminating December 31, 2012, provided that beginning in 2008 and in each subsequent year, such termination date shall be deemed extended by one additional year without further amendment of the ordinance, upon the approval of the budget for the District by the governing body, unless the governing body disapproves of such extension in any such year or unless the District is sooner dissolved pursuant to K.S.A. 12-1799."

Section 2. The Original of Section 5 of Ordinance No. 44-895 is hereby repealed.

Section 3. This Ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

ADOPTED AND PASSED by the governing body of the City of Wichita, Kansas this ____ day of _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, City Attorney

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2007-00036

Zone change from “SF-5” Single-family Residential, “TF-3” Two-family Residential and “LC” Limited Commercial to “MF-29” Multi-family Residential with a Protective Overlay #193, and subject to vacation of street right-of-way and replatting the entire property described as:

The West 340 feet of the American Legion Addition, Wichita, Sedgwick County, Kansas. Generally located south of 31st Street South and east of Wichita Street.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Screening to be one and one-half times what is required by code.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

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

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

ADOPTED AT WICHITA, KANSAS, _____

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

EXCERPT FROM SEPTEMBER 6, 2007 MAPC HEARING

Case No.: ZON2007-36 – Steel Sunflowers LLC (owner, applicant), Poe & Associates: c/o Tim Austin (agent) Request City zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential on property described as;

The West 340 feet of American Legion Addition, Wichita, Sedgwick County, Kansas. Generally located south of 31st Street South and east of Wichita Street.

BACKGROUND: The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of South Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32nd Street South Circle right-of-way, through the south one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences.
In this particular area, there is a mix of uses and zones. Just within a four-square block area, there are properties zoned LC, GC, LI, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. The Unified Zoning Code (UZC) permits MF-29 zoning for up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units with a rezone. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZC has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

CASE HISTORY: The existing SF-5 zoning was established when this property was annexed into the city between 1951-1960. The LC and TF-3 zoning was established in a zone change (Z-2376), from SF-5 (or "AA") in 1982. Z-2377 was a rezone attempt on the southern half of the addition from "AA" (SF-5) to "A" (TF-3) in 1982, but the case was withdrawn. The application area is a part of the American Legion Addition, recorded in 1982.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" Limited Commercial	Car Sales, Retail, Office
	"SF-5" Single-family Residential	Single-family Residences
SOUTH:	"SF-5" Single-family Residential	Single-family Residences

EAST:	"LC" Limited Commercial	Civic Club
	"GC" General Commercial	Salvage
	"SF-Single-family Residential	Salvage
WEST:	"LC" Limited Commercial	Group Quarters
	"B" Multi-family Residential	Group Quarters
	"SF-5" Single-family Residential	Single-family Residences

PUBLIC SERVICES: 31st Street South at this location is a four-lane minor arterial with 95 feet of right-of-way. 31st Street South carries 8,215 average daily trips. Wichita Street, which runs along the west side of the subject, is a local road with a 60-foot right-of-way. Apartments, a common use in a MF-29 zone, generate approximately 6.6 average daily vehicle trips per unit. With SF-5 and TF-3 zoning, a single-family residence can generate 9.6 and a condo can generate 5.9 average daily vehicle trips per unit. Under LC zoning, a fast-food restaurant can generate 496.1 and a supermarket can generate 111.5 average daily vehicle trips per 1,000 square feet of gross floor area (Source: Institute of Transportation Engineers.) Other publicly provided services are available or can be extended to the site.

CONFORMANCE TO PLANS/POLICIES: Goal II of "The Wichita-Sedgwick County Comprehensive Plan Preparing for Change" indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium and high-density uses should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The "2030 Wichita Functional Land Use Guide" reflects the sites current "LC" zoning by showing the site as being appropriate for "local commercial" uses and the sites currently SF-5 and TF-3 by showing those sites as being appropriate for "urban residential" uses.

RECOMMENDATION: A property owner in the immediate area who is opposed to the zone change and proposed multi-family development contacted planning staff; the property owner feels that multi-family use may conflict with the existing residences in the area. Under MF-29 zoning, the site could be developed in theory with up to 29 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Another possible issue with this site and the proposed "MF-29" zoning is access. The site can have access onto a local street, S. Wichita Street, abutting the subject site on the west. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to vacation of street right-of-way and replat within one year and the following provisions of Protective Overlay #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Solid screening, 6 to 8 feet tall, shall be required along all property lines when adjacent to or across the street from SF-5 zoning.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property zoned LC and SF-5 abuts the subject site on the east. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group

quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. The application area is a transitional area as demonstrated by the diverse set of zones and land uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LC, TF-3 and SF-5. This current zoning would allow for a wide range of uses. With the current zoning, there is the possibility for a mix of uses, some of which would be too intense for this particular area. Additionally, the number of dwelling units that can be allowed within this mix of zoning, according to the UZC, would be greater than the number of units that would be potentially allowed under the MF-29 zoning. Also, the proposed MF-29 zoning would not allow more intense commercial uses that are allowed within the LC zone.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would downzone 35% of the property currently zoned LC. This down zoning would eliminate the possibility of intense commercial uses from operating in this area. The rezone would also create a buffer between commercial uses currently along South Broadway Avenue and single-family residential uses along Wichita Street, extending to the west. A traffic increase could occur if the primary access for any proposed residential development was established along S. Wichita Street. This is a point that should be addressed in the replatting process.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing to the market. Denial would, in effect, only delay the development of the property as the site's LC zoning permits multi-family uses, with a higher density than what is allowed in a MF-29 zone.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.

6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. South 31st Street is a four-lane facility that has capacity to accommodate the uses allow by the proposed zoning. Other services are available or can be extended through the platting process.

DERRICK SLOCUM, Planning staff presented the staff report.

He referred Commission members to the DAB III Memorandum dated September 6, 2007, and stated that DAB III approved the request 6-5. He added that staff has received thirty protest petitions on the application.

SHERMAN clarified that it was **SLOCUM'S** understanding that this area would not be developed for low-income housing.

SLOCUM said that was correct.

TIM AUSTIN, POE & ASSOCIATES, AGENT FOR THE APPLICANT said they were in concurrence with the staff report and staff recommendations. He referred to Item #2 of the staff report concerning the solid screening and suggested that it would be more appropriate for them to landscape at one and one-half times what is required by City ordinance. He mentioned wrought iron fencing with plantings.

HILLMAN commented that all the concerns expressed at the DAB meeting weren't regarding the potential for low-income housing. He said he appreciated **AUSTIN'S** comments about landscaping and mentioned planting evergreen so the plants were attractive year-round and don't lose leaves in the winter. He said the Commission would be willing to work with them on that item.

Responding to a question from **MARNELL** concerning vacating the center right-of-way and the status of the four lots to the north of the site, **AUSTIN** explained that the four lots were currently owned by the American Legion who would be retaining ownership. He added that they would vacate then replat the center area.

HENTZEN asked how long the salvage yard could stay at its present location?

Staff commented that the area was zoned "GC" General Commercial and that the salvage yard was, therefore, a non-conforming use.

LANG commented that he was not aware of any time limit as long as the salvage yard operation stays unchanged.

JOHNSON asked how many units would be developed?

AUSTIN commented that on the 3.4-acre site they were allowed to develop ninety-nine units, but that it would probably be something less than that.

BRIAN SLATER, 3301 S. WICHITA said he lived straight across from this property. He said the entire neighborhood is against the rezoning and that the neighbors do not want an apartment complex in their front yard. He said the area has many older people and that they have a low crime rate. He said they believe putting a multi-dwelling complex in the area would increase crime. He also mentioned that the entrance/exit to the complex would be off of Wichita Street which is a residential street, and that this would add approximately 600 plus vehicles a day in traffic. He said they have traffic problems in the area as it is. He said they have no problem developing single-family homes in the area. He said they could care less if they are screened from the salvage yard. He said they are taxpaying citizens who chose to live in the area because they like it there. He mentioned that he grew up the in the neighborhood and requested that the Commission consider the opinion of the neighbors in the area and please not turn this area into an apartment complex.

ALVIN GANN, 204 WEST PATTERSON said the proposed site was in his backyard. He commented about the petitions that were turned into City Councilman Skelton. He also mentioned that he felt this development would create a crime wave and that drugs may also be an issue. He said low-income housing bothers him anywhere in the City and added that he felt things just "went to pot" especially if the government has anything to do with it. He mentioned South Hydraulic and that most of the houses in that area are now boarded up or empty and that he was afraid that this would happen in their neighborhood. He asked who was responsible for cutting the field? He also asked about Item #5 on the staff report concerning the 35-foot set back and what that meant. He asked was that setback from the alley or his property? He concluded by saying that the neighborhood does not need low-income housing.

MILLER commented that the setbacks are measured from the property line (applicant's property line).

Responding to a question from **BISHOP, SLOCUM** explained the processing of the protest petitions presented to him at last night's DAB III meeting.

JEANETTE BURNISON, 210 W. PATTERSON said her property backs right up to the site. She said she is concerned about the influx of so many people into an area that is a nice, quiet neighborhood. She said they are having terrible traffic problems because of the closing of the bridge on Broadway. She said she has lived there since she was 6 years old. She said she did not want multi-dwelling housing even if it is really nice. She said the junkyard has never bothered the neighbors because it creates no traffic and it is screened. She said this is a small, quiet neighborhood; that the residents are against this; and asked the Commission to take that into account when they voted.

JIMMYDALE GREY, 307 W. 32nd STREET SOUTH, said he is concerned about increased traffic and depreciation of the value of his home. He said they are talking about 100 residents in a one-block area. He said single-family homes are what the norm is in the area. He said an apartment complex will cause increased traffic, crime, and that it just isn't wanted by the neighborhood.

WALTER HAYS, 302 W. 32nd STREET mentioned the increased traffic problems in the area, and how 32nd Street dead ends at Gold. He mentioned that there have also been several wrecks at Patterson and Wichita Streets. He concluded by saying that it was just not a good idea to put an apartment complex at the site. He said single-family housing or even duplexes would be okay.

HILLMAN asks for clarification in regards to 32nd Street not being completely paved?

HAYS commented that there was a section of 32nd Street between Waco and Palisade that was not paved.

TIM AUSTIN explained that the American Legion does not own the property that is being rezoned. He said this residential area was platted in 1952, the east was platted in 1937, and the north was platted in 1965, but that nothing has been happening within the last 25 years.

TAPE 1, SIDE 2

He said Patterson Street does come out onto Broadway and that there is a one half street right-of-way. He said this property is in compliance with multi-use land area within the Comprehensive Plan, and added that they were attempting to balance land development with the rights of people in the neighborhood.

JOHNSON asked if his client specialized in low-income housing?

AUSTIN commented that no definite decision has been made, but using tax credit to develop housing is a business decision that his client would evaluate and make. He said he is not going to say the development is never going to be low-income housing; however, he pointed out that if that were to happen, there is a separate public hearing process where the neighbors could participate.

HILLMAN commented on the auto repair shop at 31st Street and Wichita and that there were a lot of vehicles parking along Wichita Street right now. He said he would like a commitment to work with owner of the proposed complex to provide sufficient off-street parking so as not to compound the current problem.

AUSTIN commented that he has spoken with Traffic Engineering concerning the situation along Wichita Street and whether "No Parking" signs would be appropriate and they indicated they would research the

situation. He said the applicant is planning on providing one and three-quarter parking stalls for every dwelling unit, whether it is two or three-bedroom. He said they plan on providing sufficient off-street parking so cars will not be on the street. He said that and access controls would be discussed at platting.

BISHOP said since Wichita Street is designated as a residential street, could the case be deferred until the access issue was resolved, since this was a major issue with her.

AUSTIN said he would prefer that the Commission vote on the request today. Responding to a question from **BISHOP** concerning sidewalks, curbs and guttering in the area, **AUSTIN** commented that the streets were paved to the urban standards set in 1952, and acknowledged that there were no sidewalks.

BISHOP commented that she has problems developing multi-family complexes on residential streets.

MOTION: To approve subject to staff recommendation.

MARNELL moved**, ANDERSON** seconded the motion.

GISICK asked if the motion included the change in Item #2 to one and one-half times what the Unified Zoning Code required for screening? **MARNELL** responded yes.

SUBSTITUTE MOTION: To defer action on the item.

BISHIOP moved, **HILLMAN** seconded the motion and it failed (2-9). **ANDERSON, DOWNING, GISICK, HENTZEN, JOHNSON, MARNELL, MILLER STEVENS, SHERMAN and VAN FLEET** – No.

The original motion carried (10-1). **BISHOP** – No.

EXCERPT OF JANUARY 10, 2007 MAPC MINUTES

Case No.: ZON2007-36 – Steel Sunflowers LLC (owner/applicant); Poe & Associates, c/o Tim Austin (agent) Request City zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential on property described as;

The West 340 feet of American Legion Addition, Wichita, Sedgwick County, Kansas. Generally located South of 31st Street South and east of Wichita Street.

BACKGROUND: The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of South Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32nd Street South Circle right-of-way, through the south one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences.

In this particular area, there is a mix of uses and zones. Just within a four-square block area, there are properties zoned LC, GC, LI, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. The Unified Zoning Code (UZC) permits MF-29 zoning for up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units with a rezone. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZC has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

This case was referred back to the MAPC by the City Council once the applicant completed a traffic analysis. The applicant submitted the completed analysis to the Traffic Department for approval and planning staff received the approved traffic analysis on December 7, 2007. This case was then scheduled for the soonest MAPC meeting in regards to public notice timing.

CASE HISTORY: The existing SF-5 zoning was established when this property was annexed into the city between 1951-1960. The LC and TF-3 zoning was established in a zone change (Z-2376), from SF-5 (or "AA") in 1982. Z-2377 was a rezone attempt on the southern half of the addition from "AA" (SF-5) to "A" (TF-3) in 1982, but the case was withdrawn. The application area is a part of the American Legion Addition, recorded in 1982.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" Limited Commercial	Car Sales, Retail, Office
	"SF-5" Single-family Residential	Single-family Residences
SOUTH:	"SF-5" Single-family Residential	Single-family Residences
EAST:	"LC" Limited Commercial	Civic Club
	"GC" General Commercial	Salvage
	"SF-Single-family Residential	Salvage
WEST:	"LC" Limited Commercial	Group Quarters
	"B" Multi-family Residential	Group Quarters
	"SF-5" Single-family Residential	Single-family Residences

PUBLIC SERVICES: 31st Street South at this location is a four-lane minor arterial with 95 feet of right-of-way. 31st Street South carries 8,215 average daily trips. Wichita Street, which runs along the west side

of the subject, is a local road with a 60-foot right-of-way. Apartments, a common use in a MF-29 zone, generate approximately 6.6 average daily vehicle trips per unit. With SF-5 and TF-3 zoning, a single-family residence can generate 9.6 and a condo can generate 5.9 average daily vehicle trips per unit. Under LC zoning, a fast-food restaurant can generate 496.1 and a supermarket can generate 111.5 average daily vehicle trips per 1,000 square feet of gross floor area (Source: Institute of Transportation Engineers.) The applicant, at the request of the Wichita City Council, completed a traffic analysis examining the impact a multi-family development would have in the area in regards to traffic and the plan was approved by the Traffic Department. Other publicly provided services are available or can be extended to the site.

CONFORMANCE TO PLANS/POLICIES: Goal II of "The Wichita-Sedgwick County Comprehensive Plan Preparing for Change" indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium and high-density uses should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The "2030 Wichita Functional Land Use Guide" reflects the sites current "LC" zoning by showing the site as being appropriate for "local commercial" uses and the sites currently SF-5 and TF-3 by showing those sites as being appropriate for "urban residential" uses.

RECOMMENDATION: A number of property owners in the immediate area are opposed to the zone change and proposed multi-family development. The property owners feel that a multi-family use may conflict with the existing residences in the area and have a negative impact on the traffic in the area. Protest petitions were received in response to the MAPC (approval) decision at the September 6, 2007 meeting. The protest encompasses about 35% of the surrounding property area, which triggers the requirement of a three-fourths vote by the City Council to approve this request.

Under MF-29 zoning, the site could be developed in theory with up to 29 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Another possible issue with this site and the proposed "MF-29" zoning is access. The site can have access onto a local street, S. Wichita Street, abutting the subject site on the west. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to vacation of street right-of-way and replat within one year and the following provisions of Protective Overlay #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Screening to be one and one-half times what is required by code.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property zoned LC and SF-5 abuts the subject site on the east. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. The application area is a transitional area as demonstrated by the diverse set of zones and land uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LC, TF-3 and SF-5. This current zoning would allow for a wide range of uses. With the current zoning, there is the possibility for a mix of uses, some of which would be too intense for this particular area. Additionally, the number of dwelling units that can be allowed within this mix of zoning, according to the UZC, would be greater than the number of units that would be potentially allowed under the MF-29 zoning. Also, the proposed MF-29 zoning would not allow more intense commercial uses that are allowed within the LC zone.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would downzone 35% of the property currently zoned LC. This down zoning would eliminate the possibility of intense commercial uses from operating in this area. The rezone would also create a buffer between commercial uses currently along South Broadway Avenue and single-family residential uses along Wichita Street, extending to the west. A traffic increase could occur if the primary access for any proposed residential development was established along S. Wichita Street. This is a point that should be addressed in the replatting process.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing

to the market. Denial would, in effect, only delay the development of the property as the site's LC zoning permits multi-family uses, with a higher density than what is allowed in a MF-29 zone.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.

6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. South 31st Street is a four-lane facility that has capacity to accommodate the uses allowed by the proposed zoning. Other services are available or can be extended through the platting process.

DERRICK SLOCUM, Planning Staff presented the staff report.

HENTZEN asked what the traffic study revealed?

SLOCUM said the study did not show a significant change in the amount of traffic in the area. He said due to setback requirements, they are projecting 29 units per acre, which was pretty conservative; however, he said he would let the agent speak further on that subject.

TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR APPLICANT, stated that they were in agreement with staff recommendation. He said the traffic study indicated a negligible impact, which was well below the traffic threshold and minimum standards.

A. H. GANN, 204 WEST PATTERSON, said the land being rezoned comes right up to his backyard. He asked the Commission if they get copies of protests, and if they read them.

CHAIRMAN MITCHELL said sometimes they receive copies of those letters and sometimes they do not.

GANN asked who owned the property? He said according to the City Clerk's office, it still belongs to American Legion #401, but the staff report says Steel Sunflowers, LLC, and he doesn't understand that.

CHAIRMAN MITCHELL said they would ask the agent to answer that question.

WALTER HAYS, 302 W. 32nd STREET SOUTH, provided the Commissioners pictures of the last snow, and how it affected traffic in and around the neighborhood. He said if people park on either side of the street, then you are down to one-lane of traffic. He said there are no sidewalks in the neighborhood so people have to walk in the street. He said he thought is was a bad deal to put in another 100 apartment units, and the kind of traffic that would generate in the area. He mentioned that 33rd Street is sand. He said the car rebuild shop on the corner of 33rd and Wichita parks cars on the street, which makes a mess. He said he has lived there for 20 years, and said it is a real good possibility that there will be negative impact on the neighborhood. He said this area does not need to be rezoned.

HILLMAN mentioned that this is the second time he has heard about the car rebuilding shop. He asked if staff has taken a look at the situation and if it has improved.

HAYS said the situation has not improved, and is especially bad at night. He mentioned that the business does not appear to be open during the day.

GARY JANTZ, 215 WEST PATTERSON, said the pictures shown during the staff report do not reflect the north side of the property on 31st Street which is a row of blighted businesses nor to the east of the property, which is a junk yard. He said he does not believe the kind of apartments being proposed are going to improve the community or make it a better place to live. He agreed that something needs to be done with the land, but doesn't think apartments are the answer. He asked what person moving into the apartments is going to want a view of the junkyard and blighted area. He said he understood the City's need for tax money, but didn't see this proposal as a positive move.

JEANETTE BURNISON, 210 WEST PATTERSON, said she does not believe the apartments being proposed are going to generate income because no one is going to want a balcony over a junkyard or blighted businesses. She referred to where she lived on Patterson, and said that people are going to come south down Wichita to Patterson to get to Broadway, and that her particular street will have higher traffic volume. She said she is also concerned about the proposed housing, and said that income level would not improve the community. She concluded by saying that she is also worried about crime.

HILLMAN clarified the location of the "Gold Eagle Apartment Complex" shown in the pictures provided by Mr. Hays, and it's relationship to the area to be rezoned.

TIM AUSTIN clarified that Steel Sunflowers LLC currently owns the property although American Legion #401 was listed on the original application.

There was brief discussion concerning how long it takes for property records to be changed.

BOB PARNACOTT, COUNTY LAW DEPARTMENT briefly explained the transfer process stating that the deed is filed with the Register of Deeds, and then the County Clerk makes the entry showing the new ownership under County records; however, he didn't know how long the process took.

HILLMAN commented that they checked this morning and the records do not show the property transfer.

MOTION: To approve, subject to staff recommendation.

MARNELL moved, MCKAY seconded the motion, and it carried (12-1).

HILLMAN – No.

POE & ASSOCIATES, INC. CONSULTING ENGINEERS
5940 E. Central, Suite 200 (316) 685-4114
Wichita, Kansas 67208 FAX: (316) 685-4444

RECEIVED
DEC - 7 2007
METROPOLITAN PLANNING
SUITE

December 5, 2007

Paul Gunzelman, PE
City of Wichita
455 N. Main; 7th Floor
Wichita, KS 67202

RE: 31st & Wichita
ZON2007-00036
Traffic Study

Dear Paul:

Per our discussions, the following is the analysis of the traffic impact for the proposed project.

Existing Condition

According to the traffic counts that your office provided, the a.m. traffic peak occurs between 7 am and 8am and the p.m. peak between 4 pm and 5 pm. Total traffic was measured at 23 vehicles per hour in the morning and 31 vehicles in the evening. Applying the ITE standards for single-family residential [1], the number of exiting vehicles is 17 vehicles per hour or one exiting car every 3½ minutes from the neighborhood in the morning and 11 vehicles per hour in the evening or one exiting car every 5½ minutes.

Existing ADT for 31st Street South in this location is approximately 8,375 vehicles. The morning peak is estimated to be approximately 10% of the ADT for an arterial traffic count of 838 vehicles. Distribution is assumed to be 50% each direction across 2 lanes of traffic in either direction yielding 210 vehicles per lane per hour or approximately 3 ½ vehicles per minute or one car passing the intersection every 17 seconds.

Developed Condition

Applying the maximum dwelling units (29 per acre) to the property that is being rezoned yields approximately 98 dwelling units. According to the ITE, the number of trip ends is approximately 55 trip ends during the morning peak. Distribution is 28% entering and 72% exiting. Since there are other entry point onto the arterial street system, we estimate that a 10% reduction in cars entering onto 31st Street, which yields approximately 35 additional cars at the intersection of 31st Street during the morning peak. Total exiting traffic would be 52 vehicles per hour during the morning peak or one exiting car approximately every 1¼ minutes.

[1] (25% entering and 75% exiting, am; 66% entering and 34% exiting, pm.)

Attached is are the traffic counts that were provided by your office for Wichita street. Also enclosed is an aerial photograph that shows the existing and developed a.m. exiting peak traffic counts.

Conclusion

Because of the negligible impact of the small amount of exiting traffic in the morning peak in the developed condition and the existing capacity of 31st Street South, there is no impact to the neighborhood. A warrant analysis of the developed condition concludes that a traffic signal at this intersection is not warranted.

We need to reiterate that the developed condition is considered the most conservative as it assumed the maximum density possible; however, given our experience with multifamily projects, a realistic expectation would be that the density would be considerably less.

Please let me know if you have any questions.

Respectfully,

Tim Austin, PE

Cc: Derrick Slocum

Traffic Counts

Start Time	Date	Type	Traffic Counter #
8:45 AM	10/31/07	Full	34

Location Street Name: Wichita s/of 31t st

Special conditions N

Comments N

24 Hour Total	Day of the Week	AADT
341	Mon	322

Time	AM & PM
12 pm - 1 am	3
1 am - 2 am	4
2 am - 3 am	3
3 am - 4 am	0
4 am - 5 am	1
5 am - 6 am	12
6 am - 7 am	14
7 am - 8 am	23
8 am - 9 am	15
9 am - 10 am	10
10 am - 11 am	22
11 am - 12 am	8
12 am - 1 pm	14
1 pm - 2 pm	23
2 pm - 3 pm	23
3 pm - 4 pm	18
4 pm - 5 pm	31
5 pm - 6 pm	23
6 pm - 7 pm	19
7 pm - 8 pm	21
8 pm - 9 pm	27
9 pm - 10 pm	13
10 pm - 11 pm	8
11 pm - 12 pm	6

Totals	Total Count	AM Count	PM Count
	341	115	226

Traffic Counts

Start Time	Date	Type	Traffic Counter #
8:50 AM	10/31/07	Full	49

Location Street Name: Wichita s/of 33rd

Special conditions N

Comments N

24 Hour Total	Day of the Week	AADT
148	Mon	140

Time	AM & PM
12 pm - 1 am	3
1 am - 2 am	1
2 am - 3 am	0
3 am - 4 am	1
4 am - 5 am	0
5 am - 6 am	5
6 am - 7 am	4
7 am - 8 am	7
8 am - 9 am	2
9 am - 10 am	4
10 am - 11 am	6
11 am - 12 am	8
12 am - 1 pm	13
1 pm - 2 pm	12
2 pm - 3 pm	9
3 pm - 4 pm	13
4 pm - 5 pm	18
5 pm - 6 pm	6
6 pm - 7 pm	8
7 pm - 8 pm	15
8 pm - 9 pm	7
9 pm - 10 pm	4
10 pm - 11 pm	0
11 pm - 12 pm	2

Totals	Total Count	AM Count	PM Count
	148	41	107

31ST & WICHITA

not to scale

EXITING A.M. PEAK

Agenda Item No. 38.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: ZON2007-00036 – Zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential with a Protective Overlay. Generally located south and east of the intersection of 31st Street South and Wichita Street. (District III)

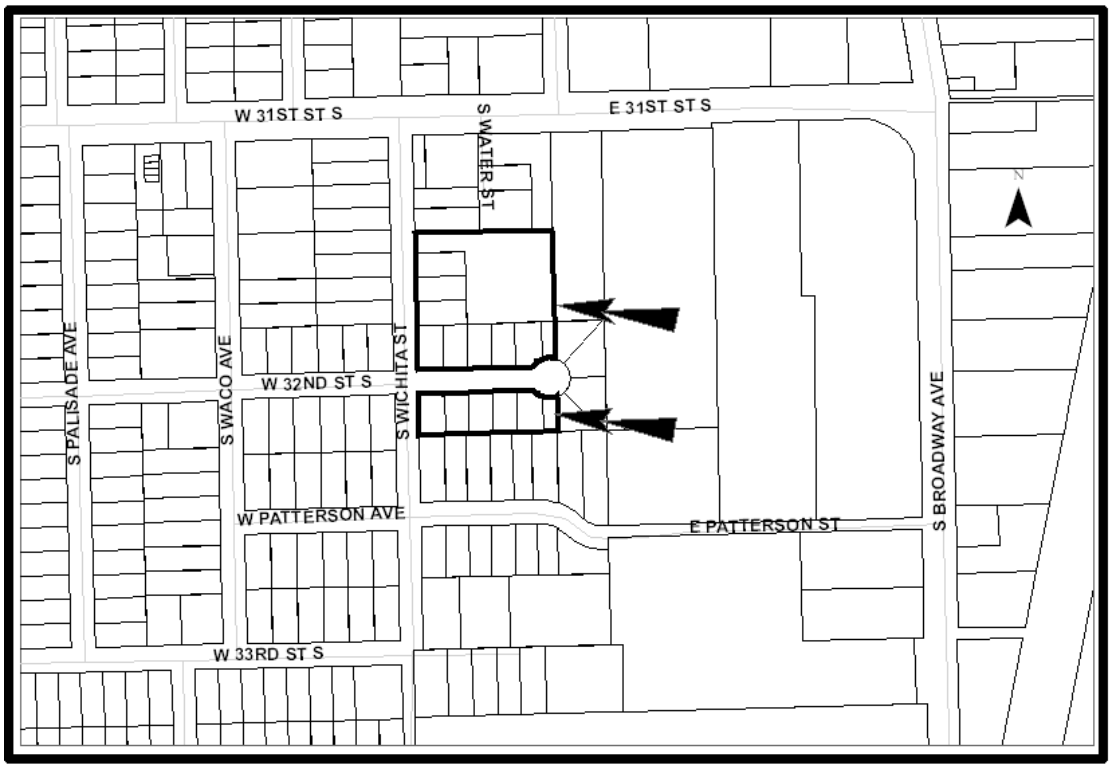
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

DAB III Recommendation: (September 5, 2007) Approve, subject to Protective Overlay #193, Vote 6-5.

MAPC Recommendation: Approve, subject to Protective Overlay #193, vote 10-1.

MAPD Staff Recommendation: Approve, subject to Protect Overlay #193



Background: The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32nd Street South Circle right-of-way, running through the southern one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted, but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and "GC" General Commercial and is developed as a salvage yard. To the west is property zoned LC, "B" Multi-family Residential, and SF-5, which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5, which is developed with a car sales lot, construction services, offices, apartments and a couple of single-family residences.

In this particular area, there is a mix of uses and zones. Just within a four square block area, there are properties zoned LC, GC, "LI" Limited Industrial, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. MF-29 zoning permits up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units when compared to the sites current zoning. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZC has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

Analysis: This case was heard at the District III Advisory Board meeting held on September 5, 2007, and they voted (6-5) to recommend approval of the request for MF-29 zoning with Protective Overlay #193. At the DAB III meeting, there were a number of citizens present, along with a few DAB members that stated their opposition to the zone change.

At the MAPC meeting held September 7, 2007, the MAPC voted (10-1) to recommend approval of the request for MF-29 zoning with Protective Overlay #193. At the MAPC meeting, there were a number of citizens present to discuss their opposition to the zone change.

At the Wichita City Council meeting held October 16, 2007, the council voted to return the case back to the MAPC with the addition of a traffic analysis. The MAPC then re-heard the zoning request on January 10, 2008, with the additional traffic analysis. The MAPC voted (12-1) to recommend approval of the request for MF-29 zoning with Protective Overlay #193.

Another District Advisory Board meeting was held on February 6, 2008, but that date is after the deadline for this report.

At this time, there have been 31 protest petitions received and stamped by the city clerk. Fifteen of those 31 petitions are located within the formal notification area, equating to 34.7% of the total real property within the area required to be notified by state statue. With the protest being more than 20% of the total real property within the area required to be notified by state statute of the proposed zoning map amendment, excluding streets and public ways and property excluded pursuant to Section V-C.10.b, such

amendment may be approved by the Governing Body only by a vote of approval by at least three-fourths of all members of the Governing Body. (Article V, Section C.10(a) of the Unified Zoning Code)

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Improve Housing Variety

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to the additional conditions of Protective Overlay #193; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a majority vote of the City Council on the first hearing.)

RESOLUTION No. _____

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT "PARKING AREA, ANCILLARY" (DRIVEWAY ONLY) ON 2,700 SQUARE FEET ZONED "SF-5" SINGLE-FAMILY RESIDENTIAL, GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF HEATHER ROAD AND PEACH TREE LANE (8201 EAST PEACH TREE LANE), IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

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

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit "parking area, ancillary" (driveway only) on property zoned "SF-5" Single-family Residential legally described below:

The south 30 feet of the west 90 feet of Lot 1, Block 7, Bonnie Brae Addition to the City of Wichita, Kansas, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The uses on the site are restricted to a "driveway only" (parking is prohibited).
2. The site shall be developed in general conformance with the approved site plan.
3. The site shall be developed in compliance with all applicable code requirements, including, but not limited to: setbacks, landscaping, screening, noise and lighting. Parking lot lighting standards shall not exceed 15 feet including the base.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of approval for this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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

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

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date _____, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

EXCERPT OF JANUARY 10, 2007 MAPC MINUTES

Case No.: CON2007-48 - Mathew Murray (applicant)/Doug Maryott (agent, co-applicant) Request City Conditional Use request to permit parking and/or ancillary drive on property zoned "SF-5" Single-family Residential on property described as:

The southern most 30 feet of the west 90 feet of Lot 1, Block 7 of the Bonnie Brae Addition, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of the intersection of South Heather Road and East Peach Tree Lane (8201 East Peach Tree Lane.).

DALE MILLER, Planning Staff presented the staff report.

DAVID DENNIS reported for the record that he had received written communication on this item.

TAPE 1, SIDE 2

MILLER reported that DAB II did not take a vote on this item; however, they recommended that the use be restricted to a driveway only. He said the staff report requests ancillary parking so if the Commission decides to go with the DAB recommendation, staff will need to amend the first condition and restrict use of the property to a driveway only. He added that the applicant has agreed to this restriction. He referred Commissioners to a letter from the Bonnie Brae Neighborhood Association handed out at today's meeting.

FOSTER asked how many parking spaces were lost due to the expansion of Kellogg?

MILLER said he would ask the applicant to answer that question. He said the applicant has requested that the Commission let the neighbors talk first, and then he will be available to answer any questions at the end of the presentation.

HEATH WALLIS, 8127 PEACHTREE LANE, said he opposes this request. He said if this is used for a driveway, for what purpose? He said no parking stalls were lost at the hotel due to the Kellogg expansion. He referred to the map of the area, and asked what was going to happen to the other properties along the line and especially the neighbor to the west. He said now there is commercial property to the south, east and then possibly west. He said the City sold these lots for commercial development after the Kellogg expansion. He asked why residents should lose some of their property. He added that the owner of this property doesn't live there; he just rents it out. He said the lots are commercial size, but now they want more property.

HILLMAN asked how long Mr. Wallis has lived there, and if the lots immediately to the east are full size lots?

WALLIS said he has lived in the area six years. He said he understood that back in the 70's the City originally wanted to use the east lots as commercial development, but the homeowners association stopped it. He said the three small lots **HILLMAN** was referring to were not part of the homeowners association.

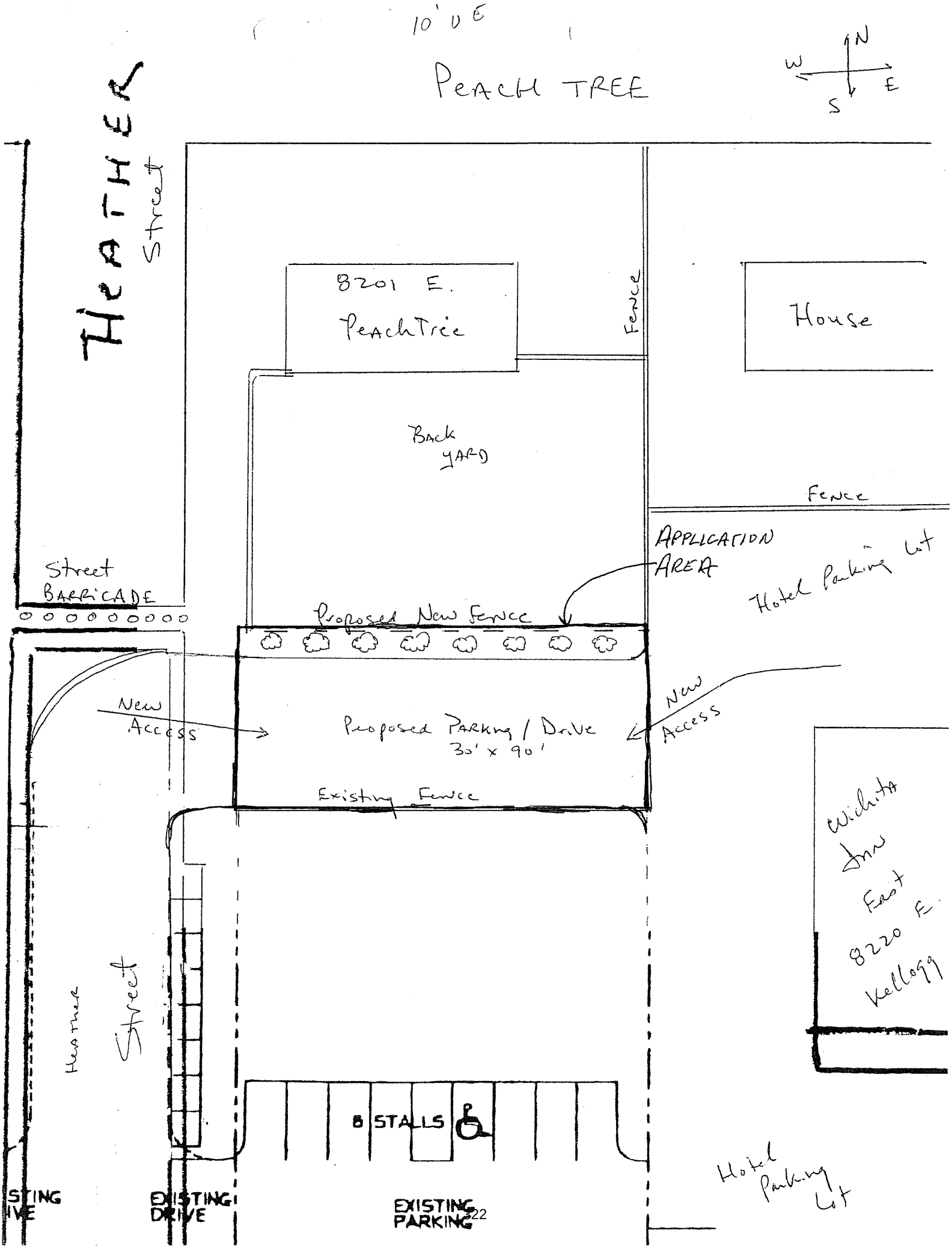
ROY MINOR, 8126 PEACHTREE LANE, said he was against this request. He said this area has been established for better than 50 years, and he sees no reason to approve this request. He said once you start chipping away, then you just keep chipping away. He said he is interested in keeping the area the way it is.

MARTY WEEKS, 8108 MOCKINGBIRD, BONNIE BRAE SUBDIVISON, BONNIE BRAE SUBDIVISION BOARD, referred board members to the letter from the Bonnie Brae Homeowners Association which outlined why they are opposed to this request. She said the owner of the lot has rented the property out for years. She said it is a large lot, and the fence needs to be replaced. She said maybe if this is passed all that would be taken care of. She said being in real estate she sees the advantage of having a large lot, and she added that she thinks he would want to keep his property in tact, however, he indicates the large lot is difficult for his tenants to maintain. She also mentioned intrusion into the neighborhood, and said that this might set a precedent to sell other residential properties in the area for commercial use.

DOUG MARYOTT, WICHITA EAST HOTEL, said he was present to answer any questions. Responding to a question from **MARNELL**, he said yes, he was okay with restricting the use to a driveway only.

MOTION: To approve, subject to staff recommendation and change the recommendation to a driveway only.

MARNELL moved, MCKAY seconded the motion, and it carried (12-1). FOSTER– No.


10' U E
PEACH TREE
N
W
E
S
HEATHER Street
8201 E. PeachTree
Fence
House
Back YARD
Fence
APPLICATION AREA
Hotel Parking Lot
Street BARRICADE
Proposed New Fence
New Access
Proposed Parking / Drive 30' x 90'
New Access
Existing Fence
Wichita Inn East 8220 E. Kellogg
Heather Street
8 STALLS
Hotel Parking Lot
EXISTING DRIVE
EXISTING PARKING

8220 E. Kellogg

Aerial

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.

BONNIE BRAE HOMEOWNERS ASSOCIATION

8236 Morningside Drive
Wichita, KS 67207-1127
(316) 263-0783

Friday, January 04, 2008

District Advisory Board II
C/o Antoine Sherfield
455 N. Main, first floor
Wichita, KS 67202

Dale Miller
Metropolitan Area Planning Commission
455 N. Main, 10th floor
Wichita, KS 67202-1688

In re: Case No. CON2007-48

I am writing to inform you that after due discussion and deliberation, the Bonnie Brae Homeowners Association Board has voted unanimously to recommend to the DAB and the MAPC to deny the above request for a conditional use.

1. The proposed conditional use would create an incursion into a stable single-family residential neighborhood.
2. The proposed use would generate high-volume commercial traffic, noise and parking immediately adjacent to our single-family residences on South Heather Road.
3. Small children currently reside at 8127 Peachtree; if granted, nothing would separate them from a commercial drive but a 7/16" thick cedar fence.
4. The proposed use would violate our neighborhood covenants, which provide for residential use only.
5. Years ago, the Neighborhood worked hard in order to vacate Heather south of Peachtree. This has greatly reduced the noise, dirt, danger and dust that was generated by through traffic on South Heather. If granted, the proposed use would nullify in part the benefit gained by that vacation. The applicant already has the use and benefit of the vacated portion of South Heather.
6. The proposed use would result in another conversion of a grassy area to asphalt; a trend not beneficial to the community as a whole.
7. The proposed use, if granted, would not be in conformance with adopted zoning.

For the above and foregoing reasons, and on behalf of Bonnie Brae Homeowners Association, it is respectfully requested that the Conditional Use request be denied.

Sincerely yours;

Gregory K. Barker
President,
Bonnie Brae Homeowners Association

From: Bob & Kathy Reif [rkreif@cox.net]
Sent: Saturday, December 22, 2007 11:53 AM
To: Crockett, Maryann
Subject: case#con2007-48 zoneing change s Heather @ e. peachtree lane
Please VOTE AGAINST this to save a beautiful BONNIE BRAE COMMUNITY AREA.

8121 Willowbrook 67207

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: **C**ON2007-48 – Conditional Use to permit "parking area, ancillary," (parking only) on property zoned "SF-5," Single-family Residential located southeast of the intersection of Heather Road and Peach Tree Lane (8201 East Peach Tree Lane). (District II)

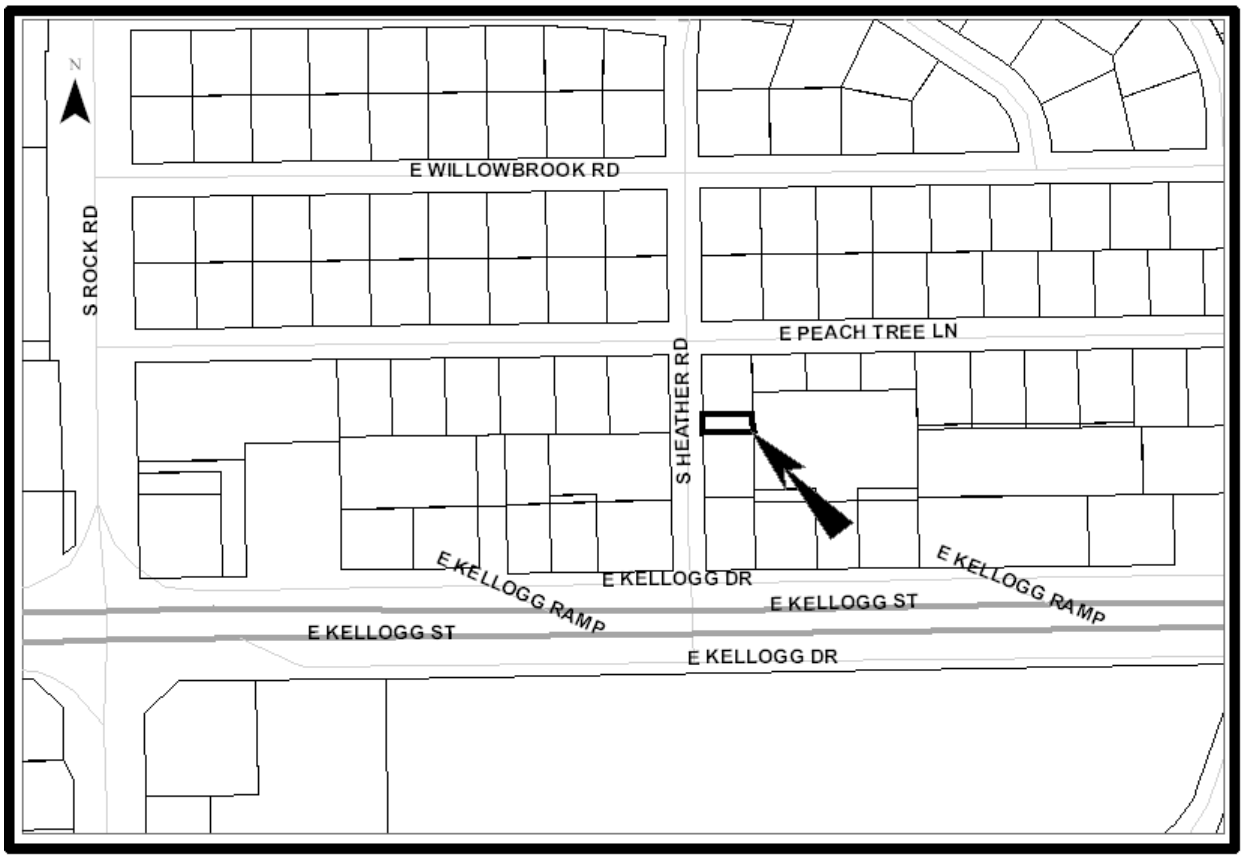
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendations: Approve, subject to recommended conditions, including limiting the use of the property to a driveway (parking is prohibited). (12-1).

MAPD Staff Recommendations: Approve the Conditional Use.

DAB Recommendations: On January 9, 2007, DAB I deferred action until after the MAPC hearing; rescheduled for February 4, 2008.



Background: The applicant owns a 90 foot wide by 140 foot deep platted lot (the west 90 feet of Lot 1, Block 7, Bonnie Brae Addition) that contains 12,600 square feet, is zoned "SF-5," Single-family Residential and is developed with a single-family residence. The applicant is seeking a Conditional Use to permit "parking area, ancillary." See the attached site plan. Staff is advised the residence is a rental. The lot is located at 8201 East Peachtree, which is the southeast corner of Peachtree Lane and South Heather Road, and adjoins land to the south and east (Lot 6, Ruth Addition and Lot 4, Higgins-Andeel 2nd Addition) that has frontage on East Kellogg's north frontage road. These two lots (Lot 6 and Lot 4) located to the south and east are zoned "LC," Limited Commercial and are developed with the Wichita Inn East, and parking that supports the inn. The applicant proposes to lease the southern 30 feet, 2,700 square feet, of the subject lot to the adjoining property owner to the south, CAP Partnership, which operates the Wichita Inn East.

Lot 6, Ruth Addition, the western end of the Wichita Inn's site, is located immediately south of the subject property, and is partially developed with parking that supports the motel. Lot 6 was originally much deeper, but with improvements to East Kellogg the lot is now approximately 118 feet deep. Adding 30 feet from Lot 1 to the Inn's land area would provide an approximately 148 foot deep lot that would be more useable. The applicant's site plan indicates the area is to be used for parking and a driveway.

The lease of a portion of a residential lot developed with a single-family home is somewhat unusual; however, the configuration of the applicant's lot and the lots adjacent to the subject site has contributed to this unusual situation. The applicant's lot was originally part of an "Oklahoma" shaped lot with a "panhandle" that extended east from the applicant's current rectangle shaped lot. As mentioned above, the applicant's lot is currently 140 feet deep, north to south. The "panhandle" portion of the original lot was only 67 feet deep (north to south) by 99 feet wide (east to west). At some point, Lot 1 was split to create the two portions of Lot 1 that we have today. Because of this somewhat unusual lot configuration, the land to the south (Lots 2 and 3 of the Higgins-Andeel 2nd Addition) extends further north than the lots located east and west of these two lots, creating an irregular boundary where "LC" zoning projects further north on these two lots than on the lots located to the east and west.

If the request is approved, the home site would still retain approximately 9,900 square feet of lot area, which is well within the minimum lot area requirement for this zoning district, and there would be approximately 25 feet from the house to the new lot line. There is an eight-foot platted utility easement located along the existing south property line that has a sewer line located within the easement. In addition to the utility easement, construction on the site will trigger applicable code required setbacks, landscaping and screening.

The land north, east and west of the site are part of the Bonnie Brae neighborhood, zoned "SF-5," Single Family Residential and are developed with single-family homes. The lot to the east of the application area is only 67 feet deep so the applicant's lot already has "LC" zoning along its eastern boundary for a distance of 72 feet. Heather Road separates the applicant's property from the property located to the west. Currently both the applicant's lot and the neighboring lot to the west (across Heather) rear property lines terminate at the same depth from Peach Tree Lane, where Heather is fenced and closed to through traffic.

Analysis: District Advisory Board II reviewed this application on January 9, 2008 and deferred taking any action until after the MAPC meeting of January 10, 2008. On January 10, 2008, the MAPC recommended approval of the request subject to the following conditions:

1. Uses permitted on the site are restricted to a "driveway only" (parking is prohibited).
2. The site shall be developed in general conformance with the approved site plan.
3. The site shall be developed in compliance with all applicable code requirements, including, but not limited to: setbacks, landscaping, screening, noise and lighting. Parking lot lighting standards shall not exceed 15 feet including the base.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of approval for this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Three neighborhood residents spoke in opposition to the request. They felt approval of this request represents a commercial intrusion into the neighborhood, which may lead to additional nonresidential requests that will whittle away the southern side of the remaining residential lots. One of the speakers referred commissioners to a letter from the Bonnie Brae Homeowners Association outlining the association's concerns (attached). As far as staff can determine, the Bonnie Brae Homeowners Association does not own any land within the statutory protest area, and one of the speakers withdrew his protest petition. Staff received an email (attached) expressing opposition to the request. (Unsigned emails do not count towards a legal protest.) The association's letter plus the individual protest petition represent a valid appeal of the conditional use, requiring City Council consideration.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the Conditional Use, subject to the recommended conditions (requires a simple majority vote); or

2. Deny the application, make alternative findings, and override the MAPC recommendation (requires a two-thirds majority vote to override the MAPC recommendation); or

3. Return the application to the MAPC for reconsideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

OCA 150006 BID #37529-009 CID 376383

Published in the Wichita Eagle on _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION III-C.2.b(1) of the WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SECTION 28.04.010, AS AMENDED, PERMITTING OFF-SITE SIGNAGE ON PROPERTY LOCATED IN NONRESIDENTIAL COMMUNITY UNIT PLANS.

WHEREAS, under the authority of K.S.A. 12-741, *et.seq*., the City of Wichita desired to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to the recommendations from the Metropolitan Area Planning Commission; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission recommended adoption of the amendments on September 6, 2007, after notice and hearing as provided under the authority granted by K.S.A. 12-741, *et seq*.;

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

SECTION I. Section III-C.2.b(1) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) is hereby amended as follows:

(1) **Permitted uses and structures.** The following uses and structures may be allowed as part of a nonresidential CUP:

(a) All permitted and Conditional Uses in the zoning classification in which the development is proposed, subject to all applicable site development regulations such as, but not limited to, Supplementary Use Regulations and Special District Regulations.
(b) Signs, provided that no portable signs shall be permitted. Off-site signs in any community unit plan approved prior to the effective date of this amendment, may be permitted only after an amendment has been reviewed by the MAPC and approved by the appropriate governing body.
(c) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures and that do not involve operations or structures that are incompatible with the district.
(d) In cases where a nonresidential CUP development proposes a mixture of nonresidential and residential uses, the CUP development plan shall indicate the proposed location and general types of such uses and the method of screening and buffering.

SECTION II. That this ordinance shall be included in the Code of the City of Wichita, and take effect and be in force from and after its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas this_____day of _____, 2007.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

Proposed Amendment to Article III Section III – C.2.b (1) (b) of the Wichita Sedgwick Country Unified Zoning Code (UZC) Dealing with Off-Site Signage in Nonresidential Community Unit Plans

After conversations with the Planning Staff and evaluating the issues the following amendment is to Article III Section III – C.2.b (1) (b) is proposed: "***Signs, provided that no portable signs shall be permitted. No CUP approved prior to January 30, 2008 which does not have specific language approving off-site signs or billboards, shall allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council.***" This is different than the original proposed language. This change was made in response to Staff concerns so that existing Community Unit Plans that do not contain off-site sign prohibitions cannot have off-site signs without a hearing.

The UZC currently contains a prohibition that does not allow off-site signs in any Community Unit Plan (CUP). This prohibition does not take into account any of the normal considerations for zoning or CUP approval. Since not all property is the same, it should not be treated the same. The proposal, as set forth in 2 (b) below, would allow certain properties to have three different boards, DAB, Planning Commission, and City Council, hold hearings and decide if a tract of land could reasonably have an off-site sign.

Under the proposal, no existing CUP could have an off-site sign without a hearing. No new CUP could include an off-site sign unless approved by the City Council. CUPs require notice to neighbors from 500 feet to 1000 feet depending on the size of the development. CUPs in Wichita already receive close scrutiny from neighborhoods, Planning Staff, District Advisory Boards, the Planning Commission and the City Council. Therefore, no off-site sign could be approved if it did not meet the standard conditions for zoning and CUP approval.

Finally, the Sign Code of the City of Wichita contains numerous restrictions on off-site signs that would still have to be met. The proposal does not ask for special consideration only that property owners have a right to unitize the property to its fullest extent, if it does not violate the standard provisions used in evaluating CUPs.

The following information further explains these points:

1. The City **requires** any development of over six acres, except industrial development, to be in a CUP.
    a. This requirement causes all property, **even if the owner does not want** to have a CUP on his property, to follow these rules.
    b. **The location of the property is not taken into consideration**. Property along highways are treated the same as property in *established areas*.
    c. Staff correctly states that the "*character of the development should be appropriate to the neighborhood and conditions*", however the restriction against off-site signs in a CUP **does not take into consideration either the neighborhood or conditions.**

d. The proposed change **does not require** the Planning Commission or City Council to allow off-site signs. Each CUP will be considered based on the "*neighborhood and conditions*." The **sign code already strictly limits** where off-site signs are allowed. They are only allowed in General Industrial, Limited Industrial, General Commercial, or Limited Commercial districts. Off-site signs are **NOT allowed** in: **Any residential district** including: SF5, 10, or 20; TF-3, MF 18 or 29, B, and MH; or in **any office district** including; NO and GO; or in **many commercial districts** including NR, OW, CBD, or IP.

e. If an existing off-site sign is on property that later becomes a CUP, **the off-site sign becomes non-conforming**. Therefore only face changes and maintenance can be performed on the sign. This sign cannot be reconstructed or improved thus leading to old signs that are not replaced.

2. The proposed change **will NOT** lead to significant additional off-site signs along arterials.

   a. The 2006 update of the sign code **makes it very difficult to construct off-site signs along arterials**: this includes **increasing the required separation** from a residential lot or structure by as **much as five times, reducing the size of offsite signs along arterials by over one-half**, and changing the number of off-site signs allowed along arterials from 3 to 2 in a mile.

   b. There are **very few CUPs that do not already include a specific prohibition** to off-site signs. The proposed change to the UZC would make it clear that no existing CUPs that do not already allow off-site signs would be impacted without public debate.

3. While CUPs are intended to "*provide well planned and well organized development*", they also are intended to **create flexibility in land use development**.

   a. CUPs contain specific language that differentiates it from other CUPs. While there is some standard language there are significant differences in every CUP. **The existing zoning code allows this flexibility**.

   b. If property is **developed along highways it is different than property along arterials**. The proposed change will allow the developer, *Planning Staff, the Planning Commission and the City Council to* **evaluate each property on a case by case basis**.

   c. **Property owners should have the right to present their arguments** to the District Advisory Boards, Planning Commission and City Council on how their land is developed. Arbitrarily excluding some legal development, without a hearing, violates all principles of property rights.

* * * * * * * * * *

Case No.: DER2007-13 - Request Amendment to the Unified Zoning Code Art. III. Sec. III-C 2.b. (1)(b) to delete the prohibition of off-site signs in nonresidential community unit plans.

Background

On October 4, 2007, Greg Ferris, Ferris Consulting, appeared before the Metropolitan Area Planning Commission (MAPC), and asked the MAPC to hold a hearing regarding Article III Section III-C.2.b(1)(b) of the UZC that prohibits the installation of off-site signage on property with community unit plan (CUP) zoning.

The current language in the UZC regarding off-site signage in CUP's is as follows:

(1) **Permitted uses and structures.** The following uses and structures may be allowed as part of a nonresidential CUP:

(a) All permitted and Conditional Uses in the zoning classification in which the development is proposed, subject to all applicable site development regulations such as, but not limited to, Supplementary Use Regulations and Special District Regulations.
(b) Signs, provided that no off-site or portable signs shall be permitted.
(c) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures and that do not involve operations or structures that are incompatible with the district.
(d) In cases where a nonresidential CUP development proposes a mixture of nonresidential and residential uses, the CUP development plan shall indicate the proposed location and general types of such uses and the method of screening and buffering.

The applicant proposes to modify subparagraph (b) to read: "Signs, provided that no ~~off-site or~~ portable signs shall be permitted." ("Signs, provided that no portable signs shall be permitted.") At the first District Advisory Board meetings the applicant revised the proposal. In addition to the language suggested above the applicant also proposes the following language to be added to the amended language suggested above: <u>No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council.</u>

The complete proposed amendment would read as follows: "Signs, provided that no portable signs shall be permitted. No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council."

Analysis

The intent of the community unit plan district is to provide well planned and well organized development, and to protect the public safety, convenience, health and general welfare through standards and provisions that establish proper development requirements, including signage. The character of the development should be appropriate to the neighborhood and conditions, and

safeguards should be provided to ensure that the development will minimize any diminution, if any, in the value of surrounding property.

By definition, off-site signage includes billboards. (24.04.185.1.q) The UZC's prohibition against off-site signs in CUP districts has been part of the code since at least 1964. MAPC minutes from March 19, 1964, contain the following language relating to advertising signs in CUP zones: "Advertising signs, relating to the proposed development, the stores and shops and products sold therein are permitted. No billboards shall be permitted."

In addition to the above-mentioned UZC prohibition against off-site signs, many CUPs also contain language specifically prohibiting off-site and billboard signage. The Sign Code of the City of Wichita also contains the following language:

> "No zoning district or zoning shall be considered for linear measurement (for a billboard or off-site sign) if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District except when such district specifically allows off-site billboard signs." (24.04.222.2)
>
> "Except as permitted by Section 24.04.225 (Special Review Approval for Off-site Billboard Sign Permits), no off-site billboard signs shall be erected closer than 300 feet from a platted and residentially-zoned lot on which the primary residential structure can be legally erected or to a residential structure. This distance shall be measured from the nearest lot line of such platted and residentially zoned lot or residential structure to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially zoned lot or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially zoned lots in the Wichita-Sedgwick Unified Zoning Code) of the residentially zoned lot or residential structure." (24.04.222.4.d)

With respect to billboards in LC zoning along an arterial, a maximum of two billboards facing the same direction of travel are permitted so long as there is a minimum of 3,000 lineal feet of LC, GC or LI zoning along the designated mile. Billboards must be spaced 330 feet from another billboard facing the same direction of travel along the same street. Maximum billboard height is permitted to be up to 30 feet, but taller signs are permitted in order to maintain eight feet of clearance above a building to the bottom of the sign, but no taller than 26 feet above the roof or parapet wall; or 14 feet above the top of the railing or barrier along the traffic deck of an elevated highway. Billboards in LC zoning are limited to 300 square feet in area. One can count more intense zoning districts –GC, LI or GI- towards the lineal footage requirement.

With respect to billboards in GC, LI and GI zoning, a minimum of 500 linear feet of GC, LI or GI zoning in the designated mile is required per sign, with a maximum of five billboards permitted facing the same direction of travel along the designated mile in GC and LI while up to eight signs may be permitted in the GI. The size of billboards permitted in GC, LI and GI is 672 square feet (14x48 feet), and up to 825 square feet with extensions. Three-hundred-thirty lineal feet of separation is also required between signs. Height is as above. Property zoned LC does not count towards meeting the lineal footage requirement for signs placed in the GC, LI or GI districts.

Approval of this request will affect mostly those early CUP's that do not specifically contain a prohibition against off-site signs. Most CUPs since the early 1990s specifically prohibit off-site signage. Approval of this request would not change that fact. It would take an amendment to each individual CUP to remove that prohibition.

The sign code does not contain the same UZC prohibition regarding off-site signs; it relies upon the zoning code as the basis for this regulation. The purpose of this review of the Sign Code regulations dealing with off-site signage in CUPs is to show that the zoning code prohibition on off-site signage in CUPs is the key regulation that ties all the other sign code provisions together dealing with off-site signage in CUPs.

Recommendation
Staff is recommending that the requested code amendment be denied. Since, at least 1964, the code has provided consistent guidance with respect to off-site signage in CUPs. Approval could open up significant stretches along arterial streets (e.g. Rock Road, Greenwich Road, 21st Street or Maize Road with commercially zoned CUP land for the installation of off-site signage, including billboards or video signage where currently such signage is prohibited by code. It is staff's opinion that the community has come to rely upon that language as being a reasonable balance between the non-residential users' need for signage that provides necessary identification, direction and advertising versus the public's need to provide signage that promotes public safety, health and welfare.

DALE MILLER, Planning staff presented the staff report.

MILLER referred MAPC members to a hand out, which was alternative language on the amendment: "Signs, provided that no portable signs shall be permitted. Off-site signs in any Community Unit Plan approved prior to the effective date of this amendment may be permitted only after an amendment has been reviewed by the MAPC and approved by the appropriate governing body." He briefly reviewed background on the zoning code pertaining to this issue indicating that this restriction first appears in the code in 1964. He commented that Community Unit Plans are held to a higher standard and that the off site signage issue need to be reviewed carefully.

BISHOP said she was under impression that the off site sign issue was relatively new and referred to a development at Ridge Road and Maple Streets where the applicant requested two off site signs, which were approved by the MAPC but denied by the City Council.

SCOTT KNEBEL explained that case involved a protective overlay.

GREG FERRIS briefly mentioned the alternative language agreed to by staff, and commented that basically this code change will give applicants "permission to ask permission" to put a sign on a property located within a Community Unit Plan (CUP) development. He said the MAPC would still hold a public hearing and the item would still be reviewed by the City Council and DABs. He clarified that this was not a "blanket approval" and that there would still be an opportunity for the sign request to be denied. He mentioned the City requires developments of 6-acres or larger to be CUP's, which restricts a developer's ability to place billboards on the property because the billboard would become non-conforming. He said this language was very restrictive and unnecessary, when properties two, three, four and five acres in size can place a sign on the property with no public hearing process. He also mentioned that the code did not take location into consideration and added that every piece of property is different. He said billboards

on highways (such as K-96) were a logical site for sign/billboard placement. He said those property owners should have the right to ask for a sign. He said right now, billboards are only allowed in four zoning classifications: Limited Commercial, General Commercial, Light Industrial and General Industrial. He said this proposal offers flexibility to landowners; that this is a property rights issue; and that each request would be "out in the open" and required to go through the public hearing process and procedure.

GISICK asked if CUP developers could ask for a variance?

FERRIS commented that applicant's would have to show a hardship, in addition to meeting five other criteria. He added that was not the purpose of the variance process.

BISHOP commented on the possible increase in LED billboards in the future?

FERRIS commented that LED billboards and signs are very expensive. He said their proposal addressed allowing billboards in CUP's, but not electric billboards.

BISHOP briefly reviewed the DAB summary provided by staff and asked if the DABs had seen the amended language? She also asked if the item could be deferred until all DABs had expressed an opinion on the issue.

FERRIS indicated that the Law Department had provided the amended language and he was not sure if all DABs had reviewed it; however, they would prefer not to defer the item.

TIM AUSTIN said as agent for number of commercial realtors and developers, they are supportive of the request.

MCKAY asked how the ordinance would affect the signs along Kellogg? He mentioned that as progress has happened; sometimes sign design is no longer effective. He mentioned a building he co-owned at Market and Kellogg and how they had applied to have the sign raised to be seen from the new Kellogg elevation, but were turned down.

MILLER advised that an administrative adjustment would allow a sign along Kellogg to be raised 20 feet above the rail.

Responding to a question from **MARNELL**, **MILLER** commented that that several factors are taken into account in the sign code including how many other billboards are in the area, distance of the proposed billboard from residential zoning and a number of other factors.

MARNELL commented that he was having difficulty understanding the implications of the proposal. He asked how this would affect current CUP's?

MILLER responded that approval of the request won't open up all CUPs', but some will be affected. He clarified that CUP's that were currently in place were eligible to be reviewed on a case-by-case basis through the amendment process.

MOTION: To approve the recommended language.

HENTZEN moved, **GISICK** seconded the motion, and it carried (12-1).
BISHOP – No.

BISHOP said she would like to make a motion to defer this item until all of the DABs have been given the opportunity to vote on the issue.

MILLER clarified that DABs III and IV recommended approval.

HENTZEN said he believed this was a property rights question and that he would like to see that property owners are given the right to appeal a decision or ask for what they want.

GISICK reported that he attended the DAB IV meeting when this issue was but abstained from voting. He said he didn't think additional DAB input would affect the vote on this issue.

FERRIS CONSULTING

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

September 19, 2007

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

RE: Article III, Section C:(1)(b) of the Unified Zoning Code.

Dear John,

This letter is to ask for the opportunity to address the Metropolitan Area Planning Commission at the next available meeting. At that hearing a request will be made to ask the MAPC to hold a hearing to amend the referenced section of the Unified Zoning Code. The referenced section allows signs in a Community Unit Plan except off-site signs and portable signs. This request would modify this section to read: "*Signs, provided that no portable signs shall be permitted.*" This change would remove the prohibition against off-site signs.

This change should be made for many reasons. First and foremost this change will not preclude the MAPC or City Council from placing restrictions in any CUP on a case by case basis that restricts off-site signs. The current code is extremely restrictive and places an unnecessary blanket prohibition against off-site signs. Since either the MAPC or the City Council can place this restriction as part of the CUP approval, the blanket prohibition should be removed.

The change in 2006 to the sign code is another reason the change can be made. Additional restrictions were placed on off-site signs in the new code. These include distance restrictions from residential property, changes in size allowed in Limited Commercial zoning along arterials, restrictions to the number allowed in a mile in LC zoning, as well as limitations to what zoning can be counted within the mile.

The regulation as it exists actually works against many of the principles important to the Planning Commission and City Council. Any existing off-site sign that gets incorporated into a CUP becomes non-conforming. Only maintenance and minimal reconstruction is allowed. This makes it impossible for sign companies to make significant improvements on an existing sign, even if these types of improvements would improve the appearance of the sign.

Finally, the restriction makes no sense when the purpose of a CUP is considered. CUPs are to allow flexibility in land use. They also are to allow restrictions and regulations based on where they are located and based on the land uses within the CUP. The

current regulation allows neither flexibility or takes into account the location or uses within the CUP.

More complete testimony and detail will be presented at the Planning Commission meeting. Please let me know if you have any questions regarding this request. Thank you for your consideration of this issue.

Sincerely,

Gregory Ferris

Agenda Item No. 40.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: DER2007-00013 – Amendment to Article III, Section III-C.2(1)(b) of the *Wichita-Sedgwick County Unified Zoning Code* (UZC) dealing with off-site signage in non-residential Community Unit Plans. (All Districts)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

DAB Recommendation: I, III, IV and VI recommended approval; V recommended denial and II recommended that the City Council hold a workshop.

MAPC Recommendation: Approve, 12-1

MAPD Staff Recommendation: Deny

Background: On October 4, 2007, Greg Ferris, Ferris Consulting, appeared before the Metropolitan Area Planning Commission (MAPC), and asked the MAPC to hold a hearing regarding Article III, Section III-C.2.b(1)(b) of the UZC that prohibits the installation of off-site signage on property with community unit plan (CUP) zoning.

The current language in the UZC regarding off-site signage in CUP's is as follows:

(1) Permitted uses and structures. The following uses and structures may be allowed as part of a nonresidential CUP:

(a) All permitted and Conditional Uses in the zoning classification in which the development is proposed, subject to all applicable site development regulations such as, but not limited to, Supplementary Use Regulations and Special District Regulations.
(b) Signs, provided that no off-site or portable signs shall be permitted.
(c) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures and that do not involve operations or structures that are incompatible with the district.
(d) In cases where a nonresidential CUP development proposes a mixture of nonresidential and residential uses, the CUP development plan shall indicate the proposed location and general types of such uses and the method of screening and buffering.

The applicant proposes to amend subparagph (b) as follows (annotated version):

> "Signs, provided that no ~~off-site or~~ portable signs shall be permitted. Off-site signs in any community unit plan approved prior to the effective date of this amendment, may be permitted only after an amendment has been reviewed by the MAPC and approved by the appropriate governing body."

The non-annotated version is:

> "Signs, provided that no portable signs shall be permitted. Off-site signs in any community unit plan approved prior to February 6, 2008, may be permitted only after an amendment has been reviewed by the MAPC and approved by the appropriate governing body."

The intent of the community unit plan district is to provide well planned and well organized development, and to protect the public safety, convenience, health and general welfare through standards and provisions that establish proper development requirements, including signage. The character of the development should be appropriate to the neighborhood and conditions, and safeguards should be provided to ensure that the development will minimize any diminution, if any, in the value of surrounding property.

By definition, off-site signage includes billboards. (24.04.185.1.q) The UZC's prohibition against off-site signs in CUP districts has been part of the code since at least 1964. MAPC minutes from March 19, 1964 contain the following language relating to advertising signs in CUP zones: "Advertising signs, relating to the proposed development, the stores and shops and products sold therein are permitted. No billboards shall be permitted."

In addition to the above-mentioned UZC prohibition against off-site signs, many CUPs also contain language specifically prohibiting off-site and billboard signage. The Sign Code of the City of Wichita also contains the following language:

> "No zoning district or zoning shall be considered for linear measurement (for a billboard or off-site sign) if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District except when such district specifically allows off-site billboard signs." (24.04.222.2)
>
> "Except as permitted by Section 24.04.225 (Special Review Approval for Off-site Billboard Sign Permits), no off-site billboard signs shall be erected closer than 300 feet from a platted and residentially-zoned lot on which the primary residential structure can be legally erected or to a residential structure. This distance shall be measured from the nearest lot line of such platted and residentially zoned lot or residential structure to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially zoned lot or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially zoned lots in the Wichita-Sedgwick Unified Zoning Code) of the residentially zoned lot or residential structure." (24.04.222.4.d)

With respect to billboards in LC zoning along an arterial, a maximum of two billboards facing the same direction of travel are permitted so long as there is a minimum of 3,000 lineal feet of LC, GC or LI zoning along the designated mile. Billboards must be spaced 330 feet from another billboard facing the same direction of travel along the same street. Maximum billboard height is permitted to be up to 30 feet, but taller signs are permitted in order to maintain eight feet of clearance above a building to the bottom of the sign, but no taller than 26 feet above the roof or parapet wall; or 14 feet above the top of the railing or barrier along the traffic deck of an elevated highway. Billboards in LC zoning are limited to 300 square feet in area. One can count more intense zoning districts - GC, LI or GI - towards the lineal footage requirement.

With respect to billboards in GC, LI and GI zoning, a minimum of 500 linear feet of GC, LI or GI zoning in the designated mile is required per sign, with a maximum of five billboards permitted facing the same direction of travel along the designated mile in GC and LI while up to eight signs may be permitted in the GI. The size of billboards permitted in GC, LI and GI is 672 square feet (14x48 feet), and up to 825 square feet with extensions. Three-hundred-thirty lineal feet of separation is also required between signs. Height is as above. Property zoned LC does not count towards meeting the lineal footage requirement for signs placed in the GC, LI or GI districts.

In addition to the UZC off-site sign prohibition, most CUPs since the early 1990s also specifically prohibit off-site signage. Approval of this request would not change that fact. It would take an amendment to each individual CUP to remove that prohibition.

The sign code does not contain the same UZC prohibition regarding off-site signs; it relies upon the zoning code as the basis for this regulation. The purpose of this review of the Sign Code regulations dealing with off-site signage in CUPs is to show that the zoning code prohibition on off-site signage in CUPs is the key regulation that ties all the other sign code provisions together dealing with off-site signage in CUPs.

The applicant's detailed arguments for the amendment are contained in the attached communications. A summary of his position is: the current code is extremely restrictive and places an unnecessary prohibition against off-site signage; the sign code alone contains enough limitations on the placement of off-site signage without the zoning code restriction and the current regulation eliminates flexibility in CUP uses.

Analysis: The Council initially heard about the proposed amendments in a workshop session in the fall of 2007. At District Advisory Board meetings held in December 2007 and January 2008, District Advisory Boards I, III, IV and VI recommended approval. District Advisory Board V recommended denial; DAB II recommended that the City Council hold a workshop. On December 20, 2007, the Metropolitan Area Planning Commission recommended approval on a vote of 12-1.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Improve Housing Variety

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

Recommendation/Actions:

1. Adopt the recommendation of the MAPC to amend the *Wichita-Sedgwick County Unified Zoning Code* to permit off-site signage in community unit plans only after governing body approval; place the ordinance on first reading and authorize the appropriate signatures; or
2. Amend the recommendation of the MAPC; or
3. Deny the application.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2007-00064

City zoning on un-zoned property to "LC" Limited Commercial, on property described as:

That part of the SE 1/4 of Sec. 15, Twp. 27-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as beginning at the SW corner of Lot 1, Block A, Steve Kelley 3rd Addition, Wichita, Sedgwick County, Kansas; thence N07º21'W along the west line of said Lot 1, 12.25 feet; thence N02º25'W along the west line of said Lot 1, 1499.55 feet to the NW corner of said Lot 1; thence S73º03'42"W, 103.30 feet to the east line of the Big Slough-Cowskin Creek Floodway as condemned in Case No. A-31849; thence S02º25'E along the east line of said Floodway, 127.96 feet; thence S07º21'E along the east line of said Floodway, 4.46 feet to a point 60 feet north of the south line of said SE 1/4; thence N89º33' E parallel with the south line of said SE1/4, 100.73 feet to the place of beginning. Generally located on the north side of Central Avenue, just east of the Big Ditch (Wichita-Valley Center Floodway).

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

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

ADOPTED AT WICHITA, KANSAS, _____

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, City Attorney

Item #4

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

Mayor and Wichita City Council Members

FROM: Megan Buckmaster, District V Neighborhood Assistant

SUBJECT: **ZON2007-00064**

DATE: January 08, 2008

On Monday, January 07, 2008, the *District Advisory Board (DAB) for Council District V* considered an application for a zone change on un-zoned property to "LC," Limited Commercial on a 0.4-acre site located east of the east bank along the Wichita-Valley Center Floodway and on the north side of W. Central Ave.

The site is about 250-feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer for the floodway. The applicant proposes to market the property for an unspecified commercial use. The property currently is paved for use as a parking lot.

The site is currently unplatted. There are no immediate plans to "build" on this property. It is understood by the developer that any plans to "build" on this property would require platting. The surrounding properties are zoned "LC" and "GC" with property for the Wichita-Valley Center Floodway north and west of the subject site. The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development.

Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

The recommendation was approved, subject to platting within one year, with a majority vote 7-0-1 (abstention).

EXCERPT OF JANUARY 10, 2007 MAPC MINUTES

Case No.: ZON2007-64 – S & E Partnership, Attn: Steve Kelly (owner); Baughman Company, P.A., c/o Phil Meyer (agent) Request City zone request from unzoned to "LC" Limited Commercial on property described as;

That part of the SE1/4 of Sec. 15, Twp. 27-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as beginning at the SW corner of Lot 1, Block A, Steve Kelley 3rd Addition, Wichita, Sedgwick County, Kansas; thence N07°21'W along the west line of said Lot 1, 12.25 feet; thence N02°25'W along the west line of said Lot 1, 1499.55 feet to the NW corner of said Lot 1; thence S73°03'42"W, 103.30 feet to the east line of the Big Slough-Cowskin Creek Floodway as condemned in Case No. A-31849; thence S02°25'E along the east line of said Floodway, 127.96 feet; thence S07°21'E along the east line of said Floodway, 4.46 feet to a point 60 feet north of the south line of said SE 1/4; thence N89°33' E parallel with the south line of said SE1/4, 100.73 feet to the place of beginning. Generally located North side of Central Avenue, just east of the Big Ditch (Wichita-Valley Center Floodway).

BACKGROUND: The applicant requests a zone change on un-zoned property to "LC," Limited Commercial on a 0.4-acre site located east of the east bank along the Wichita-Valley Center Floodway and on the north side of W. Central Ave. The site is about 250-feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer for the floodway. The applicant proposes to market the property for an unspecified commercial use. The property currently is paved for use as a parking lot.

The property is within the Flood Hazard Zone "X," which is described as the flood insurance rate zone that corresponds to areas outside the 100-year floodplain, areas of 100-year sheet flow flooding where average depths are less than 1 foot, areas of 100-year stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 100-year flood by levees. No Base Flood Elevations or depths are shown within this zone. A Base Flood Elevation (BFE) is the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

The site's location is abutting commercial development bordering the east property line, extending east along Central Ave. The LC to the east is approximately 0.9 acres and contains a strip retail center. North of the retail center there is a residential development, which is all zoned SF-5. The 0.58-acre property south of the site, across Central Ave, has an automotive repair shop on it, zoned "GC," General Commercial, followed by (going east from this site) a 4.96-acre site containing a mini-storage facility, zoned LC and GC, and a 0.6-acre site containing a office building, zoned LC. South of the commercial

developments there are single family and duplex developments zoned SF-5 and "TF-3," Two-family Residential. All other properties, west, northwest and southwest of the subject site are undeveloped, utilized as the Wichita-Valley Center Floodway.

CASE HISTORY: The site is unplatted. The site is about 250-feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer from the floodway.

ADJACENT ZONING AND LAND USE:

NORTH:	Wichita – Valley Center Floodway	Not Developed
SOUTH:	"GC" General Commercial	Automotive Repair
EAST:	"LC" Limited Commercial	Retail Strip Store
WEST:	Wichita – Valley Center Floodway	Not Developed

PUBLIC SERVICES: The site has access to Central Avenue, classified as a 5-lane principal arterial. The traffic counts are 30,963 average daily trips on westbound Central and 27,930 average daily trips on eastbound Central at the intersection of Central and Ridge, the nearest major intersection west of the subject site. Access onto Central, including aligning access with the property across the street and determining the need for any additional turn lanes, and the need for cross lot access to abutting properties, can be addressed as part of the platting process. Public water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. Commercial development includes convenience centers, neighborhood centers, and large-scale retail. Convenience centers require 4-5 acres and are located along the intersections of arterials, where proper turn lanes are in placed or planned to allow access to the immediate neighborhood. This site qualifies for commercial development according to current policy and plans.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are zoned "LC" and "GC" with property for the Wichita-Valley Center Floodway north and west of the subject site. The properties with commercial development offer a retail strip center, mini-storage, office space and a couple of automotive repair shops.

2. The suitability of the subject property for the uses to which it has been restricted: The site's location is abutting commercial development bordering the east property line, extending east along Central Ave. The LC to the east is approximately 0.9-acre and contains a strip retail center. North of the retail center there is a residential development, which is zoned SF-5. The 0.58-acre property south of the site, across Central Ave, has an automotive repair shop on it, zoned "GC," General Commercial, followed by (going east from this site) a 4.96-acre site containing a mini-storage facility, zoned LC and GC, and a 0.67-acre site containing an office building, zoned LC. South of the commercial developments there are single family and duplex developments zoned SF-5 and "TF-3," Two-family Residential. All other property, west, northwest and southwest of the subject site are undeveloped, utilized as the Wichita-Valley Center Floodway.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area to the northeast.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. Commercial development includes convenience centers, neighborhood centers, and large-scale retail. Convenience centers require 4-5 acres and are located along the intersections of arterials, where proper turn lanes are in placed or planned to allow access to the immediate neighborhood. This site qualifies for commercial development according to current policy and plans.

5. Impact of the proposed development on community facilities: Traffic volumes will increase. At the time of the platting traffic improvements and access control will be addressed. All other public services are available or readily accessible.

DERRICK SLOCUM, Planning Staff presented the staff report.

SLOCUM said on January 7, DAB V voted 7-0-1 to approve the zoning request.

DENNIS said DAB V also discussed platting and why this piece of property needs to be platted. He said they are not changing the use of the property, and they don't need access or right-of-way. He asked staff to please explain why platting is necessary.

SLOCUM said platting is a common practice on rezoning requests and a requirement for any commercial zoning. He said platting is also required in order to get a building permit.

HENTZEN said considering the property and the location, what else could it be used for other than its current use as a parking lot?

SLOCUM responded that he wasn't a developer so he couldn't answer that question.

DALE MILLER explained that platting is required for all commercial rezoning, and it is also a requirement to obtain a building permit. He said applicant's have one year to plat, however, they can request an extension.

DENNIS commented then platting wasn't really necessary until they decide to build on the site?

MILLER said technically that is true unless the land changes hands. He said they have had cases where people have bought unplatted land and then found out the land needed to be platted in order for them to build on it. He said then it looks like the City didn't make the previous property owner comply with City regulations.

MCKAY asked what was the least zoning classification used to get parking?

RUSS EWY, BAUGHMAN COMPANY, commented that these points were discussed at DAB V. He said they are requesting the Limited Commercial zoning without the requirement of platting. He said they would be willing to provide any and all dedications required under the platting process and dedication of access control onto Central, which they believe can be done with a covenant. He said the zone change is being requested because the parking area is a non-conforming use. He said the applicant owns multi-tenant buildings to the east and he would like to construct additional signage for those users. He asked if a provision could be added that platting would be required if the property changes use. He said platting is not required for a sign permit, and therefore, they would like to avoid the additional time and cost to plat.

MOTION: To approve, subject to staff recommendation except platting is not required.

DENNIS moved, HILLMAN seconded the motion, and it carried (8-5).

DOWNING, FOSTER, JOHNSON, MCKAY, and VAN FLEET – No.

Responding to a question from FOSTER concerning the advisability of having unzoned property platted, MILLER commented that whether the property is zoned or unzoned, platting is a requirement on any type of commercial zoning.

FOSTER also asked what controls were in place to control the type of signage if property is unplatted? He mentioned the off premises signage discussed at the previous MAPC Meeting.

MILLER commented that there is a Sign Code that regulates types of signage based on zoning.

MARNELL said he is concerned about not platting now and then some future use will require platting. He asked if a protective overly could fix that possibility.

MILLER he said it was a “band aid” fix, and asked why do that when there is a prescribed solution?

MARNELL mentioned causing someone to spend more money that accomplished nothing.

CHAIRMAN MITCHELL explained that this100-foot strip of right-of-way was created during the expansion of I-235. He said the State gave the land parallel and adjacent to the floodway to the City who in turn sold it off in pieces. He said this type of situation is seldom seen and that it was a flaw in government.

Agenda Item No. 41.

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: ZON2007-00064 – City zoning on un-zoned property to "LC" Limited Commercial. Generally located on the north side of Central Avenue, just east of the Big Ditch (Wichita-Valley Center Floodway). (District V)

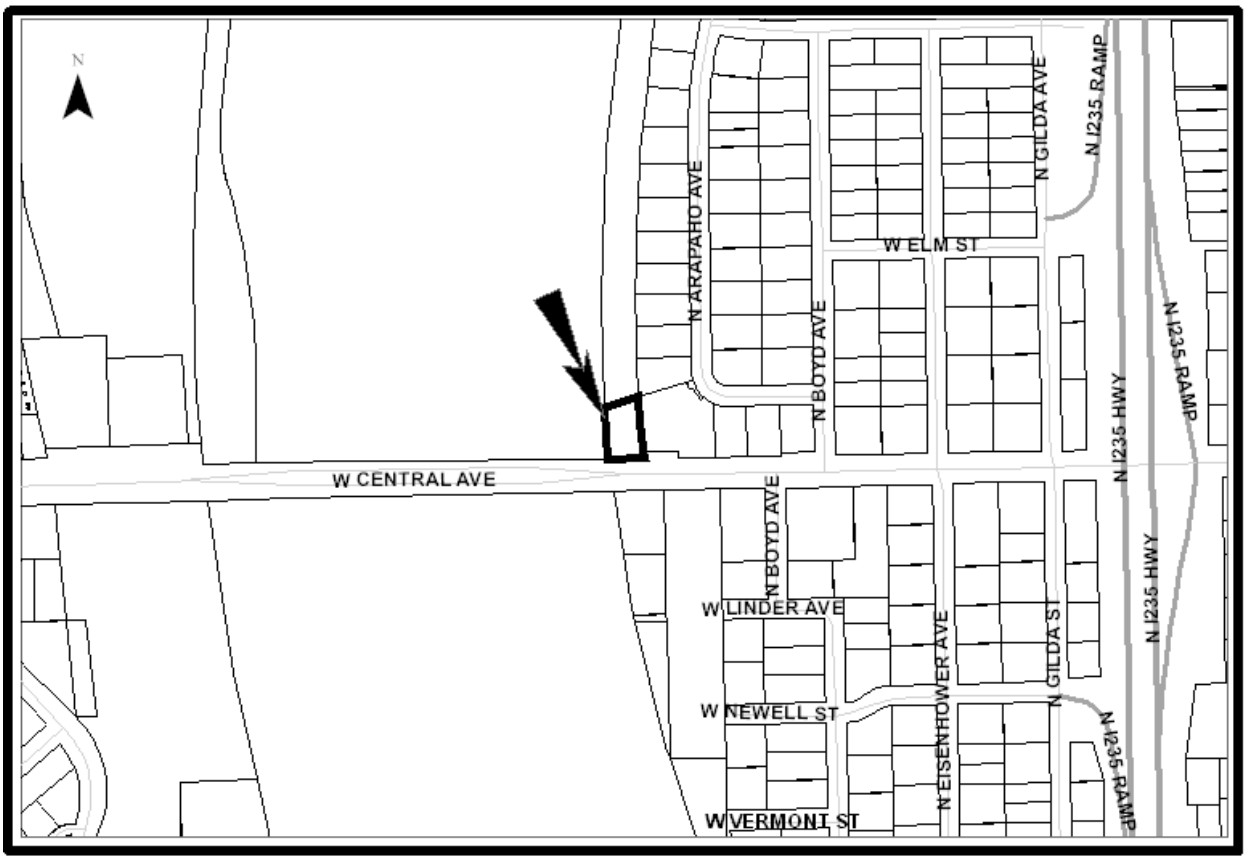
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approval, without platting, vote 8-5.

MAPD Staff Recommendation: Approval, subject to platting within one year.

DAB V Recommendation: Approval, subject to platting within one year, vote 7-0-1.



Background: The applicant requests a zone change on un-zoned property to "LC" Limited Commercial on a 0.4 acre site located east of the east bank along the Wichita-Valley Center Floodway and on the north side of Central Ave. The site is about 250 feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer for the floodway. The applicant proposes to market the property for an unspecified commercial use. The property currently is paved for use as a parking lot.

The property is located within the Flood Hazard Zone "X," which is described as the flood insurance rate zone that corresponds to areas outside the 100-year floodplain, areas of 100-year sheet flow flooding where average depths are less than 1 foot, areas of 100-year stream flooding where the contributing drainage area is less than 1 square mile or areas protected from the 100-year flood by levees. No Base Flood Elevations or depths are shown within this zone. A Base Flood Elevation (BFE) is the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report or average depth of the base flood, usually in feet, above the ground surface.

The site's location is abutting commercial development bordering the east property line, extending east along Central Avenue. The LC zoning to the east is approximately 0.9 acres and contains a strip retail center. North of the retail center there is a residential development, which is all zoned "SF-5" Single-family Residential. The 0.58 acre property located south of the site, across Central Avenue, has an automotive repair shop on it is zoned "GC" General Commercial followed by (going east from this site) a 4.96 acre site containing a mini-storage facility, zoned LC and GC, and a 0.6 acre site containing an office building, zoned LC. South of the commercial developments there are single family and duplex developments zoned SF-5 and "TF-3" Two-family Residential. All other properties located west, northwest and southwest of the subject site are undeveloped, and utilized as the Wichita-Valley Center Floodway.

Analysis: At the District Advisory Board V meeting held January 7, 2008, the DAB V voted (7-0-1) to approve the request, subject to platting within one year. No citizens were present to speak and no protests have been received. At the MAPC meeting held January 10, 2008, the MAPC voted (8-5) to approve the request without the platting requirement. No citizens were present to speak, and no protests have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change to "LC" Limited Commercial and approve the first reading of the ordinance; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: VAC2007-00040 Request to vacate a platted reserve and the uses it is restricted to per the plattor's text. Generally located on the north side of 13th Street North, west of Greenwich Road. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicants are requesting consideration for the vacation of platted Reserve "B" in the Greenwich Office Park Addition. The applicant proposes to dedicate the reserve as public street right-of-way (ROW). As platted, Reserve "B" has been set aside for landscaping, irrigation, berming, monument signs, private drives and utilities confined to easements. The reserve has direct access (west side) onto a public street, which in turn intersects with 13th Street, an arterial street. Reserve "B" dead-ends on its east side. The reserve has an irregular width, 50 foot wide on its west side and 32 feet wide on its east side. There are 10 foot and a 15 foot drainage easements running parallel to the reserve's north and south sides. The Subdivision design standards for a commercial street include a 70 foot wide ROW. There are not any narrow street standards for commercial streets in the Subdivision Regulations. Per the Subdivision Regulations, 10-104 -Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There are no utilities, manholes, water or sewer lines in the reserve. Per the plattor's text, Reserve "B" shall be owned and maintained by the owner of Lot 3, Block 1, Greenwich Office Park Addition. The Greenwich Office Park Addition was recorded on November 13, 2007.

Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

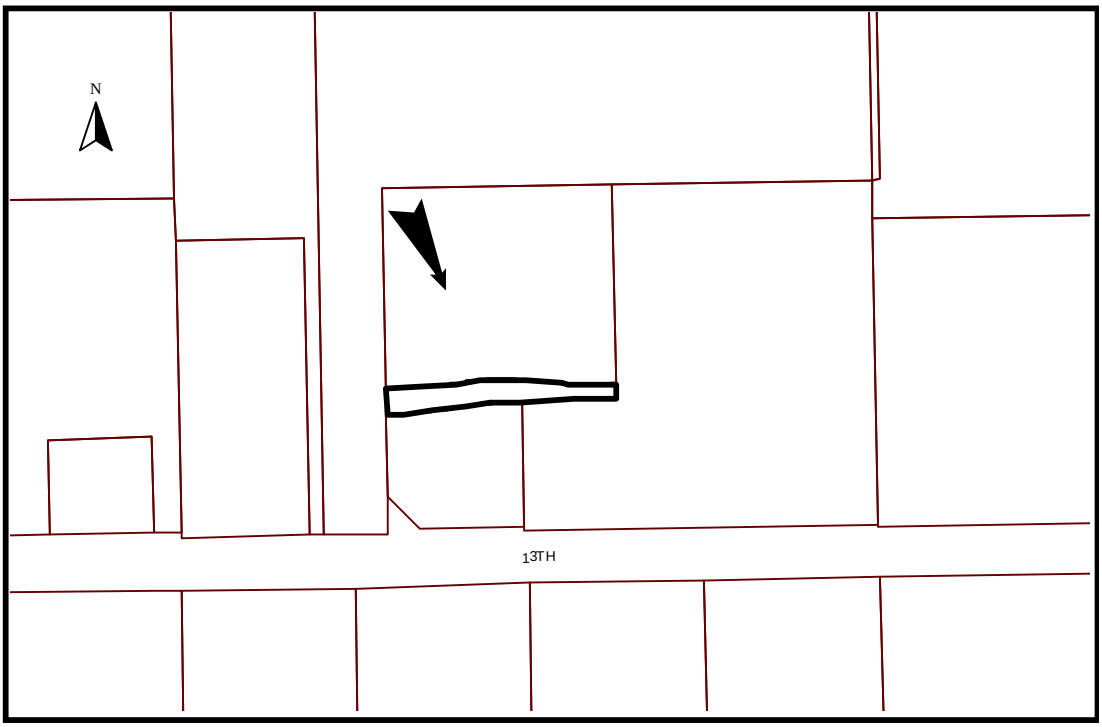
Financial Considerations: Paving petition is required.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order, dedication by separate instrument for public street right-of-way, dedication by separate instrument for contingent street right-of-way and dedication by separate instrument for street, drainage and utility easement and a restrictive covenant will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedication by separate instrument for public street right-of-way, dedication by separate instrument for contingent street right-of-way and dedication by separate instrument for street, drainage and utility easement and a restrictive covenant .



City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council

SUBJECT: VAC2007-00047 Request to vacate portions of platted complete access control. Generally located at the southeast corner of 21st Street North and 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant has applied for the vacation of the complete access control along the site's 21st Street and 127th Street East frontages. The platted access control allows one right in–right out driveway onto the site's 127th Street frontage, located 160 feet south of the 21st Street and 127th Street East intersection, while a full movement driveway is allowed 150 feet south of the right in–right out driveway. The applicant proposes one right in–right out driveway along the site's 127th Street frontage, located 83.76 feet south of the intersection and one full movement drive located 349.24 feet south of the intersection. The platted access control allows one right in–right out driveway onto the site's 21st Street frontage, located 160 feet east of the intersection. The applicant proposes one full movement driveway onto 21st Street, located 217.58 feet east of the intersection. There will be a median strip in the 127th Street ROW that will insure that the proposed right in–right out driveway along 127th Street functions as just that, a right in–right out driveway. Per the Subdivision Regulations, 10-104 - Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. The Reed Commercial Addition was recorded with the Register of Deeds on January 14, 2003.

Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

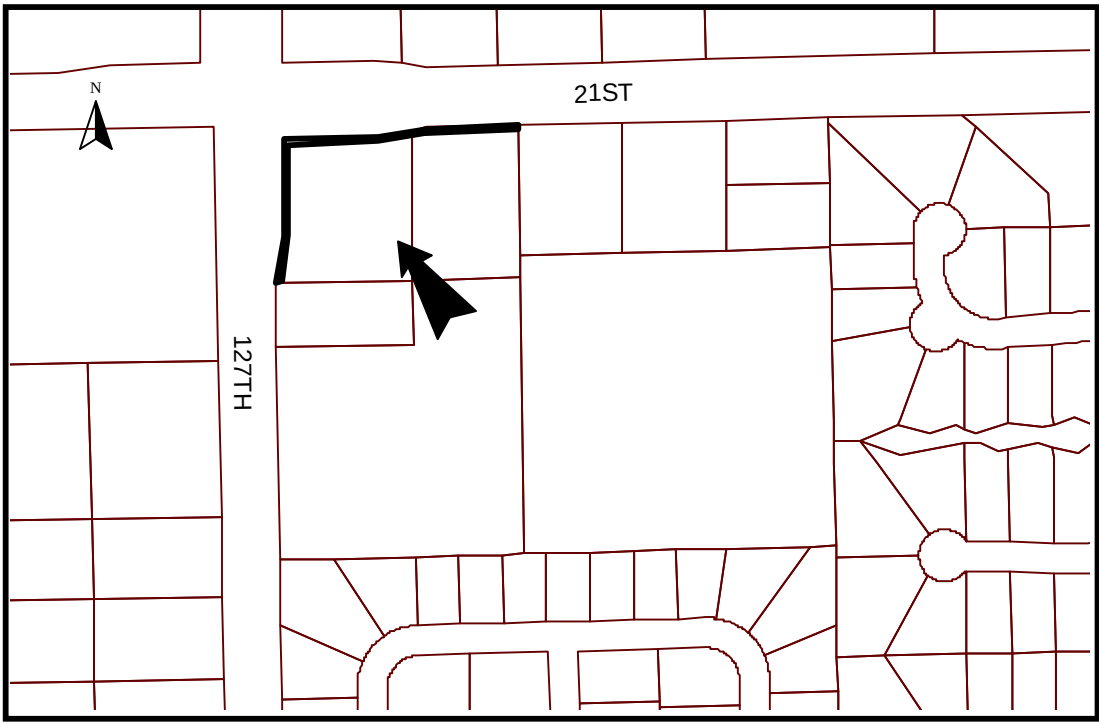
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order and dedication by separate instrument for access control will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedication by separate instrument for access control.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City of Wichita
City Council Meeting
February 12, 2008

TO: Mayor and City Council Members

SUBJECT: DED 2008-01 and DED 2008-02-- Dedication of Utility Easements located east of Maize Road and north of MacArthur Road. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedication.

Background: The Dedications are associated with Lot Split Case No. SUB 2007-109 (Mid-Continent Industrial Park II Addition). The Dedications are for construction and maintenance of public utilities.

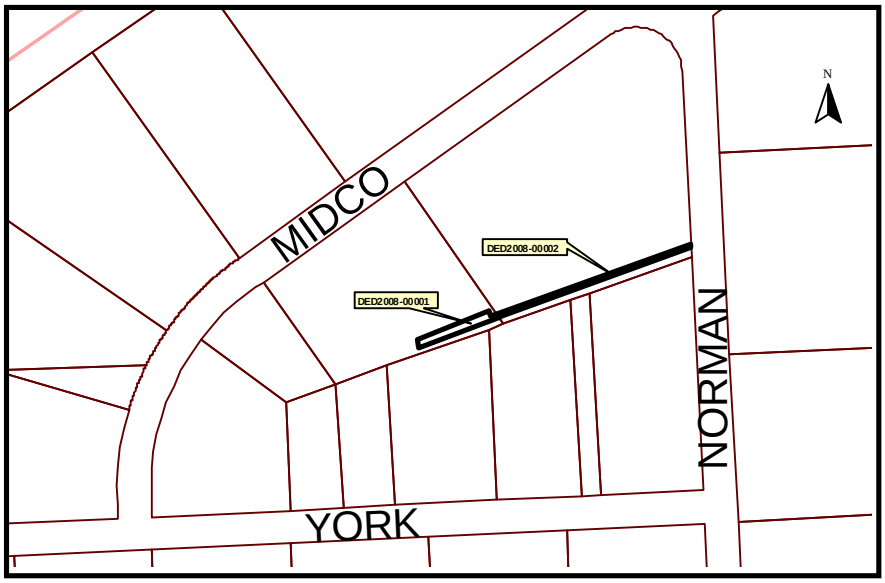
Analysis: None.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Dedications will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedications.



PUBLIC UTILITY EASEMENT

Form 42-016

THIS EASEMENT made this 5th day of December, 2007, by and between Greg M. Hilley and Susan J. Hilley of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first parties, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party right-of-way and easement for the purpose of construction and maintenance of utilities along and under the following described real estate situated in Sedgwick, County, Kansas, to wit:

Commencing at a point on the east line and 31.37 feet north of the S.E. Corner of Lot 1, Block B, Mid-Continent Industrial Park II, Sedgwick county, Kansas; thence S72°58' 49" W, parallel with the south line of said Lot 1, 505.00 feet for a place of beginning; thence N 17°01' 11" W, 10 feet; thence S72°58' 49" W, 187.00 feet; thence S17°01' 11" E, 20 feet; thence N72°58' 49" E, 202.40 feet; thence N32°44' 07" W, 10.39 feet; thence S72°58' 49" W, 12.64 feet to the place of beginning.

IN WITNESS WHEREOF: The said first parties have signed these presents the day and year first written.

Greg M. Hilley

Greg M. Hilley

Susan J. Hilley

Susan J. Hilley

(C/S # 2007-1092)
DED 2008-01

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Personally appeared before me a notary public in and for the County and State aforesaid came Greg M. Hilley and Susan J. Hilley, husband and wifeto me personally known to be the same persons who executed the foregoing instrument of writing and said persons duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 5th day of December, 2007.

Linda S Hamby
Notary Public

(My Appointment Expires 10/30/2011)

LINDA S. HAMBY
NOTARY PUBLIC
STATE OF KANSAS

PUBLIC UTILITY EASEMENT

Form 42-016

THIS EASEMENT made this 5th day of December, 2007, by and between TTR, LLC, of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first parties, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party right-of-way and easement for the purpose of construction and maintenance of utilities along and under the following described real estate situated in Sedgwick, County, Kansas, to wit:

Beginning at a point on the east line and 20.91 feet north of the S.E. Corner of Lot 1, Block B, Mid-Continent Industrial Park II, Sedgwick county, Kansas; thence N00°00'00"E, along the east line of said Lot 1, 10.46 feet; thence S72°58' 49" W, parallel with the south line of said Lot 1, 491.78 feet; thence S 32°44' 07" E, 10.39 feet; thence N72°58' 49" E, 485.91 feet to the place of beginning.

IN WITNESS WHEREOF: The said first parties have signed these presents the day and year first written.

TTR, LLC

Darrin B. Teeter, Presiding Member

(1/5 # 2007-109)
DED 2008-02

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Personally appeared before me a notary public in and for the County and State aforesaid came Darrin B. Teeter, Presiding Member of TTR, LLC to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 5th day of December, 2007.

Linda S Hamby
Notary Public

(My Appointment Expires 10/30/2011)

LINDA S. HAMBY
NOTARY PUBLIC
STATE OF KANSAS

Section 8 Management Assessment Program (SEMAP) Certification

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0215 (exp. 1/31/2010)

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This collection of information is required by 24 CFR sec 985.101 which requires a Public Housing Agency (PHA) administering a Section 8 tenant-based assistance program to submit an annual SEMAP Certification within 60 days after the end of its fiscal year. The information from the PHA concerns the performance of the PHA and provides assurance that there is no evidence of seriously deficient performance. HUD uses the information and other data to assess PHA management capabilities and deficiencies, and to assign an overall performance rating to the PHA. Responses are mandatory and the information collected does not lend itself to confidentiality.

Instructions Respond to this certification form using the PHA's actual data for the fiscal year just ended.

PHA Name	For PHA FY Ending (mm/dd/yyyy)	Submission Date (mm/dd/yyyy)
Wichita Housing Authority	12/31/2007	02/12/2008

Check here if the PHA expends less than $300,000 a year in Federal awards ☐
Indicators 1 - 7 will not be rated if the PHA expends less than $300,000 a year in Federal awards and its Section 8 programs are not audited for compliance with regulations by an independent auditor. A PHA that expends less than $300,000 in Federal awards in a year must still complete the certification for these indicators.

Performance Indicators

1. Selection from the Waiting List. (24 CFR 982.54(d)(1) and 982.204(a))
(a) The PHA has written policies in its administrative plan for selecting applicants from the waiting list.

PHA Response **Yes** ☑ **No** ☐

(b) The PHA's quality control samples of applicants reaching the top of the waiting list and of admissions show that at least 98% of the families in the samples were selected from the waiting list for admission in accordance with the PHA's policies and met the selection criteria that determined their places on the waiting list and their order of selection.

PHA Response **Yes** ☑ **No** ☐

2. Reasonable Rent. (24 CFR 982.4, 982.54(d)(15), 982.158(f)(7) and 982.507)
(a) The PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units (i) at the time of initial leasing, (ii) before any increase in the rent to owner, and (iii) at the HAP contract anniversary if there is a 5 percent decrease in the published FMR in effect 60 days before the HAP contract anniversary. The PHA's method takes into consideration the location, size, type, quality, and age of the program unit and of similar unassisted units, and any amenities, housing services, maintenance or utilities provided by the owners.

PHA Response **Yes** ☑ **No** ☐

(b) The PHA's quality control sample of tenant files for which a determination of reasonable rent was required shows that the PHA followed its written method to determine reasonable rent and documented its determination that the rent to owner is reasonable as required for (check one):

PHA Response ☐ **At least 98% of units sampled** ☑ **80 to 97% of units sampled** ☐ **Less than 80% of units sampled**

3. Determination of Adjusted Income. (24 CFR part 5, subpart F and 24 CFR 982.516)
The PHA's quality control sample of tenant files shows that at the time of admission and reexamination, the PHA properly obtained third party verification of adjusted income or documented why third party verification was not available; used the verified information in determining adjusted income; properly attributed allowances for expenses; and, where the family is responsible for utilities under the lease, the PHA used the appropriate utility allowances for the unit leased in determining the gross rent for (check one):

PHA Response ☐ **At least 90% of files sampled** ☑ **80 to 89% of files sampled** ☐ **Less than 80% of files sampled**

4. Utility Allowance Schedule. (24 CFR 982.517)
The PHA maintains an up-to-date utility allowance schedule. The PHA reviewed utility rate data that it obtained within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.
PHA Response **Yes** ☑ **No** ☐

5. HQS Quality Control Inspections. (24 CFR 982.405(b))
A PHA supervisor (or other qualified person) reinspected a sample of units during the PHA fiscal year, which met the minimum sample size required by HUD (see 24 CFR 985.2), for quality control of HQS inspections. The PHA supervisor's reinspected sample was drawn from recently completed HQS inspections and represents a cross section of neighborhoods and the work of a cross section of inspectors.

PHA Response **Yes** ☑ **No** ☐

6. HQS Enforcement. (24 CFR 982.404)
The PHA's quality control sample of case files with failed HQS inspections shows that, for all cases sampled, any cited life-threatening HQS deficiencies were corrected within 24 hours from the inspection and, all other cited HQS deficiencies were corrected within no more than 30 calendar days from the inspection or any PHA-approved extension, or, if HQS deficiencies were not corrected within the required time frame, the PHA stopped housing assistance payments beginning no later than the first of the month following the correction period, or took prompt and vigorous action to enforce the family obligations for (check one):
PHA Response ☑ **At least 98% of cases sampled** ☐ **Less than 98% of cases sampled**

7. Expanding Housing Opportunities. (24 CFR 982.54(d)(5), 982.153(b)(3) and (b)(4), 982.301(a) and 983.301(b)(4) and (b)(12)).
Applies only to PHAs with jurisdiction in metropolitan FMR areas.
Check here if not applicable ☐

(a) The PHA has a written policy to encourage participation by owners of units outside areas of poverty or minority concentration which clearly delineates areas in its jurisdiction that the PHA considers areas of poverty or minority concentration, and which includes actions the PHA will take to encourage owner participation.
PHA Response **Yes** ☑ **No** ☐

(b) The PHA has documentation that shows that it took actions indicated in its written policy to encourage participation by owners outside areas of poverty and minority concentration.
PHA Response **Yes** ☑ **No** ☐

(c) The PHA has prepared maps that show various areas, both within and neighboring its jurisdiction, with housing opportunities outside areas of poverty and minority concentration; the PHA has assembled information about job opportunities, schools and services in these areas; and the PHA uses the maps and related information when briefing voucher holders.
PHA Response **Yes** ☑ **No** ☐

(d) The PHA's information packet for voucher holders contains either a list of owners who are willing to lease, or properties available for lease, under the voucher program, or a list of other organizations that will help families find units and the list includes properties or organizations that operate outside areas of poverty or minority concentration.
PHA Response **Yes** ☑ **No** ☐

(e) The PHA's information packet includes an explanation of how portability works and includes a list of neighboring PHAs with the name, address and telephone number of a portability contact person at each.
PHA Response **Yes** ☑ **No** ☐

(f) The PHA has analyzed whether voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, where such difficulties were found, the PHA has considered whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.
PHA Response **Yes** ☑ **No** ☐

8. Payment Standards. The PHA has adopted current payment standards for the voucher program by unit size for each FMR area in the PHA jurisdiction and, if applicable, for each PHA-designated part of an FMR area, which do not exceed 110 percent of the current applicable FMR and which are not less than 90 percent of the current FMR (unless a lower percent is approved by HUD). (24 CFR 982.503)

PHA Response **Yes** ☑ **No** ☐

Enter current FMRs and payment standards (PS)

0-BR FMR 423	1-BR FMR 473	2-BR FMR 622	3-BR FMR 796	4-BR FMR 894
PS 423	PS 496	PS 653	PS 875	PS 938

If the PHA has jurisdiction in more than one FMR area, and/or if the PHA has established separate payment standards for a PHA-designated part of an FMR area, attach similar FMR and payment standard comparisons for each FMR area and designated area.

9. Annual Reexaminations. The PHA completes a reexamination for each participating family at least every 12 months. (24 CFR 982.516)

PHA Response **Yes** ☑ **No** ☐

10. Correct Tenant Rent Calculations. The PHA correctly calculates tenant rent in the rental certificate program and the family rent to owner in the rental voucher program. (24 CFR 982, Subpart K)

PHA Response **Yes** ☑ **No** ☐

11. Precontract HQS Inspections. Each newly leased unit passed HQS inspection before the beginning date of the assisted lease and HAP contract. (24 CFR 982.305)

PHA Response **Yes** ☑ **No** ☐

12. Annual HQS Inspections. The PHA inspects each unit under contract at least annually. (24 CFR 982.405(a))

PHA Response **Yes** ☑ **No** ☐

13. Lease-Up. The PHA executes assistance contracts on behalf of eligible families for the number of units that has been under budget for at least one year.

PHA Response **Yes** ☑ **No** ☐

14a. Family Self-Sufficiency Enrollment. The PHA has enrolled families in FSS as required. (24 CFR 984.105)
Applies only to PHAs required to administer an FSS program.
Check here if not applicable ☐
PHA Response
a. Number of mandatory FSS slots (Count units funded under the FY 1992 FSS incentive awards and in FY 1993 and later through 10/20/1998. Exclude units funded in connection with Section 8 and Section 23 project-based contract terminations; public housing demolition, disposition and replacement; HUD multifamily property sales; prepaid or terminated mortgages under section 236 or section 221(d)(3); and Section 8 renewal funding. Subtract the number of families that successfully completed their contracts on or after 10/21/1998.) [126]

or, Number of mandatory FSS slots under HUD-approved exception [ ]

b. Number of FSS families currently enrolled | 135

c. Portability: If you are the **initial** PHA, enter the number of families currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA | 0

Percent of FSS slots filled (b + c divided by a)

14b. Percent of FSS Participants with Escrow Account Balances. The PHA has made progress in supporting family self-sufficiency as measured by the percent of currently enrolled FSS families with escrow account balances. (24 CFR 984.305)
Applies only to PHAs required to administer an FSS program.
Check here if not applicable ☐

PHA Response **Yes** ☑ **No** ☐ | 50

Portability: If you are the **initial** PHA, enter the number of families with FSS escrow accounts currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA

Deconcentration Bonus Indicator (Optional and only for PHAs with jurisdiction in metropolitan FMR areas).

The PHA is submitting with this certification data which show that:

(1) Half or more of all Section 8 families with children assisted by the PHA in its principal operating area resided in low poverty census tracts at the end of the last PHA FY;

(2) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area during the last PHA FY is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the last PHA FY;

or

(3) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area over the last two PHA FYs is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the second to last PHA FY.

PHA Response **Yes** ☐ **No** ☐ **If yes, attach completed deconcentration bonus indicator addendum.**

I hereby certify that, to the best of my knowledge, the above responses under the Section 8 Management Assessment Program (SEMAP) are true and accurate for the PHA fiscal year indicated above. I also certify that, to my present knowledge, there is not evidence to indicate seriously deficient performance that casts doubt on the PHA's capacity to administer Section 8 rental assistance in accordance with Federal law and regulations.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Executive Director, signature

Date (mm/dd/yyyy) 02/12/2008

Chairperson, Board of Commissioners, signature

Date (mm/dd/yyyy) 02/12/2008

The PHA may include with its SEMAP certification any information bearing on the accuracy or completeness of the information used by the PHA in providing its certification.

Agenda Item 45.

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Housing Authority Board Members

SUBJECT: Section 8 Management Assessment Program (SEMAP)

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommended Action: Approve the 2007 Section 8 Management Assessment Program (SEMAP) Certification.

Background: On October 6, 1998 the U.S. Department of Housing and Urban Development (HUD) issued final rules for the Section 8 Housing Choice Voucher and Certificate Programs, Section 8 Management Assessment Program (SEMAP). SEMAP is a Management Assessment System that HUD uses to annually measure the performance of all Housing Authorities that administer the Section 8 Tenant Based Rental Assistance Program. Under the SEMAP, HUD assesses Housing Authorities' performance on 14 Key Indicators that show how well eligible families are provided housing assistance at a reasonable subsidy cost.

Analysis: The Housing Authority (HA) must certify as to their program performance under these 14 standards 60 days after the Housing Authority's fiscal year ends. The Wichita Housing Authority's fiscal year ended on December 31, 2007, so the certification is due on February 29, 2008.

The indicators are:

1. Selection from the Waiting List (15 points): The HA has a written policy for selecting applicants and follows these policies when selecting applicants from the waiting list.

2. Reasonable Rent (20 points): The HA has implemented written methods to determine reasonable rents.

3. Determination of Adjusted Income (20 points): The HA correctly determines adjusted annual income.

4. Utility Allowance Schedule (5 points): The HA maintains up-to-date utility allowance schedules.

5. Housing Quality Standards (HQS) Quality Control Inspections (5 points): A HA supervisor re-inspects a sample of units for Quality Control.

6. HQS Enforcement (10 points): HQS inspection deficiencies are corrected in a timely manner.

7. Expanding Housing Opportunities (5 points): The HA has adopted and implemented a written policy to encourage participation in areas outside poverty or minority concentrations.

8. Fair Market Rent (FMR) limit and Payment Standards (5 points): The HA's gross rent for 98% of new units leased, is applicable and reasonable.

9. Annual Reexaminations (10 points): The HA completes an annual reexamination for each tenant.

10. Correct Tenant Rent Calculations (5 points): The HA correctly calculates tenant rents.

11. Pre-Contract HQS Inspections (5 points): Newly leased units pass HQS before the beginning date of lease.

12. Annual HQS Inspections (10 points): Each unit is inspected annually and on time.

13. Lease up (20 points): The HA enters Housing Assistance Payment (HAP) contracts for the number of units under budget for at least one year. The standard is 98%.

14. Family Self-Sufficiency (FSS) Enrollment and Escrow Accounts (10 points): The HA maintains at least 80 percent of the number of families required to be enrolled in the FSS program, and ensures that at least 30 percent of them have escrow accounts.

The total number of points to be awarded is 145. Five bonus points are available to Housing Authorities that achieve certain de-concentration goals during the year. A Housing Authority with a SEMAP score of at least 90% shall be rated a High Performer. Housing Authorities with a SEMAP score of 60-80% shall be rated Standard. Housing Authorities with scores of less than 60% shall be rated "troubled" and shall be subject to a HUD onsite review and development of a corrective action plan.

The Wichita Housing Authority Section 8 Housing ChoiceVoucher program has prepared a self-evaluation, which rates the Authority as a high performer for 2007. The self-evaluation must be submitted to HUD for approval.

Financial Considerations: Housing Authorities with a "high performer" rating may be given competitive advantage under notices of fund availability.

Legal Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living

Recommended Action: Approve the 2007 Section 8 Management Assessment Program (SEMAP) Certification.

Attachment: Section 8 Management Assessment Program (SEMAP) Certification

RESOLUTION NO. H-08-01

A RESOLUTION CERTIFYING FY 2007 PHAS

Whereas On January 11, 2000, the Department of Housing and Urban Development (HUD) published 24 CFR Part 902 in the Federal register requiring housing authorities to submit the Public Housing Assessment System (PHAS) Certification;

Whereas The PHAS report requires that the Executive Director certify the Report electronically;

Whereas The City of Wichita Housing Authority has responded to the HUD regulations by completing the Public Housing Assessment System Certification; and

Whereas The Housing Authority Board authorizes the submission of the Public Housing Assessment System Program Certification for FY 2007 and hereby agrees that the City of Wichita Housing Authority will maintain all documentation for three years verifying all certified indicators for HUD on-site review.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WICHITA HOUSING AUTHORITY AS FOLLOWS:

Acting on behalf of the City of Wichita Housing Authority Board, as its Chairperson, I certify the Public Housing Assessment System Certification.

Adopted this day, February 12, 2008.

WICHITA HOUSING AUTHORITY BOARD

_____ _____

Mayor Carl Brewer, Chairman ATTEST: Karen Sublett, City Clerk

Management Assessment for Public Housing Agencies

View/Print Full Submission

PHA Code :	KS004	FYE :	12/31	Fiscal Year :	2007
PHA Name :	Wichita Housing Authority				
Submission Type :	Submission			Status :	Draft

Inbox | Unit Turnaround | Capital Fund | Work Orders | Annual Inspection | Security | Econ. Self-Suff

Sub-Indicator 1: Vacant Unit Turnaround Time

ELEMENT	DESCRIPTION	AMOUNT
V12400	Total number of turnaround days.	17,801
V12500	Total number of vacancy days exempted for Capital Fund.	3,647
V12600	Total number of vacancy days exempted for other reasons.	3,002
V12700	Total number of vacant units turned around and lease in effect in the PHA's immediate past fiscal year.	137
V12800	Average number of calendar days units were in down time.	1.00
V12900	Average number of calendar days units were in make ready time.	60.57
V13000	Average number of calendar days units were in lease up time.	20.19
V13100	Average Unit Turnaround Days.	81.40

This includes the number of down time, make ready time and lease up time days adequately tracked by the PHA to turnaround its vancant units. PHAS Rule 24 CFR Part 902, Subpart D-PHAS Indicator #3 Management Operations, Section 902.40 (Published 1/11/02) This element contains the amount of time it takes the PHA to turn around vacant units. Total number of vacancy days exempted for other reasons Total number of vacant units turned around and lease in effect in the PHA's immediate past fiscal year Average number of calendar days units were in down time Average number of calendar days units were in make ready time Average number of calendar days units were in lease up time Average Unit Turnaround Days

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Sub-Indicator 2: Capital Fund

ELEMENT	DESCRIPTION	AMOUNT
CF10000	Do you have any open Capital Fund programs(e.g. CGP, HOPE VI)(Y/N)? Open = any program that does not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed.	yes
Component 1:	Unexpended Funds Over Three Federal Fiscal Years (FFYs) Old	
CF10050	Total funds authorized over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed.	$ 0.00
CF10100	Total funds expended over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the	$ 0.00

	fiscal year being assessed.	
CF10200	Unexpended funds to be recaptured (enter dollar amt).	$ 0.00
CF10300	Unexpended funds approved by HUD over 3 FFYs old (enter dollar amt).	$ 0.00
CF10400	Unexpended funds with time extensions due to reasons outside of PHA control (enter dollar amt).	$ 0.00
CF10500	Adjusted total unexpended funds.	$ 0.00
Component 2:	Timeliness of Fund Obligation	
CF11100	Total funds authorized for grants over 2 FFYs old.	$ 0.00
CF11200	Total funds obligated over 2 FFYs old.	$ 0.00
CF11300	Unobligated funds approved by HUD over 2 FFYs old (enter dollar amt).	$ 0.00
CF11400	Unobligated funds with time extensions due to reasons outside of PHA control (enter dollar amt).	$ 0.00
CF11500	Adjusted total unobligated funds.	$ 0.00
Component 3:	Adequacy of Contract Administration	
CF11700	The date of last HUD/Army Corps of Engineers on-site inspection and/or audit related to contract administration (include A133 audit).	09/02/1993
CF11800	The number of findings related to contract administration.	0
CF11900	The number of findings related to contract administration that have been corrected by the PHA.	0
CF12000	The number of findings related to contract administration that the PHA is in the process of correcting.	0
Component 4:	Quality of the Physical Work	
CF12200	Date of last HUD/Army Corps of Engineers on-site inspection and/or audit related to quality of the physical work.	09/02/1993
CF12300	The number of findings related to the quality of the physical work.	0
CF12400	The number of findings related to the quality of the physical work that have been corrected by the PHA.	0
CF12500	The number of findings related to the quality of the physical work that the PHA is in the process of correcting.	0
Component 5:	Budget Controls	
CF12700	Total amount of Capital Funds expended during the PHA fiscal year being assessed.	$ 1,069,716.93
CF12800	The amount of Capital Funds expended on approved work items not subject to budget revisions during the PHA fiscal year being assessed.	$ 1,069,716.93

CF12900	**The amount of Capital Funds expended under budget revisions with prior HUD approval during the PHA fiscal year being assessed.**	$ 0.00
CF13000	**The amount of Capital Funds expended under budget revisions not requiring prior HUD approval during the PHA fiscal year being assessed.**	$ 0.00

Do you have any open Capital Fund programs? Total funds authorized over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed. Total funds expended over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed. Unexpended funds to be recaptured Unexpended funds approved by HUD over 3 FFYs old Unexpended funds with time extensions due to reasons outside of PHA control Adjusted Total Unexpended Funds Total funds authorized for grants over 2 FFYs old Total funds obligated over 2 FFYs old Unobligated funds approved by HUD over 2 FFYs old Unobligated funds with time extensions due to reasons outside of PHA control Adjusted Total Unobligated Funds The date of last HUD/Army Coups of Engineers on-site inspection and/or audit related to contact administration Number of findings related to contract administration The number of findings related to contract administration that have been corrected by the PHA The number if findings related to contract administration that the PHA is in the process of correcting Date of last HUD/Army Corps of Engineers on-site inspection and/or audit related to quality of the physical work. The number of findings related to the quality of the physical work The number of findings related to the quality of the physical work that have been corrected by the PHA The number of findings related to the quality of the physical work that the PHA is in the process of correcting Total amount of Capital Funds expended during the PHA fiscal year being assessed The amount of Capital Funds expended on approved work items not subject to budget revisions during the PHA fiscal year being assessed The amount of Capital Funds expended under budget revisions with prior HUD approval during the PHA fiscal year being assessed The amount of Capital Funds expended under budget revisions not requiring prior HUD approval during the PHA fiscal year being assessed

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Sub-Indicator 3: Work Orders

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	**Emergency Work Orders**	
W10000	**Total number of emergency work orders.**	634
W10100	**Total number of emergency work orders completed / abated within 24 hours.**	634
W10200	**Percentage of emergency work orders completed / abated within 24 hours.**	100.00%
Component 2:	**Non-Emergency Work Orders**	
W10500	**Total number of non-emergency work orders.**	4,789
W10600	**Total number of calendar days it took to complete non-emergency work orders.**	16,192
W10700	**Average number of days PHA has reduced the time it takes to complete non-emergency work orders over the past three years.**	
W10800	**Average completion days.**	3.38

Total number of emergency work orders Total number of emergency work orders completed/abated within 24 hours Percentage of emergency work orders completed/abated within 24 hours Total number of non-emergency work orders Total number of non-emergency work orders completed/abated within 24 hours Average number of days PHA has reduced the time it takes to complete non-emergency work orders over the past three years Average

Completion Days

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Sub-Indicator 4: Annual Inspection of Dwelling Units and Systems

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	**Annual Inspection of Dwelling Units**	
A10000	**The total number of ACC units.**	578
A10100	**The sum of units exempted where the PHA made two documented attempts to inspect and is enforcing the lease.**	0
A10200	**Vacant units exempted for Capital Fund.**	0
A10300	**Vacant units exempted for other reasons.**	3
A10400	**Total number of units inspected using the Uniform Physical Condition Standards (UPCS).**	575
A10550	**Total number of units inspected that did not require repairs.**	301
A10600	**The number of units where necessary repairs were completed to comply with UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program.**	274
A10700	**Adjusted units available.**	575
A10800	**Percent of units inspected by PHA.**	100.00%
Component 2:	**Annual Inspection of Systems Including Common Areas and Non-Dwelling Space**	
A11100	**Total number of projects.**	11
A11200	**Total number of projects exempted from the inspection of systems.**	0
A11300	**The total number of projects where all systems were inspected in accordance with the UPCS.**	11
A11400	**Total number of buildings.**	375
A11500	**Total number of buildings exempted from the inspection of systems.**	0
A11600	**Total number of buildings where all systems were inspected in accordance with the UPCS.**	375
A11700	**The number of buildings and projects where necessary repairs were completed to comply with UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program.**	11
A11800	**Percentage of projects inspected.**	100.00%
A11900	**Percentage of buildings inspected.**	100.00%

Total number of ACC units. Total number of ACC units. Total number of ACC units. The sum of units exempted were the PHA made two documented attempts to inspect and is enforcing the lease Vacant units exempted for Capital Fund Vacant units exempted for other reasons Total number on units inspected using the Uniform Physical Condition Standards (UPCS) Total number on units inspected using the Uniform Physical Condition Standards

(UPCS) Total number of units inspected that did not require repairs. The number of units where necessary repairs were completed to comply with UPCS either during the inspection, issued work Adjusted Units Available Percent of units inspected by PHA Total number of projects Total number of projects Total number of projects exempted from the inspection of systems. Total number of projects where all systems were inspected in accordance with the UPCS. Total number of projects where all systems were inspected in accordance with the UPCS. Total number of buildings. Total number of buildings. Total number of buildings exempted from the inspection of systems. Total number of buildings where all systems were inspected in accordance with the UPCS. Total number of buildings where all systems were inspected in accordance with the UPCS. The number of buildings and projects where necessary repairs were completed to comply with UPCS wither during the inspec Percentage of projects inspected Percentage of buildings inspected.

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Sub-Indicator 5: Security

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	**Tracking and Reporting Crime-Related Problems**	
S10000	**The date that the Board adopted current policies to track crime and crime-related problems.**	09/19/1996
S10100	**The date that the PHA implemented the current procedures to track crime and crime-related problems.**	09/19/1996
S10200	**The date that the PHA implemented a current cooperative system for tracking and reporting crime to local police authorities.**	09/19/1996
S10300	**The number of crimes that the PHA can document it reported to local police authorities.**	18
S10400	**Percentage of developments where PHA can document it tracks crime and crime-related problems.**	100.00%
Component 2:	**Screening of Applicants**	
S10500	**The date the Board adopted current screening policies that reflect the applicable criteria.**	09/19/1996
S10600	**The date the PHA implemented current screening procedures that reflect the applicable criteria.**	09/19/1996
S10700	**PHA can document that current screening procedures result in successfully denying admission to applicants who meet the applicable criteria (enter Yes or No).**	yes
S10800	**The total number of applicants denied who met the applicable criteria**	5
Component 3:	**Lease Enforcement**	
S10900	**The date the Board adopted current eviction policies that reflect the applicable criteria.**	09/19/1996
S11000	**The date the PHA implemented current eviction procedures that reflect the applicable criteria.**	09/19/1996
S11100	**PHA can document that eviction screening procedures resulted in the evicting of residents who meet the applicable criteria (enter Yes or No).**	yes

S11200	**The total number of evictions as a result of the applicable criteria.**	2
Component 4:	**Drug Prevention and/or Crime Reduction Program Goals**	
S11350	**The number of HUD-funded drug prevention and/or crime reduction programs.**	0
S11450	**The number of non HUD-funded drug prevention and/or crime reduction programs that the PHA requests to be assessed.**	1
S11550	**The number of documented program goals that are related to drug-prevention and/or crime reduction.**	1
S11600	**The number of goals the PHA can document it met under the implementation plans(s) for any and all of these programs.**	1
S11700	**Percentage of goals that the PHA can document it met under the implementation plans(s) for any and all of these programs.**	100.00%

The date that the Board adopted current policies to track crime and crime-related problems | The date that the PHA implemented the current procedures to track crime and crime-related problems | The date that the PHA implemented a current cooperative system for tracking and reporting crime to local police authorities | The number of crimes that the PHA can document it reported to local police authorities | Percentage of developments where PHA can document it tracks crime and crime-related problems | The date the Board adopted current screening policies that reflect the One-Strike criteria | The date the PHA implemented current screening procedures that reflect the One-Strike criteria | PHA can document that current screening procedures result in successfully denying admission to applicants who meet the One-Strike criteria | The total number of applicants denied who met the One-Strike criteria | The date the Board adopted current eviction procedures that reflect the One-Strike criteria | The date the PHA implemented current eviction procedures that reflect the One-Strike criteria | PHA can document that eviction procedures result in appropriately evicting residents who meet the One-Strike criteria | The total number of evictions as a result of the One-Strike criteria | The number of HUD-funded drug prevention and/or crime reduction programs | The number of non HUD-funded drug prevention and/or crime reduction programs that the PHA requests to be assessed | The number of documented program goals that are related to drug-prevention and/or crime reduction | The number of goals the PHA can document it met under the implementation plan(s) for any and all of these programs | Percentage of goals the PHA can document it met under the implementation plan(s) for any and all of these programs

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Sub-Indicator 6: Economic Self-Sufficiency

ELEMENT	DESCRIPTION	AMOUNT
E10000	**The number of HUD-funded economic self-sufficiency programs.**	2
E10100	**The number of non HUD-funded economic self-sufficiency programs that the PHA requests to be assessed.**	0
E10200	**The number of documented program goals that are related to economic self-sufficiency.**	5
E10300	**The number of goals the PHA can document it met under the implementation plan(s) for any and all of these programs.**	5
E10400	**Percentage of goals that the PHA can document it met under the implementation plan(s) for any and all of these programs.**	100.00%

The number of HUD-funded economic self-sufficiency programs | The number of non-HUD funded economic self-sufficiency programs that the PHA requests to be assessed | The number of documented programs goals that are related to economic self-sufficiency | The number of goals the PHA can document it met under the implementation plans(s) for any and all of these programs | Percentage of goals that the PHA can document it met under the implementation plan(s) for any and all of these programs

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Comments or Questions? Please go to Technical Assistance Center or Contact MASS

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Housing Authority Board Members

SUBJECT: 2007 Public Housing Assessment System

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Review and approve the submission of the 2007 Public Housing Assessment System Certification for Management Indicators to the U. S. Department of Housing and Urban Development (HUD); adopt the resolution; and provide the necessary signatures.

Background: On January 11, 2000, HUD published 24 CFR Part 902 in the Federal Register requiring housing authorities to submit The Public Housing Assessment System (PHAS) Certification. The evaluation system designates public housing authorities as High Performers, Standard Performers or Troubled Performers, based on PHAS scores. Housing authorities that score 90 or higher on a 100-point scale are designated as High Performers and are given more operating flexibility; housing authorities that score above 60 and below 90 are designated as Standard Performers. Housing authorities scoring below 60 are designated as Troubled Performers under PHAS and receive help from HUD's Troubled Agency Recovery Center to improve their performance and meet HUD's new standards. If a troubled housing authority fails to significantly improve its performance a year after it is referred to the Recovery Center, HUD's Enforcement Center can ask a federal judge to create a receivership to take over management of the authority and remove its board members from office. HUD can also seek civil and criminal sanctions against housing authorities in the most serious cases.

Key elements of the PHAS Certification are:

Physical Inspections – 30% of score – HUD conducts the physical inspection of all public housing developments. Evaluations are based on objective, verifiable and uniform national standards designed to determine if public housing residents receive decent, safe and sanitary housing.

Financial Assessment – 30% of score – HUD will evaluate the financial condition of the WHA, using generally accepted accounting principles. The Wichita Housing Authority (WHA) accountants will electronically submit standardized financial information to HUD prior to March 1, 2008.

Management Certification – 30% of score – HUD measures six management indicators. Components of those indicators include unit turnaround time, Capital Fund expenditures, completion time of maintenance work orders, annual inspections, lease enforcement and resident self-sufficiency. Attached is the management review.

Resident Satisfaction and Services Assessment – 10% of score – HUD surveys public housing residents about their satisfaction with the developments in which they reside. Residents are asked their opinion of the quality of their dwelling units, resident organizations, program activities, safety and other issues. The HUD survey is currently underway.

Analysis: Wichita Housing Authority staff has completed the 2007 PHAS Management Certification, which will comprise 30% of our PHAS score. The attached Management Certification reflects continued positive performance in modernization and work orders; those scores should continue to be rated high by HUD. The vacancy turnaround time has improved since 2006, however is still short of the desired goal. The Public Housing Division made ready and leased 137 units in 2007 compared to 142 units in 2006. The high level of unit turnaround is attributed to the number of evictions for tenant non-compliance.

The final results of the Financial Assessment and Resident Assessment will not be known until the overall PHAS scores are released. The overall PHAS score is calculated based upon all indicators and graded by HUD's electronic system.

Wichita Housing Authority Final PHAS Scores - 2006

Physical Condition	**27** of 30
Financial Condition	**24** of 30
Management	**26** of 30
Resident Satisfaction	**9** of 10
Total	**86** of 100

Financial Considerations: None

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: None

Recommendation/Action: Review and approve the submission of the 2007 Public Housing Assessment System Certification for Management Indicators to the U.S. Department of Housing and Urban Development (HUD); adopt the resolution; and provide the necessary signatures.

Attachments
PHAS Management Certification
Resolution

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary

PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450106 Replacement Housing Factor Grant No:	Federal FY of Grant: 2006

☐ **Original Annual Statement** ☐ **Reserve for Disasters/ Emergencies** ☒ **Revised Annual Statement (revision no:)** 3
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line No.	Summary by Development Account	Total Estimated Cost			Total Actual Cost	
		Original		Revised	Obligated	Expended
1	Total non-CFP Funds	Initial	Add-on			
2	1406 Operations	$150,000	$196,000	$196,000		
3	1408 Management Improvements	15,000	10,000	1,000		
4	1410 Administration	98,000	98,000	100,000		
5	1411 Audit	5,000	5,000	5,000		
6	1415 Liquidated Damages					
7	1430 Fees and Costs	116,000	116,000	125,091		
8	1440 Site Acquisition					
9	1450 Site Improvement	184,000	79,105	70,000		
10	1460 Dwelling Structures	325,000	245,986	446,000		
11	1465.1 Dwelling Equipment—Nonexpendable		10,000	7,000		
12	1470 Nondwelling Structures					
13	1475 Nondwelling Equipment	70,000	60,000	65,000		
14	1485 Demolition					
15	1490 Replacement Reserve					
16	1492 Moving to Work Demonstration					
17	1495.1 Relocation Costs					
18	1499 Development Activities		190,000	0		
19	1501 Collaterization or Debt Service					
20	1502 Contingency	18,105		0		
21	Amount of Annual Grant: (sum of lines 2 – 20)	$981,105	$1,010,091	$1,010,091		
22	Amount of line 21 Related to LBP Activities					
23	Amount of line 21 Related to Section 504 compliance					
24	Amount of line 21 Related to Security – Soft Costs					

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary

PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450106 Replacement Housing Factor Grant No:	Federal FY of Grant: 2006

☐ **Original Annual Statement** ☐ **Reserve for Disasters/ Emergencies** ☒ **Revised Annual Statement (revision no:)** 3
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line No.	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
25	Amount of Line 21 Related to Security – Hard Costs				
26	Amount of line 21 Related to Energy Conservation Measures				

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary

PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450107 Replacement Housing Factor Grant No:	Federal FY of Grant: 2007

☐ **Original Annual Statement** ☐ **Reserve for Disasters/ Emergencies** ☒ **Revised Annual Statement (revision no:)** 1
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line No.	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations	$199,000	$199,000		
3	1408 Management Improvements	15,000	10,000		
4	1410 Administration	99,000	99,000		
5	1411 Audit	5,000	5,000		
6	1415 Liquidated Damages				
7	1430 Fees and Costs	124,000	145,000		
8	1440 Site Acquisition				
9	1450 Site Improvement	135,657	37,657		
10	1460 Dwelling Structures	114,000	196,000		
11	1465.1 Dwelling Equipment—Nonexpendable	96,000	96,000		
12	1470 Nondwelling Structures	50,000	10,000		
13	1475 Nondwelling Equipment	10,000	10,000		
14	1485 Demolition				
15	1490 Replacement Reserve				
16	1492 Moving to Work Demonstration				
17	1495.1 Relocation Costs				
18	1499 Development Activities	150,000	190,000		
19	1501 Collaterization or Debt Service				
20	1502 Contingency		0	0.00	0.00
21	Amount of Annual Grant: (sum of lines 2 – 20)	$997,657	$997,657		
22	Amount of line 21 Related to LBP Activities				
23	Amount of line 21 Related to Section 504 compliance	150,000	190,000		
24	Amount of line 21 Related to Security – Soft Costs				

Annual Statement/Performance and Evaluation Report
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary

PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450107 Replacement Housing Factor Grant No:	Federal FY of Grant: 2007

☐ **Original Annual Statement** ☐ **Reserve for Disasters/ Emergencies** ☒ **Revised Annual Statement (revision no:)** 1
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line No.	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
25	Amount of Line 21 Related to Security – Hard Costs				
26	Amount of line 21 Related to Energy Conservation Measures				

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Housing Authority Board Members

SUBJECT: Revisions of the 2006 and 2007 Capital Fund Grants

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Approve the revisions of the 2006 and 2007 Capital Fund Grant Budgets.

Background: Since 1992, the U.S. Department of Housing and Urban Development (HUD) has awarded modernization funds through the Comprehensive Grant Program and beginning in 2000 the Capital Fund Program (CFP), to the City of Wichita Housing Authority/Public Housing Division. The purpose of the award is to update or rehabilitate rental units and management systems in the Public Housing Division's inventory. Housing authorities share the national allocation, which is determined by a calculation using various characteristics of each housing authority. HUD regulations allow a housing authority to revise its approved annual budget when changes to the budget are required due to construction and administrative cost changes, HUD Notices, disasters, and emergencies outside the control of the housing authority.

Analysis: The attached proposed revisions are allowable changes by HUD in the present Capital Fund Five-Year Plan. The 2006 Grant funding was allocated in the amount of $1,010,091. The revision to the 2006 budget is to make line item adjustments to allow the closure of the Grant. The 2007 Grant funding was allocated in the amount of $997,657. The revision also allows the transfer $190,000 of funds into the development line item from the 2006 budget. This transfer is necessary to facilitate the construction of three houses to replace houses sold in the homeownership program, which has been delayed by HUD. The construction was a part of the 2007 Annual and 5-year Agency Plan.

Financial Considerations: None. The proposed revisions are within the parameters of the original allocations and are allowable by HUD.

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: None.

Recommendation/Action: Approve the revisions of the 2006 and 2007 Capital Fund Grant Budgets.

Attachments: Capital Fund Annual Statements

5. Initiating threats – behavior in a manner of indicating intent to assault persons, employees or tenants of previous housing.

6. Abandonment of a previous housing unit – abandonment of the unit without advising the housing agency officials so that staff may secure the unit and protect its property from vandalism.

7. Non-payment of rightful obligations – excluding legal bankruptcy and cases where such nonpayment is a direct result of illness of injury as documented by medical records.

8. Intentionally falsifying an application for housing – including giving false information regarding family income, size, or utilization of an alias on the application for housing.

9. Record of serious disturbance of neighbors, destruction of property or other disruptive or dangerous behavior – behavior which consists of patterns which endanger the life, safety, morals or welfare, or right to peaceful enjoyment of other persons by physical violence, gross negligence or irresponsibility; which damage the equipment or premises in which the applicant resides or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a family setting. Includes neglect of children, which endangers their health, safety, or welfare; judicial termination of tenancy in previous housing on the grounds of nuisance or objectionable conduct, alcoholism or frequent loud parties, which have resulted in serious disturbances to neighbors.

10. Grossly unsanitary or hazardous housekeeping – includes the creation of a fire hazard through acts such a hoarding rags and papers, damage to premises and equipment, if it is established that the family is responsible for the condition; infestation, foul odors (including pet odors), depositing garbage, or pet waste in areas other than those specifically designated, or neglect of the premises. This category does not include families, whose housekeeping is found to be disorderly, where such conditions do not create a problem from neighbors.

11. Destruction of property.

12. Public Housing is not required nor obligated to assist applicants who were former Public Housing residents and who owe the Wichita Housing Authority or any other federally subsidized housing program money.

F. Elderly or handicapped applicants or tenant may not be denied admission or continued occupancy in rental housing built exclusively for occupancy by the elderly or handicapped by reason of ownership of a common household pet which is eligible under the terms of the Public Housing Pet Policy.

B. An unborn child will be considered a person for occupancy purposes.

C. Dwelling units will be assigned so that:

1. ~~Children under three years of age may occupancy the same bedroom with parents~~ *Adults and children will not be required to share a bedroom*;

2. For reasons of health (old age, physical disability, etc.) separated bedrooms may be provided for ~~such as~~ *an* individual family member if verified as to need by a ~~health care provider~~ *licensed physician*;

3. The living room or a basement will not regularly be used as a bedroom;

4. Social factors such as differences in age or ~~sex~~ *gender* in siblings shall be taken into account in determining unit size. ~~Children of opposite sex, ten years or older, may have separate bedrooms~~ *Two children of the same sex will share a bedroom. Children of the opposite sex, both under the age of 5, will share a bedroom*;

5. Children or grandchildren who are away at school, but who live with the family during school recess will be included in determining unit size; and

6. Foster children will be included in determining unit size.

D. Exceptions to Occupancy Standards

1. Person with Disability – Public Housing may grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified.

2. Circumstances may dictate a larger size than the occupancy standards permit when persons cannot share a bedroom because of a need for medical equipment due to its size and/or function. Verification from a doctor must accompany requests for a larger bedroom to accommodate medical equipment.

3. In order to provide an increased sense of security for public housing residents the WHA may allow Public Housing units to be occupied by police officers. Police officers will not be required to be income eligible to qualify for admission to the WHA's Public Housing Program.

4. Public Housing may offer a family a unit that is larger than required by Public Housing's occupancy standards in the event of a deficiency of qualified applicants on the waiting list for the applicable bedroom size.

E. Offering Handicap Units to Handicap Applicants or Tenants – when an accessible unit becomes vacant, Public Housing before offering such unit to a non-handicapped applicant shall offer such unit, first, to a current occupant of another unit of the same project or comparable project under common control, having handicaps requiring accessibility features of the vacant unit and occupying a unit not having such features. If no such occupant exists, the unit will be offered to an eligible qualified

E. Annual recertification

During the annual recertification process, the family will be provided a form from Public Housing, on which the family will indicate whether they choose flat rent or income-based rent. The form will state what the flat rent would be, and an estimate, based on current information, what the family's income-based rent would be. This form will be retained in the resident's file.

VII. TENANT SELECTION POLICIES

A. Public Housing will place applicants based on a broad range of income for the following purposes:

1. To avoid concentration of the most economically and socially deprived families in any one or all the Public Housing projects and

2. To attain a tenant body in each project composed of families with a broad range of income and rent-paying ability, which is generally representative of the range of incomes of lower and very low-income families in Public Housing, as set forth in Section II. B. of this policy. However, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income *in accordance with HUD Regulations*.

B. Public Housing will select applicants for low to moderate-income Public Housing in the order of Preliminary Application date, time, and preference.

C. Preferences in the Selection of Tenants – Applicants on the waiting list, who have been granted a preference, will be housed first in the appropriate bedroom size. When all preferenced applicants have been housed in the appropriate bedroom size, the application date and time shall be used for remaining applicants on the waiting list. *Public Housing will grant a preference to an applicant for any of the following circumstances*:

1. Displaced households by governmental action, or a household whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws, as well as the conversion, sale or closing of an applicant's building; *or*

2. Households with at least one adult member who is consistently employed a minimum of 30 hours per week and those unable to work because of age (62 and older) or a determination of disability. Employed means working and earning wages.

Public Housing staff will verify all preferences at the Preoccupancy Meeting. In the event staff is unable to verify the applicant's eligibility for the preference, the applicant will be placed back on the waiting list without a preference with the original date and time of application.

Agenda Item No. 48.

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Housing Authority Board Members

SUBJECT: Admissions & Continued Occupancy Policy (ACOP)

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Review and approve the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing Program.

Background: Public housing authorities are required by U.S. Department of Housing and Urban Development (HUD) regulations, to adopt and maintain admission, occupancy and waiting list policies, and to revise them as necessary. The last time that the Wichita Housing Authority (WHA) revised its Admissions & Continued Occupancy Policy (ACOP) was on December 12, 2006.

Analysis: HUD has issued a final rule regarding the Public Housing Operating Fund Program. The rule represents the transition from the old funding formula to a new funding formula, based upon private sector operating expenses, resulting in reduced HUD subsidies for public housing operations in the future.

Now that HUD is reducing subsidies for public housing operations, it is incumbent upon public housing authorities to increase their rental income to compensate for reduced subsidy. In response to the new funding formula, the Wichita Housing Authority will attempt to increase program income from rental receipts and reduce tenant accounts receivables by enforcing a stricter rent collections policy. This ACOP revision will allow the Wichita Public Housing program to give preference to applicants that are employed, disabled or elderly, which should result in higher rental income.

Additional changes to the ACOP include language to clarify applicant eligibility, and amendments to dwelling assignments policy which will provide uniformity with the WHA Section 8 Administrative Plan.

Financial Considerations: The new admissions preference should increase rental income.

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: HUD regulations require that not less than 40 percent of new admissions shall be by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income. On average, the WHA Public Housing Division exceeds the 40 percent requirement, by leasing an average of 85 percent of its rental units to households with incomes less than 30 percent of median. The WHA will closely monitor shifts in this ratio as a result of the ACOP change, to ensure compliance with the 40 percent requirement.

Recommendations/Actions: It is recommended that the Housing Authority Board review and approve the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing Program.

Attachments: Changes to the ACOP.

SUPPLEMENTAL AGREEMENT NO. 2

By and Between

THE WICHITA AIRPORT AUTHORITY

and

ARMSTRONG|SHANK

for

Professional Services

THIS SUPPLEMENTAL AGREEMENT No. 2, made and entered into this February 5, 2008, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as the "Authority", and ARMSTRONG|SHANK, hereinafter referred to as "Consultant".

WITNESSETH:

WHEREAS the Authority has previously entered into a Contract with Consultant, dated February 28, 2006, for the purpose of implementing a marketing and image-building campaign for Wichita Mid-Continent Airport, and Supplemental Agreement No. 1, dated February 6, 2007, for the purpose of revising the scope of services and adjusting the term of the Agreement; and

WHEREAS, the Authority is desirous of further amending the Contract in order to continue the airline advertising strategies and relationships in place at Wichita Mid-Continent Airport and to continue the airport branding campaign.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

I. SCOPE OF SERVICES.

Supplemental Agreement No. 1, Article II, Scope of Services, is superseded by the following language: The Consultant shall furnish professional services as set out in "Exhibit A - 2008", which is attached hereto and incorporated herein by reference.

By mutual agreement of Authority and Agency, the term of this Supplemental Agreement shall be for the period March 1, 2008 through February 28, 2009. This Contract may be renewed for an additional one-year period beyond February 28, 2009, subject to a mutually acceptable renegotiation of fees and revised scope of services.

II. OTHER TERMS.

It is understood and agreed, that except as modified herein, all other terms and conditions of the original Contract, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this supplemental agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
By direction of the Wichita Airport Authority

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By _____
Victor D. White, Director of Airports

ATTEST: ARMSTRONG|SHANK

By _____ By _____

Susan Armstrong, President

"Consultant"

APPROVED AS TO FORM: _____ Date: _____

Director of Law

Exhibit A - 2008

Scope of Services:

1. **Strategic Planning, Design and Implementation of the Campaign.** Armstrong Shank (hereafter referred to as "Agency") will work together with representatives from the Wichita Airport Authority and the City (hereafter referred to as "Authority") to implement a complete and comprehensive integrated marketing and image building campaign designed to increase passenger travel, General Aviation activity, and increase economic development potential for the State of Kansas' largest Airport System (Mid-Continent Airport and Colonel James Jabara Airport). This will be developed from concept and implemented through execution by the Agency. The ad campaign will attempt to:

    - Partner with airlines to promote air service, fare sales, new destinations, and all air service enhancements.
    - Development of the PR newswire for keeping airlines informed.
    - Create an intranet site for airlines.
    - Position Mid-Continent Airport as the Kansas airport-of-choice, whereby a - "that's my airport" feeling is instilled in travelers using the airport.
    - Create incentive program for airline employees to improve customer service.
    - Increase awareness of Mid-Continent and its progress in adding flights and services.
    - Encourage travel from business travelers to and from Wichita.
    - Encourage travel from leisure travelers to and from Wichita.
    - Provide promotional material to assist the Authority in its marketing efforts for economic development opportunities and to increase General Aviation activity at the Airport System.
    - Help build community support for the Airport System.

2. **Enhance ICT's image.** Continue the branding process for Mid-Continent Airport that will focus on the advantages of using ICT and enhance its name recognition for the State's largest commercial service airport.

3. **Develop Key Marketing Tactics.** The Agency and Authority will agree upon the tactics once approval for the strategic plan is determined. Tactics may include, among others:

    - Television
    - Radio
    - Outdoor media
    - Print media
    - Innovative marketing tools
    - Web Development including e-newsletters
    - Special events

4. **Proven performance-based goals.** Agency and Authority will set aggressive goals to include:

    - Communicate air service improvements to the Wichita and South Central Kansas markets.
    - Communicate air service improvements to the State of Kansas and northern Oklahoma.
    - Increase airline passenger traffic at Mid-Continent Airport.
    - Increase General Aviation traffic at the Airport System.

    The goals will be constantly monitored and reviewed. If it is determined by the Authority that the campaign is not achieving the necessary goals, alternative campaign strategies or tactics shall be developed, or the Authority may terminate this contract according to the provisions of Article V, Subsection A.

5. **Customer Service Enhancements.** Agency and Authority will work together to develop improvements to the experience of passengers and visitors at the Airport System.

6. **Agency Fees.** Agency will bill Authority, in an amount not to exceed $450,000, for services under this amendment as follows:

    - A monthly retainer of $3,000 to cover basic services;
    - Additional services will be billed at the rate of $85 per hour;
    - Production expenses, media purchases, special events, etc., will be billed at cost.

Agenda Item 49.

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Airport Authority

SUBJECT: Armstrong|Shank Advertising Agency Contract Renewal
Supplemental Agreement No. 2

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority

Recommendation: Approve Supplemental Agreement No. 2 with Armstrong|Shank which includes a one year renewal with an option to extend for an additional year beyond February 28, 2009.

Background: It is the policy of the Wichita Airport Authority to fund marketing programs aimed at promoting the use of Wichita Mid-Continent Airport and the Airport System. Several years ago, the Wichita Airport Advisory Board (WAAB) voted in favor of implementing an airport advertising campaign to promote Mid-Continent Airport for use by regional air travelers. The Advisory Board also acknowledged the importance of increased passenger travel because it results in enhanced air service, business expansion, increased tourism, and other economic benefits to the community. It is critical to the success of the Airport System that customers in Mid-Continent Airport's catchment area be aware of these services and continue to utilize them for the betterment of the airports. Effective marketing efforts have been contributing to the growth of airline passengers using Mid-Continent Airport. Passenger traffic in 2007 hit an all-time high of 1,596,229 total passengers, an increase of 9.3% over 2006.

Analysis: In December 2005, a formal request for proposal process was conducted to identify area advertising and marketing firms interested in this project. The recommendation of the nine-member selection committee was to contract with Armstrong|Shank as the agency of record. A one-year contract was developed, with two one-year options for renewal. With the second one-year renewal option, the agency will complete its third year of the contract at the end of February 2009. However, due to the great success of the marketing program and several upcoming commitments, this Supplemental Agreement seeks to add an additional one-year renewal option beyond February 2009. The reasons for the additional term are:

- The Wichita Airport Authority has a marketing agreement with Frontier Airlines through the summer of 2009. Frontier and Armstrong|Shank have developed a good working relationship, and Armstrong|Shank understands the needs and objectives of Frontier. Armstrong|Shank will have media buys and promotions in place for Frontier beyond February 2009. In order to have quick turnaround and be responsive to Frontier's needs, it is in the best interests of Frontier and the Airport to continue those relationships.
- The airport-branding message, which was implemented by Armstrong/Shank two years ago, needs more time to continue in order to be effective.
- This year the advertising firm will coordinate efforts with the Airport's air service consultant to develop effective strategies to market Mid-Continent Airport and the airlines serving this market. It would be detrimental to start this with Armstrong|Shank and not be able to continue the strategies developed with them.

At its meeting on January 14, 2008, the Wichita Airport Advisory Board voted to recommend to the Wichita Airport Authority that the contract with Armstrong|Shank as the Airport's Agency of Record be renewed through February 2009 and with an additional one-year option to renew beyond that period.

Financial Considerations: The new contract will pay the agency on a retainer basis of $3,000 per month, plus a billing rate of $85 per hour beyond the basic services that are covered in the retainer. Media purchases, direct expenses for printing, production, special events, etc., will be at cost. An amount of not to exceed $450,000 from the approved Department of Airports budget will be allocated to this contract and for the media buys for the first year of the extension period.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which assist the Wichita Airport Authority in developing marketing programs to increase passenger travel; thereby resulting in enhanced air service, business expansion, increased tourism, and other economic benefits to the community.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 2 with Armstrong|Shank which includes a one-year renewal with the option to extend for an additional year beyond February 28, 2009, and authorize the necessary signatures.

Attachments: Two signature copies and twelve distribution copies of the contract amendment.

Agenda Item No. 50.

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Airport Authority

SUBJECT: Air Service Consulting Services – Sabre, Inc.
Master Agreement

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority

Recommendation: Approve the Master Agreement with Sabre, Inc. for a term of three years and two additional one-year renewal options.

Background: On October 15, 2007, the Wichita Airport Authority advertised a Request for Qualifications for Airport/Air Service Consulting Services. On December 6, 2007, a Staff Screening and Selection Committee conducted interviews of the four firms that responded to the solicitation. After initial interviews, reference information was obtained. The committee reconvened on January 4, 2008 to discuss the additional information. The committee unanimously selected Sabre, Inc. to provide the services.

Analysis: High fuel costs and a weakening U.S. economy are forcing airlines to be extremely cautious with expansion plans. Airlines will carefully examine the airports they currently serve to see if adequate revenue is being generated, or if those aircraft can be better utilized elsewhere in their route network. Although air service at Wichita Mid-Continent Airport (ICT) is very good at this point, it will continue to require the expertise of an air service consultant to maintain and develop the air service at ICT. The Wichita Airport Authority has in the past contracted with Sabre, Inc. to conduct market assessment studies and to assist with presentations to airlines. Sabre possesses a unique and comprehensive database of passenger reservation data and employs top airline planning talent to provide interpretations and recommendations related to it. Airport staff has worked closely with Sabre during the past 18 months, resulting in non-stop service to Orlando-Sanford by Allegiant Air, non-stop service to Los Angeles, and the entrance of Frontier Airlines to the Wichita market, with resulting low fares to western destinations. Due to Sabre's excellent relationships with airline representatives, its thorough and credible market assessment studies, and due to the enhanced air service in 2007 as result of Sabre's services, it is recommended that the Wichita Airport Authority enter into a new contract with Sabre for air service consulting work. Because of their satisfaction with the quality of the work previously done by Sabre and the successes they have contributed to, at its meeting on January 14, 2008, the Wichita Airport Advisory Board voted to recommend that Sabre be selected once again for this service.

Financial Considerations: The contract specifies a three-year term with two additional one-year renewal options. A budget of not-to-exceed $100,000 is requested for the first year of the contract. Funds are available in the Airport operating budget.

Legal Considerations: The Agreement has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the new Air Service Consulting Master Agreement with Sabre, Inc., for a term of three years and two additional one-year renewal options, and authorize the necessary signatures.

Attachments: Two original signature copies and twelve distribution copies of the contract.

MASTER AGREEMENT FOR CONSULTING SERVICES

This **Master Agreement for Consulting Services** (the "Agreement") is made and entered into effective as of January 22, 2008 (the "Effective Date") by and between Wichita Airport Authority of the City of Wichita, a governmental or quasi-governmental entity authorized and existing under the Laws of the State of Kansas having offices located at 2173 Air Cargo Road 67209, Wichita, Kansas ("Client") and Sabre Inc., a Delaware corporation having offices at 1 E. Kirkwood Blvd., Southlake, Texas 76092 ("Sabre"). Each Work Order referencing this Agreement, together with the terms of this Agreement, shall constitute a separate contract.

1. Description of Services.

a) Work Orders. Sabre will perform certain consulting services (collectively, the "Consulting Services") for Client that will be defined individually in separate Work Orders referencing this Agreement and signed by authorized representatives of both Sabre and Client. The Work Orders will be in a form substantially similar to that outlined in the attached Exhibit A. If any terms in a Work Order conflict with the terms of this Agreement, the terms of the Work Order shall supersede the terms of the Agreement solely for that engagement.

b) Client Data, Facilities, Personnel. Client will make available, as promptly as possible, all information, data, facilities and personnel support reasonably requested by Sabre for performance of the Consulting Services. Any delay in the provision of such support which increases costs or efforts of Sabre hereunder, will result in commensurably increased costs to Client. Client will designate a project manager ("Project Manager") to be Client's primary contact for all aspects of the Consulting Services. The Project Manager will have the authority to render timely decisions related to the Consulting Services.

c) Delivery. Sabre shall provide Client with the deliverables specified in each Work Order (the "Deliverables") and will use its reasonable efforts to do so in accordance with the project plan provided for therein.

d) Change in Assignment or Scope. Client may from time to time request modifications to the scope of work contained in any Work Order upon written notice to Sabre specifying in detail the desired modification(s). If, in Sabre's reasonable judgment, the requested change can be implemented without requiring additional Sabre time or resources and without affecting Sabre's ability to maintain the estimated project schedule, Sabre will implement the change at no additional cost to Client. Otherwise, Sabre will provide Client with a change document that includes: (i) price change, (ii) estimated impact on project schedule, and (iii) revised description of the Deliverables, including additional terms, conditions, or duties of Client, if any (the "Change Document" which shall be in the form of a change order, Work Order Amendment or revised Work Order). Client may, at its discretion, accept or reject Sabre's Change Document. Whether or not Client accepts the Change Request Proposal, Client will pay Sabre for reasonable costs incurred by Sabre in investigating and preparing such Change Request Proposal. The Change Document shall be considered effective upon written consent of both parties and will be governed by the terms and conditions of this Agreement.

2. Rights in Deliverables.

a) Ownership of Deliverables. Subject to the confidentiality obligations contained in Section 9 below, Sabre hereby grants Customer all right, title and interest in and to all reports and other consulting Deliverables provided to Customer hereunder. However, Sabre shall retain all right, title and interest in and to any process, techniques, methods, data, data sources, trade secrets or any other intellectual property rights contained within such Deliverables.

b) Export. Client will comply with all applicable export and import control laws and regulations in its use of the Deliverables and, in particular, Client will not export or re-export the Deliverables without all required United States and foreign government licenses. Client will indemnify, defend and hold harmless Sabre from and against any violation of such laws or regulations by Client or any of its agents, officers, directors or employees.

3. Term and Termination.

a) Term. This Agreement will commence as of the Effective Date and will continue for a term of three years, and may be renewed at the option of the Client for two additional one-year options under the same provisions, upon acceptance by Sabre ("Term")." Either party may terminate this Agreement without cause upon thirty days written notice to the other party, subject to the provisions of Section 3c

b) **Termination for Material Breach.** Unless provided otherwise in a Work Order, in the event that either party materially breaches any term or condition of this Agreement or any Work Order, and such breach continues for a period of thirty (30) days after notice from the other party (except for a breach regarding failure to pay amounts due, in which case the period to cure shall be ten (10) days), the other party may terminate this Agreement and all Work Orders issued pursuant hereto immediately upon notice. In the event that any member of Sabre's consulting team working with the Wichita Airport Authority no longer is employed by Sabre, the Wichita Airport Authority has the right to terminate this contract if it deems necessary.

c) Effects of Termination. In the event of termination of this Agreement due to default of Client, any amounts owed to Sabre under this Agreement before such termination will be immediately due and payable. In the event of termination of this Agreement by Sabre pursuant to Section 3b) above, Client shall immediately return to Sabre all copies of Sabre Confidential Information in Client's possession or control, and have an officer of Client certify to Sabre in writing that Client has fully complied with these requirements.

4. Payment.

a) Service Fees. Client shall pay Sabre the fees outlined in the Work Order(s).

b) Out-of-Pocket Expenses. Client shall pay, or reimburse Sabre for, all documented out-of-pocket expenses, including Travel Expenses, incurred by Sabre in connection with the performance of this Agreement. Additionally, Client shall reimburse Sabre for local and business class air transportation expenses incurred in connection with the performance of this Agreement. "Travel Expenses" shall mean actual expenses incurred for food, lodging and incidental expenses incurred by Sabre in connection with the performance of this Agreement, which shall be reimbursed by Client at the rates published by the United States Government for federal employees traveling on government business in the city where the services are to be performed ("O/CONUS"), as such rates are amended from time to time. Travel expenses shall be estimated and included as a part of each Work Order.

c) Payment Procedures. All payments hereunder shall be made in United States Dollars and invoices shall be due and payable thirty (30) days after receipt of invoice from Sabre. Any request by Client for back-up documentation relating to a particular Sabre invoice must be received by Sabre within a reasonable amount of time after receipt of such invoice by Client. Interest on any late payments shall accrue at the lesser of the rate of one and one-half percent (1.5%) per month or the highest rate permitted by Texas law and such interest shall be calculated from the date such amount is due until finally paid.

5. Warranty.

(a) Both parties hereby represent and warrant that the performance of its obligations hereunder has been duly authorized by all necessary corporate action and this Agreement is a legal, valid, and binding obligation enforceable against it in accordance with the terms and conditions hereof.

(b) Sabre represents and warrants that all Consulting Services performed under this Agreement shall be provided by qualified professionals in their respective disciplines in a manner which is equivalent to the standard performed by Sabre for other clients.

(c) EXCEPT AS PROVIDED OTHERWISE IN THIS SECTION 5, ALL CONSULTING SERVICES HEREUNDER ARE PROVIDED "**AS IS",** WITHOUT ANY WARRANTY WHATSOEVER. SABRE DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE CONSULTING SERVICES, INCLUDING ANY WARRANTIES OF **MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE**. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT REGARDING THE CONSULTING SERVICES SHALL BE DEEMED A WARRANTY FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF SABRE WHATSOEVER. CLIENT ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTY IN THIS AGREEMENT.

(d) In the event of a breach of the above warranty, written notice thereof shall be given to Sabre promptly, but not later than thirty (30) days from the date on which such Consulting Services were performed or such breach was discovered by Client. Such notice shall describe the breach in detail, and Sabre will re-perform any such defective services.

(e) This Section shall constitute Client's sole and exclusive remedy for breach of the above express warranty.

6 Indemnification. Each party (the "indemnifying party") agrees to indemnify and hold the other (the "indemnified party") harmless against any suit, claim, damages and expense (including reasonable attorneys' fees) by reason of (a) any personal injuries or tangible property damage which the indemnified party may incur as the result of the indemnifying party's gross negligence or willful misconduct in the course of the performance of this Agreement, or (b) breach of the indemnifying party's obligations under the section entitled "Non-Disclosure" hereof.

7. Promotions. Sabre may identify Client as one of its clients in general promotional literature and disclose to current and prospective clients that Sabre has provided Consulting Services to Client. Additionally, Sabre may issue press releases relative to the general, non-confidential terms of this Agreement. In the event of the publication of such press releases, Sabre will provide advance notification to Client.

8. Non-Disclosure.

a) **Confidential Information.** Sabre acknowledges and understands that client and its obligations under Section 9 of this Agreement are subject to the provisions of the Kansas Open Records Act (K.S.A. 45-215, et. Seq.) hereinafter the "Act" . Accordingly, any Confidential Information that Sabre discloses to client in connection with Consulting Services will be protected by Client to the extent that Client will take all reasonable and appropriate steps to prevent such Confidential Information from being deemed an open record under the Act. Except as described above in this Section 9, Confidential Information shall be held and protected by the recipient in strict confidence, shall be used by the recipient only as required to render performance or to exercise rights and remedies under this Agreement, and shall not be disclosed to any other third parties, except for consultants or contractors of either party where reasonably necessary in connection with performance or exercise of rights and remedies under this Agreement, without the prior written consent of the owner thereof. For purposes of this Agreement, "Confidential Information" shall mean (i) information relating to a party's business, clients, financial condition or operations, (ii) Sabre's methodologies, processes, models, data and data sources and (iii) any other information, whether in a tangible medium or oral and marked or clearly identified by a party as confidential or proprietary at the time of disclosure; except such information that (a) is known to the Recipient prior to its first receipt of such information from the disclosing party, provided that such information is not subject to another confidentiality agreement of which Client and Sabre are a party, (b) is generally known to the public prior to its receipt by the Recipient, (c) after receipt from the disclosing party, becomes available to the public other than as a result of an unauthorized disclosure by any of the Recipient's directors, officers, employees, agents or advisors, or (d) is developed by or on behalf of the Recipient independently of and without reference to any of the disclosing party's Confidential Information. All of Sabre's intellectual property contained in any report or other Deliverable shall be considered to be the Confidential Information of Sabre. Contents of any report or other Deliverable that are not Sabre's intellectual property shall be considered to be the Confidential Information of Client. The obligations of the parties under this Section 9 shall expire and terminate on the third anniversary of the termination effective date.

b) **Required Disclosures.** Each party may disclose the Confidential Information of the other party in response to a request for disclosure by a court or another governmental authority, including a subpoena, court order, or audit-related request by a taxing authority, if that party; (i) promptly notifies the other party of the terms and the circumstances of that request, (ii) consults with the other party, and cooperates with the other party's reasonable requests to resist or narrow that request, (iii) furnishes only information that, according to written advice of its legal counsel, that party is legally compelled to disclose, and (iv) uses reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded the information disclosed.

9. Other Products. Nothing herein shall prohibit, or in any way limit, Sabre's rights to use, develop or market existing or subsequently developed or modified software, technology or concepts, or to use its expertise, skills or knowledge acquired in the performance of Services rendered under this Agreement in any current or subsequent endeavors. Client shall have no right or interest in such endeavors.

10. Survival. All terms of this Agreement, which by their nature are intended to survive termination of this Agreement, including without limitation, sections entitled "Payment", "Non-Disclosure", "Taxes", "Warranty", Limitation of Liability", "Choice of Law and Arbitration", "Entire Agreement", "Survival", and "Construction", shall so survive termination.

11. Force Majeure. Either party shall be excused from performing hereunder to the extent that it is prevented from performing as a result of any act or event which occurs and is beyond its reasonable control, including, without limitation, acts of God, war, or any action of a governmental entity; provided that the party experiencing the force majeure provides the other with prompt written notice thereof and uses all reasonable efforts to remove or avoid such causes.

12. LIMITATION OF LIABILITY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, REVENUE OR SAVINGS, OR THE LOSS OF USE OF ANY DATA. UNDER NO CIRCUMSTANCES SHALL (i) SABRE'S AGGREGATE CUMULATIVE LIABILITY HEREUNDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT OF SERVICE FEES ACTUALLY PAID TO SABRE PURSUANT TO THIS AGREEMENT (ii) CLIENT'S AGGREGATE CUMULATIVE LIABILITY HEREUNDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT OF SERVICE FEES DUE AND PAYABLE UNDER THIS AGREEMENT. CLIENT ACKNOWLEDGES THAT THE FEES PAID BY IT REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT SABRE WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

13. Choice of Law and Arbitration

Choice of Law.

a) This Agreement and any dispute arising hereunder shall be construed in accordance with the laws of the state of Kansas without regard to principles of conflict of laws. This Agreement will not be governed by the UN Convention on the International Sales of Goods, the application of which is expressly excluded.

b) **Equitable Relief.** Notwithstanding anything herein to the contrary, in the event of an actual or threatened breach of the provisions contained in Sections 2 or 9 above, the non-breaching party will be entitled, without waiving any other rights and remedies and without obligation to post a bond, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

14. **Savings Clause**. If any provision of this Agreement is prohibited by law or held to be unenforceable, the remaining provisions hereof shall not be affected, and this Agreement shall continue in full force and effect as if such unenforceable provision had never constituted a part hereof, and the unenforceable provision shall be automatically amended to so as to best accomplish the objectives of such unenforceable provision within the limits of applicable law.

15. **Relationship.** Sabre shall be and act as an independent contractor hereunder and no employee of either party shall be deemed to be an employee of the other for any purpose whatsoever. Each party shall comply, at its own expense, with the provisions of all applicable state and municipal requirements and with all state and federal laws applicable to it as an employer and otherwise.

16. **Assignment.** Neither party shall transfer or assign this Agreement to any other person or entity, whether by operation of law or otherwise, and without prior written consent of the other party. Any such attempted assignment shall be void and of no effect.

17. **Notices.** All notices, requests and other communications under this Agreement must be in English and in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, or delivered by hand to the party to whom such notice is required or permitted to be given. If mailed, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by hand, any such notice will be considered given when received by the party to whom notice is given, as evidenced by written and dated receipt of the receiving party. The mailing address for the parties shall be:

If to Sabre:
Sabre Inc.
1 East Kirkwood Blvd., MD 7244
Southlake, TX 76092
Attn: Managing V.P., Consulting

with a carbon copy to:
Sabre Inc.
3150 Sabre Drive
Southlake, Texas 76092
Attn: General Counsel

If to Client:
Wichita Airport Authority
2173 Air Cargo Road
Wichita, KS 67209
Attn: Director of Airports

18. **Construction.** The headings herein are for convenience only and will not be considered a part of or affect the construction or interpretation of any provision hereof. Unless otherwise expressly stated, the word “including” shall mean “including but not limited to.”

19. **Miscellaneous.** All obligations hereunder are subject to the receipt of all necessary government approvals. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute the same instrument. Any waiver of a provision of this Agreement must be in writing and signed by the party to be charged. A valid waiver hereunder shall not be interpreted to be a waiver of that obligation in the future or any other obligation under this Agreement.

20. **Entire Agreement.** This Agreement, together with each Work Order referencing this Agreement, constitutes the entire agreement between the parties related to the subject matter hereof, supersedes any prior or contemporaneous agreement between the parties relating to the Consulting Services provided pursuant to such Work Order, and shall not be changed except by written agreement signed by an officer of each party.

IN WITNESS WHEREOF, Client and Sabre have executed this Agreement on the date set out below.

Wichita Airport Authority

BY: _____
Carl Brewer,President

DATE: _____

ATTEST: _____
Karen Sublett, City Clerk

APPROVED AS TO FORM: _____
Director of Law

Sabre Inc.

BY: _____
Michael Douglass
Senior Vice-President, Sabre Airline Solutions

DATE: _____

ATTEST: _____

DATE: _____

Instructions for completion of Master Consulting Agreement and Work Order:

Please print and sign two copies of each of the documents. The signed signature pages of each of the Agreement and the Work Order may be faxed to Nancy Halpin at 952-942-4946. The two complete originals of each of the two documents may be sent by express delivery (FEDEX or other) Nancy Halpin at Sabre Inc. 9695 East Farm Road, Eden Prairie, Minnesota 55347. Sabre will return an original of each of the two documents after they have been signed.

EXHIBIT A

FORM OF WORK ORDER

This Work Order is provided as a supplement to the **MASTER AGREEMENT FOR CONSULTING SERVICES** (the "Agreement") dated as of **[_____]** between **[_____]** ("Client") and Sabre, Inc. ("Sabre") and is effective as of **[_____]**. This Work Order, together with the terms of the Agreement, shall constitute a single contract. If any terms in this Work Order conflict with the terms of the Agreement, the terms of the Work Order shall supersede the Agreement.

1. Description of Consulting Services/Statement of Work
2. Deliverables
3. Estimate of Total Consulting Services Fees
4. Project Schedule
5. Project Management/Project Communication
6. Hardware, Software, Communications, and Other Support to be provided by Client
7. Additional Terms, Conditions, or Duties of Client
8. Fees and Charges
9. [Training**]**

Except as otherwise expressly modified herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Client and Sabre have executed this Work Order to the Agreement on the date set out below.

[Client**]**	Sabre Inc.
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Airport Authority

SUBJECT: Pratt & Whitney Engine Services, Inc. – Supplemental Agreement No. 2

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreement.

Background: In 1983, Pratt & Whitney entered into a lease agreement with the Wichita Airport Authority for construction of a facility at 1955 Midfield Road. For the past five years, Pratt & Whitney has paid facility rent at 50% of fair market rental value in accordance with the 1983 lease agreement. The agreement is scheduled to terminate February 29, 2008. Pratt & Whitney has requested a six-month extension, with three, six-month options to further extend the agreement.

Analysis: The lease extension will allow Pratt & Whitney additional time to analyze and finalize plans as they relate to the company's future operations on Mid-Continent Airport.

Financial Considerations: During the extension, Pratt & Whitney will pay full fair market rental for the use of the facility. Facility rent for the six-month period will be $29,598.60. Land rent is established per Wichita Airport Authority policy, and for the first six-month period will be $10,477.08. Land rent increases 5% each year. Total revenue for facility and land for the first six months will be $40,075.68.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through maintaining agreements that allow the Airport to continue its operation on a self-sustaining basis.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 2, and authorize the necessary signatures.

Attachments: Two original signature copies and 12 distribution copies of the Supplemental Agreement.

SUPPLEMENTAL AGREEMENT NO. 2

By and Between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas

and

PRATT & WHITNEY ENGINE SERVICES, INC.

for

Use of Facility – 1955 Midfield Road
Wichita Mid-Continent Airport

THIS SUPPLEMENTAL AGREEMENT NO. 2, made and entered into this February 12, 2008, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and PRATT & WHITNEY ENGINE SERVICES, INC., successor by merger to Pratt & Whitney Aircraft of Canada (U.S.) Ltd., hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, Lessor and Lessee have entered into a lease agreement dated January 17, 1983, for the purpose of constructing a facility on Wichita Mid-Continent Airport for aviation purposes in connection with Lessee's business of a service and marketing center for aircraft engines, and Supplemental Agreement No. 1 dated March 18, 2003 for the purpose of extending the Agreement and establishing facility rent; and

WHEREAS, the Lessor and Lessee are now desirous of entering into this Supplemental Agreement No. 2 for the purpose extending the Agreement, adjusting rentals, and establishing renewal options.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1. Term

The term of this extension shall be for a six-month period from March 1, 2008 through August 31, 2008.

2. Renewal Options

Lessee shall have three (3) options to extend the term of the Lease for additional periods of six (6) months each (09/01/08 – 02/28/09, 03/01/09 – 08/31/09 and 09/01/09 – 02/28/10, respectively), provided Lessor is given written notice at least ninety (90) days prior to the end of the then current term. Each renewal shall be on the same terms and conditions as in the Lease with the exception that the rental rate shall be as set forth in Section 3 below.

3. Facility Rental

Article 2 of Supplemental Agreement No. 1 is hereby superseded and replaced with the following language:

Facility rental during the initial six-month extension ending August 31, 2008, and the three, successive six-month options to renew, if exercised, shall be as follows:

First Floor – 9,967 sq.ft.

Term	Rate/Sq.Ft.	Monthly
03/01/08 – 08/31/08	$5.0591	$4,202.00
09/01/08 – 02/28/09	$5.0294	$4,177.34
03/01/09 – 08/31/09	$4.9698	$4,127.83
09/01/09 – 02/28/10	$4.9384	$4,101.75

Mezzanine – 3,473 sq.ft.

Term	Rate/Sq.Ft.	Monthly
03/01/08 – 08/31/08	$2.5261	$731.10
09/01/08 – 02/28/09	$2.5112	$726.78
03/01/09 – 08/31/09	$2.4815	$718.19
09/01/09 – 02/28/10	$2.4658	$713.64

4. Land Rental

Article 3 of Supplemental Agreement No. 1 is hereby superseded and replaced with the following language:

Land rental for 71,589 sq.ft. during the initial six-month extension ending August 31, 2008, and the three, successive six-month options to renew, if exercised, shall be as follows:

Term	Rate/Sq.Ft.	Monthly
03/01/08 – 08/31/08	$.2927	$1,746.18
09/01/08 – 12/31/08	$.2927	$1,746.18
01/01/09 – 02/28/09	$.3073	$1,833.28
03/01/09 – 08/31/09	$.3073	$1,833.28
09/01/09 – 12/31/09	$.3073	$1,833.28
01/01/10 – 02/28/10	$.3227	$1,925.15

5. **Other Terms**

It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President

"LESSOR"

By _____
Victor D. White, A.A.E., Director of Airports

Witness:

PRATT & WHITNEY ENGINE
SERVICES, INC.

By _____

By _____

Title _____

"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

City of Wichita
City Council Meeting
February 12, 2008

TO: Wichita Airport Authority

SUBJECT: Colonel James Jabara Airport
Taxiways F and G, Runway Markings

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Change Order.

Background: On July 24, 2007 the Wichita Airport Authority contracted with Lafarge North America to construct Taxiway G, the extension of Taxiway F, plus remark the runway at Colonel James Jabara Airport.

Analysis: A change order has been prepared to adjust the final quantities that are available at this time.

Financial Considerations: The cost of the change order is $26,011, and is covered by the existing budget. This represents a 2% addition to the original contract of $1,352,099. Funding is expected from AIP Federal Grant funds and General Obligation bonds paid for with Airport Revenue.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through construction of airfield pavements to serve the aviation community.

Legal Considerations: The Law Department has approved the Change Order as to form. FAA approval is pending.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Change Order and authorize the necessary signatures.

Attachments: Five original signature copies and 12 distribution copies of the Change Order.

CHANGE ORDER # 1
FAA PROJECT # 3-20-0089-0015

RECEIVED
JAN 23 2008
W.A.A.

CHANGE ORDER
No. 1 .

Dated 17 January 2008 .

Owner's Project No. FAA AIP No. 3-20-0089-0015 City of Wichita No. 466-052

Project: Construction of Taxiway G, Extension of Taxiway F & Replacement of Runway Markings At Colonel James Jabara Airport

Owner: The Wichita Airport Authority

Contractor: Lafarge North America Contract Date: 24 July 2007

Contract For: Construction of Taxiway G, Extension of Taxiway F, and Replacement of Runway Markings at Colonel James Jabara Airport. The work included in the project is as follows: (a) Earthwork includes excavation and/or placement of subgrade material within the project limits, preparation and compaction of the project subgrade to the lines and grades shown on the plans, area grading outside the neat lines of pavement and placement of topsoil. (b) Paving work includes construction of treated drainage layer, and portland cement concrete pavement. (c) Seeding and sodding. (d) Installation of ductbank and taxiway edge light circuit, and removal of taxiway edge lights. (e) Miscellaneous storm sewer, inlet and manhole construction, and construction of pavement sub-drains. (f) Installation of temporary and permanent chain link fence. (g) Painting taxiway and runway pavement markings. Also included is all incidental, supplementary and associated work necessary to complete the above improvements.

To: Lafarge North America, Contractor
You are directed to make the changes noted below in the subject contract:

By Direction of the Wichita Airport Authority

_____ Date: _____
Carl Brewer, President

Gary E Rebenstorf / JH
Gary Rebenstorf, Director of Law
Approved as to form

Date: _____

_____ Date: _____
Attest

Nature of Change:

Adjust Original Contract Quantities to Field Measured Quantities (except for Turfing)

ok D2D.

CHANGE ORDER # 1
FAA PROJECT # 3-20-0089-0015

The changes result in the following adjustment of Contract Price and Contract Time:

3-20-0089-0015 (Taxiway F) Contract Price Prior to This Change Order	$ 327,442.50
3-20-0089-0015 (Taxiway G) Contract Price Prior to This Change Order	$ 846,234.50
3-20-0089-0015 (Runway 18-36) Contract Price Prior to This Change Order	$ 178,422.00
3-20-0089-0015 (Aggregate) Contract Price Prior to This Change Order	$ 1,352,099.00
3-20-0089-0015 (Taxiway F) Net Increase Resulting from This Change Order	$ 6,088.75
3-20-0089-0015 (Taxiway G) Net Increase Resulting from This Change Order	$ 19,668.25
3-20-0089-0015 (Runway 18-36) Net Increase Resulting from This Change Order	$ 254.00
3-20-0089-0015 (Aggregate) Net Increase Resulting from This Change Order	$ 26,011.00
Current 3-20-0089-0015 (Taxiway F) Contract Price Including This Change Order	$ 333,531.25
Current 3-20-0089-0015 (Taxiway G) Contract Price Including This Change Order	$ 865,902.75
Current 3-20-0089-0015 (Runway 18-36) Contract Price Including This Change Order	$ 178,676.00
Current 3-20-0089-0015 (Aggregate) Contract Price Including This Change Order	$ 1,378,110.00
Work within the Runway 18-36 Safety Area Contract Time Prior to This Change Order	20 Calendar Days
Work within the Runway 18-36 Safety Area Net Increase Resulting From This Change Order	0 Calendar Days
Work within the Runway 18-36 Safety Area Contract Time Including This Change Order	20 Calendar Days
Total Project (except permanent seeding) Contract Time Prior to This Change Order	75 Calendar Days
Total Project (except permanent seeding) Net Increase Resulting From This Change Order	0 Calendar Days
Total Project (except permanent seeding) Contract Time Including This Change Order	75 Calendar Days

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The Above Changes Are Approved: Professional Engineering Consultants, P.A.

By: [signature]

Date: 22 JANUARY 2008

The Above Changes Are Accepted: Lafarge North America
Contractor

By: [signature]

Date: 1-21-2008

CHANGE ORDER # 1

FAA PROJECT # 3-20-0089-0015

The following Change Order is a modification to the Project Plans and Specifications. The Change Order was prepared at the request of the Owner and was necessary for the following:

Adjustment of the current contract quantities to field measured and/or calculated quantities. The modifications affected the following bid items:

GRANT NO. 3-20-0089-0015 TAXIWAY F TOTALS

ITEM	PREVIOUS QUANTITY	UNIT	UNIT COST	FINAL QTY	QTY ADJUST	COST ADJUST
14 Hydrated Lime	13	TN	$300.00	32	19	$ 5,700.00
16 Bituminous Material For Prime	405	GL	$ 4.25	540	135	$ 573.75
19 Underdrain Outfall Pipe	159	LF	$ 16.00	161	2	$ 32.00
23 PCC Pavement (7" Reinforced)	66	SY	$ 55.00	70	4	$ 220.00
24 Taxiway Pavement Painting	776	SY	$ 3.00	700	(76)	$ (228.00)
29 Conduit Trench & Backfill (28" Depth)	223	LF	$ 10.00	235	12	$ 120.00
30 2" PVC Conduit	223	LF	$ 2.75	235	12	$ 33.00
31 2" PVC Conduit 4-Way Ductbank	95	LF	$ 44.50	83	(12)	$ (534.00)
33 #8 1/C 5KV Primary Cable	335	LF	$ 2.00	361	26	$ 52.00
34 Bare Counterpoise, Trench, B/F, & Grd Rod	316	LF	$ 2.00	376	60	$ 120.00
GRANT NO. 3-20-0089-0015 TAXIWAY F TOTALS						**$ 6,088.75**

GRANT NO. 3-20-0089-0015 TAXIWAY G TOTALS

ITEM	PREVIOUS QUANTITY	UNIT	UNIT COST	FINAL QTY	QTY ADJUST	COST ADJUST
6 PCC Pavement Removal	16	SY	$ 9.00	31	15	$ 135.00
10 Reinforced Concrete Pipe Storm Drain (18")	553	LF	$ 52.00	552	-1	$ (52.00)
11 Reinforced Concrete Pipe Storm Drain (24")	640	LF	$ 55.00	630	-10	$ (550.00)
12 Reinforced Concrete Pipe Storm Drain (30")	12	LF	$101.00	8	-4	$ (404.00)
14 Hydrated Lime	32	TN	$300.00	75	43	$ 12,900.00
16 Bituminous Material For Prime	1,007	GL	$ 4.25	1,300	293	$ 1,245.25
18 Prefabricated Underdrain (Edge Drain)	1,115	LF	$ 33.00	1,113	-2	$ (66.00)
19 Underdrain Outfall Pipe	172	LF	$ 16.00	227	55	$ 880.00
22 PCC Pavement (7" Plain)	4,226	SY	$ 45.00	4,295	69	$ 3,105.00
23 PCC Pavement (7" Reinforced)	236	SY	$ 55.00	281	45	$ 2,475.00
GRANT NO. 3-20-0089-0015 TAXIWAY G TOTALS						**$ 19,668.25**

GRANT NO. 3-20-0089-0015 RUNWAY 18-36 TOTALS

ITEM	PREVIOUS QUANTITY	UNIT	UNIT COST	FINAL QTY	QTY ADJUST	COST ADJUST
25 Runway Pavement Painting	17,454	SF	$ 2.50	17,504	50	$ 125.00
26 Eradicate Runway Pavement Markings	22,879	SF	$ 3.00	22,922	43	$ 129.00
GRANT NO. 3-20-0089-0015 RUNWAY 18-36 TOTALS						**$ 254.00**

CHANGE ORDER # 1

FAA PROJECT # 3-20-0089-0015

COMBINED TOTALS

	ITEM	PREVIOUS QUANTITY	UNIT	UNIT COST	FINAL QTY	QTY ADJUST	COST ADJUST
6	PCC Pavement Removal	231	SY	$ 9.00	246	15	$ 135.00
10	Reinforced Concrete Pipe Storm Drain (18")	553	LF	$ 52.00	552	(1)	$ (52.00)
11	Reinforced Concrete Pipe Storm Drain (24")	640	LF	$ 55.00	630	(10)	$ (550.00)
12	Reinforced Concrete Pipe Storm Drain (30")	12	LF	$101.00	8	(4)	$ (404.00)
14	Hydrated Lime	45	TN	$300.00	107	62	$ 18,600.00
16	Bituminous Material For Prime	1,412	GL	$ 4.25	1,840	428	$ 1,819.00
18	Prefabricated Underdrain (Edge Drain)	1,115	LF	$ 33.00	1,113	(2)	$ (66.00)
19	Underdrain Outfall Pipe	331	LF	$ 16.00	388	57	$ 912.00
22	PCC Pavement (7" Plain)	5,859	SY	$ 45.00	5,928	69	$ 3,105.00
23	PCC Pavement (7" Reinforced)	302	SY	$ 55.00	351	49	$ 2,695.00
24	Taxiway Pavement Painting	2,545	SY	$ 3.00	2,469	(76)	$ (228.00)
25	Runway Pavement Painting	17,454	SF	$ 2.50	17,504	50	$ 125.00
26	Eradicate Runway Pavement Markings	22,879	SF	$ 3.00	22,922	43	$ 129.00
29	Conduit Trench & Backfill (28" Depth)	223	LF	$ 10.00	235	12	$ 120.00
30	2" PVC Conduit	223	LF	$ 2.75	235	12	$ 33.00
31	2" PVC Conduit 4-Way Ductbank	95	LF	$ 44.50	83	(12)	$ (534.00)
33	#8 1/C 5KV Primary Cable	335	LF	$ 2.00	361	26	$ 52.00
34	Bare Counterpoise, Trench, B/F, & Grd Rod	316	LF	$ 2.00	376	60	$ 120.00

COMBINED TOTALS **$ 26,011.00**

There are no changes in contract time due to this change order.

RESOLUTION NO. _____

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, EXPRESSING SYMPATHY TO THE CITIZENS OF KIRKWOOD, MISSOURI.

WHEREAS, this resolution of sympathy is being made to honor the memory of City Council Member Michael Lynch, City Council Member Connie Karr, Public Works Director Kenneth Yost, Officer Tom Ballman, and Officer Bill Biggs of Kirkwood, Missouri:

- For their dedication to duty and their love of family and their community;
- For their encouragement, strong leadership and friendship to fellow Council members, City staff members, and fellow officers, as well as the citizens of Kirkwood;
- For their strength of character, abundant energy, personal perseverance, and unrelenting determination to serve as exceptional examples to their peers; and
- For their efforts in helping others through their service to the community;

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

On behalf of the City Council of the City of Wichita, Carl Brewer, Mayor of the City of Wichita, Kansas, does hereby recognize those who have fallen in the service of their community of Kirkwood, Missouri; and

On behalf of the Citizens of Wichita, Kansas, we do hereby join communities around the world in expressing our sincere condolences on your loss and our sincere sympathy on the tragedy that has so greatly affected your community.

PASSED AND APPROVED THIS 12TH DAY OF FEBRUARY 2008.

THE CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk