FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:30 a.m. August 26, 2008

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Approve the minutes of the regular meeting on August 19, 2008

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Letter of Intent for Broadview Hotel Incentives. (District VI)

   RECOMMENDED ACTION: Approve a six-month Letter of Intent to provide incentives to Drury Southwest, Inc for the acquisition and renovation of the Broadview Hotel and Parking Garage, including the issuance of industrial revenue bonds in an amount not-to-exceed $25,000,000, a 5+5 year property tax abatement subject to obtaining a Drury Plaza Hotel designation, a long-term management agreement for the Parking Garage with a purchase option price of $800,000 with deed restrictions requiring public access to the garage, and a land use agreement on land adjacent to the hotel, and authorize the Mayor to sign.

III. NEW COUNCIL BUSINESS

1. Consider repeal of the Expansion of the Center City South Redevelopment District Ordinance, Tax Increment Financing. (Districts I and VI)

   RECOMMENDED ACTION: Take the appropriate action.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

IV. NON-CONSENT PLANNING AGENDA

None

V. CONSENT PLANNING AGENDA

1. *SUB 2008-34-Plat of Casa Bella Second Addition located on the north side of Pawnee and on the west side of 127th Street East. (District II)

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

2. *ZON2008-00033-City zone change from SF-5 Single-family Residential ("SF-5") to MF-29 Multi-family Residential ("MF-29"); generally located along the west bank of the Wichita-Valley Center Floodway, on the north side of West Central Avenue. (District V)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to platting in one year and the elimination of the request for Multi-family zoning on the north 110-feet of the property; withhold publication of the ordinance until the plat is recorded; OR 2) Return the application to the MAPC for reconsideration.

3. *ZON2008-36–Amendment to Protective Overlay 130 (PO-130) to eliminate the prohibition on drive through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5 foot height limit. Generally located south of Maple and 800 feet east of 135th Street West. (District V)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the Amendment to Protective Overlay 130; approve the first reading of the ordinance; OR 2) Return the application to the MAPC for reconsideration.

4. *CUP2007-00044-Community Unit Plan to permit single-family residential, patio homes, two-family residential, townhomes, assisted living and independent living; generally located 1/8 mile east of Ridge Road, south of 13th Street North. (District V)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the Community Unit Plan, subject to re-platting within one year, development of the site with a road connection to the south, cooperation with the Park Board in regards to the use and access of properties to the northwest and southwest of the subject site, the construction of a bike path and to the conditions contained in the proposed CUP; OR 2) Return the application to the MAPC for reconsideration.

5. *Repeal Resolution No. 08-233 pertaining to island annexation case A08-03R Request by Ernie R. Kumpe, of Kumpe Development Inc. and Corwyn Oldfield, of American Inc. to annex land generally located northwest of 45th Street North and 135th Street West. (District V)

   RECOMMENDED ACTION: Repeal Resolution No. 08-233 and withdraw the annexation request to Sedgwick County.

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.

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

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

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.

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

None

XI. COUNCIL MEMBER APPOINTMENTS

1.

RECOMMENDED ACTION: Approve the Appointments

XII. CONSENT AGENDA

1. Report of Board of Bids and Contracts dated August 25, 2008.

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

2. Applications for Licenses:

None

3. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2008	(Consumption on Premises)
Marilyn Knedgen	Crescent Stores Corporation dba CSC #71	12728 East Central Avenue

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

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

4. Preliminary Estimates:
   a. Preliminary Estimates. (see attachment)

RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:
   a. Renovate Building Facades in the Core Area. (Districts I and VI)
   b. Construct Paving and Drainage Improvements to serve part of Woods North and Greenwich Business Center Additions, south of 29th Street North, west of 127th Street East. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

6. Deeds and Easements:

None

7. Statement of Costs:

None

8. Consideration of Street Closures/Uses.
   a. 2008 Wichita Komen Race for the Cure, September 27, 2008 7:00 am – 11:00 am. (District II)

RECOMMENDED ACTION: Approve the request subject to: hiring off-duty certified law enforcement officers as required; obtaining barricades to close the streets in accordance with requirements of Police, Fire, and Public Works Department; and Certificate of Liability Insurance on file with the Community Event Coordinator.

9. Agreements/Contracts:
   a. Parking Meter Coin Collection. (Districts I and VI)
   b. Staking in Cambria Addition, east of 143rd Street East, north of Pawnee. (District II)-Supplemental

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

10. Design Services Agreement:
   a. Main 16, Sanitary Sewer No. 23, east and west of Arkansas, between 37th and 46th Street North.
   b. (District VI)- Supplemental

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

11. Change Orders:

   None

12. Property Acquisition:

   None

13. Minutes of Advisory Boards/Commissions

   District I Advisory Board, July 7, 2008
   District II Advisory Board, July 7, 2008
   Arts Council, July 10, 2008
   Wichita Historic Preservation Board, June 9, 2008
   Wichita Historic Preservation Board, July 14, 2008
   Wichita Public Library, July 15, 2008

   RECOMMENDED ACTION: Receive and file.

14. Relief Sanitary Sewer between Emporia and Street Francis, Douglas to 10th Street, Phase I. (District VI)

   RECOMMENDED ACTION: Approve the expenditure; adopt the Resolution; and authorize the necessary signatures.

15. Dedication of an Easement upon a Portion of South Lakes Park to Sedgwick County for the Improvement of Meridian Avenue. (District IV)

   RECOMMENDED ACTION: Approve the easement and authorize all necessary signatures.

16. Project Access Contract Renewal.

RECOMMENDED ACTION: Approve renewal of the Project Access Contract and authorize the necessary signatures.

17. Contract for Technical Support for Citrix XenApp Environment.

RECOMMENDED ACTION: Approve the contract with Choice solutions for ZenApp technical support and authorize the necessary signatures.

18. Safe Routes to School Application Resolution Infrastructure Planning. (District I)

RECOMMENDED ACTION: Adopt the resolution for application to the Safe Routes to School program and authorize the necessary signatures.

19. Standby Power Facilities.

RECOMMENDED ACTION: Authorize Staff to Proceed; authorize the transfer of expenses from W-903 to W-1397; adopt the Resolution; and authorize the necessary signatures.

20. Access to Jobs Vendor Agreement with Breakthrough Club.

RECOMMENDED ACTION: Approve the Access to Jobs vendor agreement and authorize the necessary signatures.

21. Approval of Contract for Digital Security Camera System, Upgrade for Buses and Vans.

RECOMMENDED ACTION: Approve the contract with Verint Transit Solutions, Inc. and authorize the necessary signatures to execute the contract.

22. Approval of Contracts with Human Service Agencies for Purchasing of ADA Paratransit Rides.

RECOMMENDED ACTION: Approve the Mayor to execute the agreements with all six agencies as presented at a uniform rate.

23. Acquisition of Permanent and Temporary Easement at 2301 East Douglas, East High School for Water and Sewer lines. (District I)

RECOMMENDED ACTION: Approve the Easement Agreement and authorize the necessary signatures.

24. Acquisition of Temporary Construction Easement at 15720 East Kellogg for the Crestview Country Club Interceptor, Phase II. (District II)

    RECOMMENDED ACTION: Accept the easement and authorize payment.

25. Second Reading Ordinances: (First Read August 19, 2008)
    a. Second Reading Ordinances. (see attachment)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow in the First Floor Boardroom

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Letter of Intent for Broadview Hotel Incentives (District VI)

INITIATED BY: Office of Urban Development

AGENDA: Unfinished Business

Recommendation: Approve the letter of intent.

Background: On July 1, 2008, the City Council denied a request from PAZ Management Inc. for financial assistance for the purchase of the Broadview Hotel in downtown Wichita. Following this action, PAZ entered into an agreement with Drury Southwest, Inc. to assign the purchase contract for the Broadview Hotel to Drury Southwest. The assignment of the contract has been approved by the Bankruptcy Court, who set a new deadline for closing the purchase of the hotel for September 9, 2008. The assigned contract still includes a condition that the purchaser (now Drury Southwest) be able to obtain incentives from the City of Wichita.

Drury Southwest has submitted a request for incentives in the form of a draft letter of intent that includes the issuance of industrial revenue bonds (IRBs) in the amount not-to-exceed $25 million, property tax abatement, management of the Broadview Garage, and other incentives outlined below. The Drury incentive request differs from the PAZ request in that Drury does not seek a City grant for renovation costs. In addition to other incentives requested by PAZ, Drury is asking for authorization to build a skywalk connecting the hotel to the garage and certain restrictions on the use of city-owned property adjacent to the hotel.

Analysis: Drury Southwest, Inc. is a hotel ownership entity based in Cape Girardeau, Missouri that owns Drury Inns, Pear Tree Inns, Drury Inns and Suites and Drury Plaza Hotels. The Drury family of hotel properties is operated by Drury Inns, Inc. There are over 120 Drury hotels located in a 19-state area from Michigan to Texas and from Arizona to North Carolina. The Drury Plaza hotel brand is the chain's high-end product, typically located in renovated downtown historic buildings. Drury Southwest plans to purchase the historic Broadview Hotel for $6 million and spend up to $19 million on renovations and transaction costs. Drury Southwest plans to complete renovations within five years and to brand the hotel as a Drury Plaza Hotel as soon as brand-standard renovations are complete.

The attached draft Letter of Intent contains the elements outlined below:

Industrial Revenue Bonds: The City will issue two or more series of taxable IRBs in an aggregate principal amount not-to-exceed $25 million to finance the acquisition and renovation of the Hotel and parking garage. The Series "A" IRBs will be purchased by the project's senior lender and will be superior in lien to all other bonds, with respect to the payment obligation and claim to collateral. The Series "B" IRBs will be purchased by the equity investors in the hotel. The various series of IRBs will be structured to provide maximum benefit from property tax abatement.

Parking Garage: The City and Drury Southwest will enter into a long-term management contract or lease, which allows for use of the garage by hotel guests and the general public, open to the public at all

reasonable business hours, including events at nearby venues. Southwest Drury will be responsible for maintenance and repair of the garage, including existing deferred maintenance and repair items. Drury would be allowed to recover the costs of initial repairs from operating income. The management fee (or rent) would be one-half of any garage operating cash flow remaining after operating expenses, repair and maintenance expenses and reserves.

Under the terms of the proposed Letter of Intent, the City would agree to retire outstanding special assessment bonds that financed the City's acquisition of the parking garage in 1999. The outstanding principal amount of these special assessment bonds is approximately $806,000. A source for funding the retirement of the bonds is the delinquent special assessments which will be paid to the City by the bankruptcy court from the proceeds of the sale of the hotel to Drury Southwest. Retirement of outstanding bonds will relieve the hotel of its obligation to make future special assessment payments.

Drury Southwest requests that the letter of intent and management agreement include an option to purchase the garage for $800,000, which option could be exercised starting five years from now. Drury agrees that deed restrictions be placed on the property that ensure that the garage will continue to serve as a public parking garage and be available for event parking for Century II. Drury further agrees not to use IRBs to finance acquisition of the parking garage, thus ensuring that the garage be subject to property tax if purchased.

Property and Sales Tax Abatement: Using IRB authority, the City will grant a100% 5+5-year property tax abatement for the hotel to the maximum extent allowed by law. State law does not allow an exemption on the portion of the property not financed by IRBs. Items of personal property financed with IRBs are also eligible for sales tax exemption under state law. These can include furniture, fixtures and equipment as well as construction materials. The approval of the second five years of property tax abatement will be based on completion of the renovations and the agreed-to branding of the hotel. Property tax exemption on the parking garage is dependent on maintaining the management agreement. If the purchase option is exercised, the property would be subject to taxation unless exempted under a future IRB issue approved by the City Council.

Skywalk: The City will issue appropriate permits and easements, subject to regulations and code requirements, for the construction, at Drury's sole expense, of a covered elevated walkway across Waco Avenue, connecting the Broadview Hotel to the parking garage. Covenants will be placed on the hotel property ensuring that the maintenance of the skywalk will always be the responsibility of the hotel.

Land Use Restriction on Adjacent Land: Drury requests an agreement with the City that imposes certain restrictions on the use of city-owned land immediately north of the Broadview Hotel. The City would agree that any future development of the property would not include a hotel use without the consent of Drury Southwest. The agreement would also give Drury the opportunity to comment on any future development plans for the land that may be presented to the City by other developers.

Signage: Drury proposes to construct a rooftop sign and a "blade" sign (attached to the side of the building) based on historic Broadview Hotel signage from the 1920s. The City will cooperate with these efforts, subject to regulations and code requirements. A rooftop sign will require a building code variance be granted.

Façade Improvement Loan: The City will allow the Broadview Hotel and Parking Garage to participate in its Façade Improvement Program, up to a maximum amount of $500,000. Improvements would be financed with City special assessment bonds, to be repaid over a 15 or 20-year period with special assessment taxes levied against the hotel and garage property.

Riverbank Improvements: The City will agree to accelerate the priority for completing programmed improvements to the Arkansas River riverbank adjacent to the Broadview Hotel between Douglas and First Street. The City would direct its riverbank design consultants to collaborate with the developer's consultants to ensure the improvements coordinate with and compliment the Hotel's site improvements.

Historic Preservation Tax Credits: The City will assist the developer to obtain, at their sole discretion, historic place designation and help with the process of obtaining tax credits.

Financial Considerations: Drury Southwest agrees to pay all costs of issuing the bonds and agrees to pay the City's $2,500 annual IRB administrative fee for the term of the bonds. The actual amount of the proposed property tax abatement cannot be estimated until the amount of the renovation costs are known. The current taxes on the Broadview Hotel are approximately $166,000.

The $806,000 needed to defease the outstanding special assessment bonds on the parking garage will come from $840,000 in delinquent special assessment funds which will be deposited in the Debt Service Fund from the sale of the Broadview Hotel out of bankruptcy.

The required cost-benefit study will be performed, and the tax abatements formally approved, following a public hearing, at the time the IRBs are issued.

Goal Impact: Economic Vitality and Affordable Living and Core Area and Neighborhoods. The vitality of the downtown area and the viability of the Century II Convention Center is directly impacted by maintaining first-class hotels in the Core Area.

Legal Considerations: Bond documents would be prepared by the City's contract bond counsel, Kutak Rock LLP and reviewed and approved as to form by the Department of Law. Final approvals will be required for the issuance of bonds, for property tax abatements following a public hearing, a parking garage lease or management agreement, defeasance of outstanding special assessment bonds, a real estate purchase option, skywalk easements and permits, façade improvements and riverbank improvements.

Recommendations/Actions: It is recommended that the City Council approve a six-month Letter of Intent to provide incentives to Drury Southwest, Inc. for the acquisition and renovation of the Broadview Hotel and Parking Garage, including the issuance of industrial revenue bonds in an amount not-to-exceed $25,000,000, a 5+5 year property tax abatement subject to obtaining a Drury Plaza Hotel designation, a long-term management agreement for the Parking Garage with a purchase option price of $800,000 with deed restrictions requiring public access to the garage, and a land use agreement on land adjacent to the hotel, and authorize the Mayor to sign.

Attachments: Letter of Intent

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Consider repeal of the Expansion of the Center City South Redevelopment District Ordinance (Tax Increment Financing) (Districts I & VI)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Consider approving the Mayor's request for Declaration of Emergency, and placing a repealing ordinance on first and final reading.

Background: On May 8, 2007, the City Council established the Center City South Redevelopment District in downtown Wichita, in order to permit the use of tax increment financing ("TIF") to pay for certain eligible costs. The boundaries for the redevelopment district are First Street on the north, Broadway on the east, English on the south and Main Street on the west.

On July 1, 2008, the City Council adopted a resolution stating its intent to consider expanding the Center City South Redevelopment District. On August 5, 2008, the City Council held the public hearing required by statute, and on August 12, 2008 adopted ordinance 47-947 expanding the City Center South TIF district to an area similar to the Arena Neighborhood Redevelopment Plan Area.

Analysis: The Board of County Commissioners and the Board of Education for USD 259 have until September 5, 2008 to determine whether expansion of the district will have an adverse impact on them, effectively maintaining the current district size. If the County or School District rejects the proposed district, the tax increment financing district boundaries will not be expanded.

The County has made it known to City staff that it considers the public hearing held and the window of time available, given existing schedules, as insufficient to discuss and evaluate the actual use of tax increment financing in one or more redevelopment plans for the expanded Center City South Redevelopment District, but desires to enter into discussions of various concepts for funding of arena related improvements.

Repealing of the ordinance could remove the immediate time pressure from funding negotiations, as the time window for consideration of the district. This would also be accomplished by County action to veto the expansion of the district. Repeal may promote constructive collaboration with the County. The Construction Coordination Agreement reached on August 13, 2008 allocated responsibility between the County and City for the construction of infrastructure in the immediate vicinity of the Arena. That agreement did not address either the manner of funding or the timetable for completion of those improvements.

Financial Considerations: The expansion of a redevelopment district would facilitate the use of tax increment financing to pay the cost of public improvements constructed in conjunction with the

Intrust Bank Arena. Only if a project is approved, a redevelopment plan adopted, and the specific improvements authorized by Council action, would the tax increment revenues generated in the district will actually be utilized. Short of approval of such a district, funding for the infrastructure improvements would need to be re-determined, or the schedule for the same re-assessed. The City has announced its plan for TIF funding of these improvements from the outset of arena area planning, without expressed objection of the participants. and no alternate funding source has been identified.

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: The available resolution declaring an emergency and the repealing ordinance has been reviewed by the City's Law Department and approved as to form. The City and County cannot expand by agreement the window of time set by statute for consideration of the district.

Recommendation/Action: Take appropriate action.

Attachments: An available emergency resolution and repealing ordinance.

ORDINANCE NO. 47-987

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, REPEALING ORDINANCE NO. 47-947 OF SAID CITY.

WHEREAS, Ordinance No. 47-947 of the City of Wichita, adopted August 12, 2008, provided for the expansion of the boundaries of the Center City South Redevelopment District; and,

WHEREAS, The Sedgwick County Manager, on behalf of the Board of Commissioners of Sedgwick County, has raised a number of issues with the scope and purposes of the expanded Redevelopment District, which may not be resolvable prior to the date the County would have to exercise its statutory right to determine, by resolution, that the expanded district would have an adverse effect on the County; and,

WHEREAS, the Governing Body of the City of Wichita wishes to repeal Ordinance No. 47-947 in order to discuss with the County possible changes to the expanded district boundaries and certain related issues;

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

SECTION 1. **Repeal of Ordinance No. 47-947**. Ordinance No. 47-947 of the City of Wichita is hereby repealed.

SECTION 2. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body of the City of Wichita, Kansas, and publication once in the official newspaper of the City.

PASSED by the Governing Body of the City of Wichita, Kansas this 26th day of August, 2008.

CITY OF WICHITA, KANSAS

By_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk
(SEAL)

Approved as to Form:

_____
Gary E. Rebenstorf

City Attorney

REQUEST FOR DECLARATION OF EMERGENCY

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

TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS:

I, Carl Brewer, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the day of its introduction, to wit, August 26, 2008, of an Ordinance entitled:

ORDINANCE NO. 47-987

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, REPEALING ORDINANCE NO. 47-947 OF SAID CITY.

The general nature of such public emergency lies in the need to pass and publish the proposed repeal as soon as possible, to ensure that the expanded district boundaries are not implemented until the City Council and County Commission have had further opportunity to discuss issues of concern to the County.

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

Executed at Wichita, Kansas on this 26th day of August, 2008.

MAYOR OF THE CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

(Seal)

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: SUB 2008-34 -- Plat of Casa Bella 2nd Addition located on the north side of Pawnee and on the west side of 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (8-0)

Background: This site, consisting of 161 lots on 69.44 acres, is for the northwest and southeast portion of the overall preliminary plat, and it represents the second phase of development. The site is located within Wichita's city limits and is zoned SF-5 Single-family Residential and LC Limited Commercial.

Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for paving, sewer, water and drainage improvements. A Restrictive Covenant has been submitted to provide for ownership and maintenance of the reserves. A Restrictive Covenant has also been submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

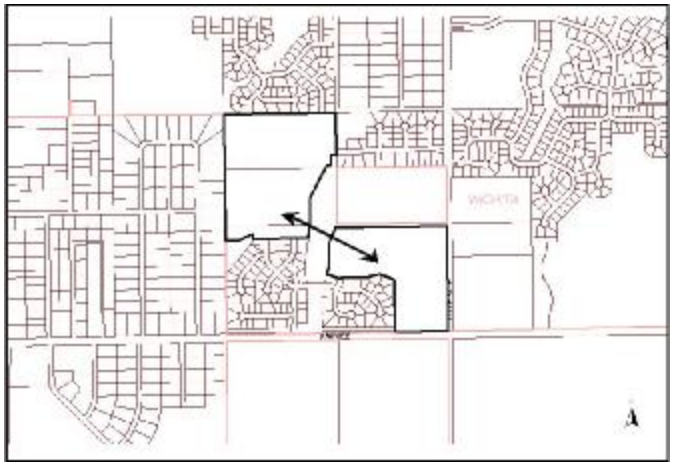
The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petition and Restrictive Covenants will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.



132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-422

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90399 (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90399 (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Water Distribution System Number 448-90399 (north of Pawnee, west of 127th St. East).

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Three Hundred Fifty-Five Thousand Dollars ($355,000) exclusive of the cost of interest on borrowed money, with 100 percent of the total cost payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after July 1, 2008, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CASA BELLA SECOND ADDITION

Lots 1 through 27, Block 1
Lots 1 through 34, Block 2
Lots 1 through 12, Block 3
Lots 1 through 9, Block 4
Lots 1 through 23, Block 5
Lots 1 through 5, Block 6
Lots 1 through 10, Block 7
Lots 1 through 41, Block 8

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 27, Block 1, Lots 1 through 34, Block 2, Lots 1 through 12, Block 3 Lots 1 through 9, Block 4, Lots 1 through 23, Block 5, Lots 1 through 5, Block 6, Lots 1 through 10, Block 7, Lots 1 through 41, Block 8 CASA BELLA SECOND ADDITION shall each pay 1/161 of the total cost of the improvement district.

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

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

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

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

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-423

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 5, MAIN 18, FOUR MILE CREEK SEWER (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) 468-84539 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 5, MAIN 18, FOUR MILE CREEK SEWER (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) 468-84539 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO- WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 5, Main 18, Four Mile Creek Sewer (north of Pawnee, west of 127th St. East,) 468-84539.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for hereof is estimated to be Five Hundred Thousand Dollars ($500,000), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after July 1, 2008, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CASA BELLA SECOND ADDITION

Lots 1 through 27, Block 1
Lots 1 through 34, Block 2
Lots 1 through 12, Block 3
Lots 1 through 9, Block 4
Lots 1 through 23, Block 5
Lots 1 through 5, Block 6
Lots 1 through 10, Block 7
Lots 1 through 41, Block 8

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 27, Block 1, Lots 1 through 34, Block 2, Lots 1 through 12, Block 3 Lots 1 through 9, Block 4, Lots 1 through 23, Block 5, Lots 1 through 5, Block 6, Lots 1 through 10, Block 7, Lots 1 through 41, Block 8 CASA BELLA SECOND ADDITION shall each pay 1/161 of the total cost of the improvement district.

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

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

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

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

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

CARL BREWER, MAYOR

ATTEST:

_____

KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-424

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON TARA FALLS, FROM THE SOUTH LINE OF CASA BELLA SECOND ADDITION TO THE NORTH LINE OF CASA BELLA SECOND ADDITION; TARA FALLS CT., FROM THE WEST LINE TARA FALLS TO AND INCLUDING CUL-DE-SAC (LOTS 23 THROUGH 27, BLOCK 8); TARA FALLS CT., FROM THE WEST LINE TARA FALLS TO AND INCLUDING CUL-DE-SAC (LOTS 31 THROUGH 39, BLOCK 8); MICHELLE, FROM THE SOUTH LINE OF CASA BELLA SECOND ADDITION TO THE NORTH LINE OF CASA BELLA SECOND ADDITION; MICHELLE CT., FROM THE WEST LINE OF MICHELLE TO AND INCLUDING CUL-DE-SAC, CHERRY CREEK, FROM THE EAST LINE OF MICHELLE TO THE EAST LINE CASA BELLA SECOND ADDITION, CLARK, FROM THE EAST LINE TARA FALLS TO THE WEST LINE MICHELLE, BONITA/BONITA CIR. FROM THE WEST LINE OF MICHELLE TO AND INCLUDING CUL-DE-SAC; BONITA CT., FROM THE NORTH LINE OF BONITA TO AND INCLUDING CUL-DE-SAC, CASA BELLA, FROM THE SOUTH LINE CASA BELLA SECOND ADDITION TO THE WEST LINE OF 127TH STREET EAST, CASA BELLA CT. FROM THE EAST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (LOTS 18 THROUGH 27, BLOCK 1), CASA BELLA CT. FROM THE EAST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (LOTS 13 THROUGH 27, BLOCK 2), AND CASA BELLA CT., FROM THE WEST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) 472-84750 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON TARA FALLS, FROM THE SOUTH LINE OF CASA BELLA SECOND ADDITION TO THE NORTH LINE OF CASA BELLA SECOND ADDITION; TARA FALLS CT., FROM THE WEST LINE TARA FALLS TO AND INCLUDING CUL-DE-SAC (LOTS 23 THROUGH 27, BLOCK 8); TARA FALLS CT., FROM THE WEST LINE TARA FALLS TO AND INCLUDING CUL-DE-SAC (LOTS 31 THROUGH 39, BLOCK 8); MICHELLE, FROM THE SOUTH LINE OF CASA BELLA SECOND ADDITION TO THE NORTH LINE OF CASA BELLA SECOND ADDITION; MICHELLE CT., FROM THE WEST LINE OF MICHELLE TO AND INCLUDING CUL-DE-SAC, CHERRY CREEK, FROM THE EAST LINE OF MICHELLE TO THE EAST LINE CASA BELLA SECOND ADDITION, CLARK, FROM THE EAST LINE TARA FALLS TO THE WEST LINE MICHELLE, BONITA/BONITA CIR. FROM THE WEST LINE OF MICHELLE TO AND INCLUDING CUL-DE-SAC; BONITA CT., FROM THE NORTH LINE OF BONITA TO AND INCLUDING CUL-DE-SAC, CASA BELLA, FROM THE SOUTH LINE CASA BELLA SECOND ADDITION TO THE WEST LINE OF 127TH STREET EAST, CASA BELLA CT. FROM THE EAST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (LOTS 18 THROUGH 27, BLOCK 1), CASA BELLA CT. FROM THE EAST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (LOTS 13 THROUGH 27, BLOCK 2), AND CASA BELLA CT., FROM THE WEST LINE CASA BELLA TO AND INCLUDING CUL-DE-SAC (NORTH OF PAWNEE, WEST OF 127TH ST. EAST) 472-84750 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on Tara Falls, from the south line of Casa Bella Second Addition to the north line of Casa Bella Second Addition; Tara Falls Ct., from the west line Tara Falls to and including cul-de-sac (Lots 23 through 27,

Block 8); Tara Falls Ct., from the west line Tara Falls to and including cul-de-sac (Lots 31 through 39, Block 8); Michelle, from the south line of Casa Bella Second Addition to the north line of Casa Bella Second Addition; Michelle Ct., from the west line of Michelle to and including cul-de-sac, Cherry Creek, from the east line of Michelle to the east line Casa Bella Second Addition, Clark, from the east line Tara Falls to the west line Michelle, Bonita/Bonita Cir. from the west line of Michelle to and including cul-de-sac; Bonita Ct., from the north line of Bonita to and including cul-de-sac, Casa Bella, from the south line Casa Bella Second Addition to the west line of 127th Street East, Casa Bella Ct. from the east line Casa Bella to and including cul-de-sac (Lots 18 through 27, Block 1), Casa Bella Ct. from the east line Casa Bella to and including cul-de-sac (Lots 13 through 27, Block 2), and Casa Bella Ct., from the west line Casa Bella to and including cul-de-sac (north of Pawnee, west of 127th St. Street East) 472-84750.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to One Million Five Hundred Eighty Thousand Dollars ($1,580,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after July 1, 2008 exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CASA BELLA SECOND ADDITION
Lots 1 through 27, Block 1
Lots 1 through 34, Block 2
Lots 1 through 12, Block 3
Lots 1 through 9, Block 4
Lots 1 through 23, Block 5
Lots 1 through 5, Block 6
Lots 1 through 10, Block 7
Lots 1 through 41, Block 8

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 27, Block 1, Lots 1 through 34, Block 2, Lots 1 through 12, Block 3 Lots 1 through 9, Block 4, Lots 1 through 23, Block 5, Lots 1 through 5, Block 6, Lots 1 through 10, Block 7, Lots 1 through 41, Block 8 CASA BELLA SECOND ADDITION shall each pay 1/161 of the total cost of the improvement district.

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

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

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

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

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

CERTIFICATE

CITY OF WICHITA)
SEDGWICK COUNTY) SS
STATE OF KANSAS)

I, Eugene Vitarelli, president of Tara Development, Inc, owner of Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, do hereby certify that petitions for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Interior Street Paving Improvements
2. Sanitary Sewer Main
3. Sanitary Sewer
4. Water Distribution System (Interior)
5. Storm Water Drain

As a result of the above-mentioned petitions for improvements, lots or portions thereof within Casa Bella Addition, Wichita, Sedgwick County, Kansas may be subject to special assessments assessed thereto for the cost of construction the above-described improvements.

Signed this 31st day of July, 2008.

Tara Development, Inc.

Eugene Vitarelli (SUB 2008-34)

Eugene Vitarelli, president

CITY OF WICHITA)
SEDGWICK COUNTY) SS
STATE OF KANSAS)

The foregoing instrument was acknowledged before me this 31st day of July 2008, by Eugene Vitarelli, president, Tara Development, Inc., owner of Casa Bella Addition, Wichita, Sedgwick County, Kansas.

Seal or Stamp

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

Mildred E. Franz, Notary Public
(signature of notary officer)

My appointment expires: 02-13 2011.

RESTRICTIVE COVENANT

This covenant, executed this 31st day of July, 2008

WITNESSETH: That,

WHEREAS, the undersigned is in the process of platting certain real property to be known as Casa Bella Second Addition, Wichita, Sedgwick County, Kansas,

WHEREAS, as a part of the platting process, certain requirements have been made by the Wichita-Sedgwick County Metropolitan Area Planning Department regarding the maintenance of the Reserves being platted with the Addition.

NOW THEREFORE, the undersigned does hereby subject Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, to the following covenants and restrictions:

1. Maintenance of Reserves A, B, C, D and E, Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, shall be the responsibility of Tara Development Inc., until such time that a homeowners association is formed and charged with maintenance responsibilities of said Reserves.

2. In the event that the undersigned, its successors or assigns, shall fail at any time to maintain the drainage improvements within said Reserves situated in Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, the appropriate governing body may serve a written Notice of Delinquency upon the undersigned setting forth the manner in which the undersigned has failed to maintain the drainage improvements. Such notice shall include a statement describing the obligation that has not been fulfilled and shall grant twenty (20) days within which the undersigned may fulfill the obligations. If said obligation is not fulfilled within the time specified, the appropriate governing body, in order to preserve the taxable value of the properties within the Addition, to insure proper functioning of the drainage improvements or to prevent the reserves from becoming a nuisance, may enter upon said Reserves and perform the obligations listed in the Notice of Delinquency. All costs incurred by the

governing body, in carrying out the obligations of the undersigned may be assessed against the Reserves situated in Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, in the same manner as provided by law for such assessments and said assessments may be established as liens upon said Reserves. Should the undersigned, its successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice of Delinquency are not proper for any reason, may, within the twenty-day period to be provided in said notice, apply for a hearing before the governing body having jurisdiction over the Notice of Delinquency, to appeal said assessments and any further proceedings with respect to such appeal.

3. This covenant is binding on the owners, their successors and assigns and is a covenant running with the land and is binding on all successors in title to the above described property.

4. The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita, and the County of Sedgwick. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first above written.

Tara Development, Inc.

Eugene Vitarelli, president

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The foregoing instrument acknowledged before me this 31st day of July, 2008, by Eugene Vitarelli, president, Tara Development, Inc., owner of Casa Bella Second Addition, Wichita, Sedgwick County, Kansas.

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

Mildred E. Franz
Notary Public

My Appointment Expires: 02-13-2011

(SUB 2008-34)

RESTRICTIVE COVENANT
(OFF STREET PARKING)

THIS DECLARATION made this 31st day of July, 2008, by Eugene Vitarelli, president of Tara Development, Inc., owner, Casa Bella Second Addition, Wichita, Sedgwick County, Kansas.

WITNESSETH

WHEREAS, Declarant is owner of the following described property:

CASA BELLA SECOND ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS

WHEREAS, the Declarant in connection therewith desires that restrictions involving off-street parking be placed of record.

NOW THEREFORE Declarant hereby declares and covenants that each of the following described residential Lots shall provide four (4) off-street parking spaces per dwelling unity on each Lot.

Lots 18 through 27, Block 1; Lots 13 through 27, Block 2; Lots 1 through 7, Block 5; Lots 1 through 5, Block 6; Lots 3 through 10, Block 7; Lots 16 through 22, 23 through 27 and 31 through 39, Block 8, all in Casa Bella Second Addition, Wichita, Sedgwick County, Kansas.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of

Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first above written.

Tara Development, Inc.

Eugene Vitarelli, president

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The foregoing instrument acknowledged before me this 31st day of July, 2008, by Eugene Vitarelli, president, Tara Development, Inc., owner of Casa Bella Second Addition, Wichita, Sedgwick County, Kansas.

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

Mildred E. Franz
Notary Public

My Appointment expires: 02-13-2011

(SUB 2008-54)

EXCERPT OF JULY 24, 2008 MAPC HEARING

1. **Case No.: ZON2008-33** – Richard Hoskinson (owner); Southfork Investments, Attn: Jay Maxwell (applicant); Ruggles & Bohm, Attn: Terry Smythe (agent) Request City zone change from SF-5 Single family Residential to MF-29 Multi-family Residential on 40.6 acres on property described as;

   Parcel 1:
   That part of the Northwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying south and east of Spinnaker Coves-Hoskinson Addition, Wichita, Sedgwick County, Kansas, and lying south and west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849.

   Parcel 2:
   That part of the East Half of the Southwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849, and east of a line described as commencing at the Northwest corner of said Southwest Quarter; thence east along the North line of said Southwest Quarter, 1537.6 feet to a place of beginning; thence with an angle to the right of 85°00'30", a distance of 1800 feet; thence southeasterly 862 feet, more or less, to a point 1856.43 feet east of the Southwest corner of said Southwest Quarter, EXCEPT beginning at a point on the South line of the Southwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, 30 feet west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849; thence west along said line, a distance of 238.4 feet; thence north 375 feet; thence east 224.8 feet; thence south to the point of beginning, AND EXCEPT that part deeded to the City of Wichita for widening of Central Avenue. Generally located North of Central, west of the Big Ditch.

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to MF-29 Multi-Family Residential ("MF-29") on a 40.6 acre unplatted tract located on the north side of West Central Avenue, along the west bank of the Wichita-Valley Center Floodway. The applicant proposes to develop the property with multi-family uses. If 35 percent of the site's gross land area were to be developed at a density of 29 dwelling units per acre, the site could potentially accommodate 412 dwelling units. However, total density will be affected by drainage issues discussed below. Four-hundred twelve units could generate 2,719 average daily trips (6.6 average daily trips per dwelling unit).

Due to the location of the subject site, the whole property is located within a flood zone. In the case of this site, it is located in two different zone categories. The west half of the subject site is considered a floodway in Zone AE, with the majority of the east half of the property being categorized in Zone X which describes property that is protected by a levee. Drainage issues will have to be addressed during the platting process, during which time a drainage study will be required.

A sliver of land running north and south along the east edge of the subject site is currently unzoned. This property was a part of an easement for the Wichita-Valley Center Floodway. The applicant acquired this property through a warranty deed through the City.

Since the abutting property to the north is zoned SF-5, screening and buffer landscaping will be required along the north property line. Screening and buffering may be provided by decorative fencing, evergreen vegetation, or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the affected property lines. Since the subject property has frontage along an

arterial street, a landscaped street yard and parking lot screening will be required along the south property line for any new building construction or parking areas. The street right-of-way and access controls will have to comply with the Subdivision Regulations and may need to be upgraded through dedications during the platting process, which will be a requirement for the rezone and for obtaining any building permits.

The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south, on the south side of Central Avenue, are largely undeveloped with one retail store on properties zoned TF-3 Two-family Residential ("TF-3") and LC Limited Commercial ("LC"). Property to the north is zoned SF-5 and is developed with single-family residences. To the east of the subject site runs the Wichita-Valley Center Floodway, an approximately 1,500 foot buffer from any single-family residences located to the east. The property to the west is developed with a large, high density, multi-family development and a restaurant, zoned MF-29 (DP-26, Silver Springs Community Unit Plan) and LC respectively.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family Residence
SOUTH:	"LC"	Vacant Commercial Land
	"TF-3"	Vacant Residential Land
EAST:	Wichita-Valley Center Floodway	
WEST: "LC"		Restaurant
	"MF-29"	Multi-family Development

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 site currently has a partially completed access drive onto Central, as well as a decel lane and a left turn lane from east bound Central Avenue. Due to its close proximity to the bridge structure, which crosses the floodway, traffic engineering will have the final decision on the amount of movement through this access. Public water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies approximately 39 acres of this site as appropriate for "Park and Open Space" while the remaining acre is identified as "Local Commercial". The Park and Open Space category includes parks, open space and various recreational corridors (natural drainage channels, roadways, easements, abandoned rail lines, etc.) while the Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

This particular request would conform more to the "Urban Residential" category of the Land Use Guide, instead of the "Park and Open Space" designation. The "Urban Residential" category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly

(assisted living, congregate care and nursing homes.) Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category.

The Comprehensive Plan's "Residential Locational Guidelines" for medium and high density residential state that such uses should be (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

RECOMMENDATION: This rezone request doesn't conform to the current designation of the Comprehensive Plan Land Use Guide in regards to this particular site, but does conform to the residential land use category. The site abuts multi-family development to the west and commercial development to the southwest, making this particular rezone request an extension of existing multi-family zoning. This particular request would be sufficiently buffered from single-family residences by the floodway to the east and would have adequate access to a principal arterial. The subject site does abut single-family development to the north, but the compatibility standards and landscaping and screening standards required by the Unified Zoning Code ("UZC") would mitigate any negative impacts that could occur. Staff's also recognizes that the applicant will have to address significant drainage challenges, which may significantly limit the site's ultimate development potential, and which will likely require engineering solutions more thoroughly discussed at the platting stage. Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within a year and development of the site with a road connection to the north.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south, on the south side of Central Avenue, are largely undeveloped with one retail store on properties zoned TF-3 Two-family Residential ("TF-3") and LC Limited Commercial ("LC"). Property to the north is zoned SF-5 and is developed with single-family residences. To the east of the subject site runs the Wichita-Valley Center Floodway, an approximately 1,500 foot buffer from any single-family residences to the east. The property to the west is developed with a large, high density, multi-family development and a restaurant, zoned MF-29 (DP-26, Silver Springs Community Unit Plan) and LC respectively.

2. The suitability of the subject property for the uses to which it has been restricted: The site is current undeveloped with SF-5 zoning. The site could be used for a single-family residential development, although the commercial and multi-family residential uses abutting its west side have probably have made this type of development less desirable.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects 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 north.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies approximately 39 acres of this site as appropriate for "Park and Open Space" while the remaining acre is identified as "Local Commercial". The Park and Open Space category includes parks, open space and various recreational corridors (natural drainage channels, roadways, easements, abandoned rail lines, etc.) while the Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

   This particular request would conform more to the "Urban Residential" category of the Land Use Guide. The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes.) Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category.

2. Impact of the proposed development on community facilities: Development of the site will result in an increase in traffic on Central. Sewer and water services can be extended to the site. Due to the site's proximity to the floodway, drainage improvements will have to be made.

CHAIRMAN MITCHELL said he needed to step down from the Chair on this item. He added that he might also render an opinion from the audience regarding this case.

VICE CHAIRMAN ANDERSON in the Chair.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

Responding to a question from **DENNIS** regarding the road through the area, **SLOCUM** said that was a platting issue, but that it could also be discussed during the zoning hearing and suggested asking the agent.

TERRY SMYTHE, RUGGLES & BOHM, **AGENT FOR APPLICANT** commented that this zone request was also connected with Item #8 (CUP2007-44). He said they have met with several groups regarding this proposal including Planning Department Staff, Engineering Department Staff, Park and Recreation Department Staff, and the Spinnaker Cove and County Acres Home Owners Associations. He said based on their meetings with the home owners associations, they would like to modify their zoning request to eliminate the north 110 feet of the property from the application and request Single-family

zoning remain adjacent to Spinnaker Cove. He said that will change the density on the north end of the property; however, he added that they will probably request an increase in the height restrictions on the Multi-family portion of the zoning and hoped to have support of the homeowners associations and Park Board for that request. He said a proposed hike/bike path through the area has been "on the books" for decades and that they plan to construct a path from 13th Street southward down to Central through both properties. He said there will be a private/gated drive through both the south and north pieces of property. He said there are a number of reasons they have chosen this approach including capturing a certain market with the private drive and gated community. He said they don't want a public street through the neighborhood. He said this approach will also alleviate the need to connect the road to the Spinnaker Cove development, whose residents also do not want a public street through their neighborhood. He added that they understand that since there is only one access point in and out of the Spinnaker Cove subdivision, there will be gates for emergency access into both the Country Acres and Spinnaker Cove subdivisions. He said there has also been some discussion concerning the utility right-of-way and location of the hike/bike trail and that right-of-way issues may still need to be resolved. He said the proposed bridge connecting the two properties will also keep the public from accessing County Acres. He added that they would also like to use the bridge for the hike/bike path. He commented that they were trying to limit the visual impact on Lot 63 with introduction of the private bridge and private drives. He also indicated that they would be willing to plant additional trees and landscaping on the lot, above what is required by the landscape code. He said the private streets through the development will generate considerably less traffic; estimated to be about two trips per day, per unit, for independent/senior/assisted living residential units.

SMYTHE concluded by stating that the applicant owns the property on the west side of the ditch, and that they have the title and title insurance provided by First American Title. He concluded by stating that the major concession they made on the north side of the property was in order to be consistent with the Single-family zoning surrounding the area. He also said that they have worked to the best of their ability to meet concerns expressed by the surrounding neighbors. He added that they agree with staff comments.

HILLMAN said the idea of a public hike/bike trail alongside a private bridge with separate access was a little confusing.

MILLER STEVENS also expressed concern as to how the crossing of the hike/bike trail would be handled.

SMYTHE commented that they have not gotten into extremely detailed discussion with the Park Board on the exact location of the proposed hike/bike trail. He said it just made sense to them that the bridge and hike/bike path cross the creek at the same location.

DENNIS commented that this item and Item #8 were two different parcels with different issues. He asked about any access into Country Acres subdivision going to the west and what assurances they could provide the subdivision residents, since the site plan is not firm until it is platted.

SMYTHE commented that the north parcel (Shriner's Addition) has already been platted and that there is only emergency access to the Country Acres subdivision from that area. He said since the access control already exists, it is their intent to keep that access control in effect.

M.S. MITCHELL, 1215 FORREST, commented that he was involved with the Flood Control project from 1949 to 1978, and that he was concerned about the effect of this proposal on that flood control project. He said his main concern was the sliver of land along the southeast side of the parcel located on the west edge of the flood control project. He said this right-of-way area was condemned by Sedgwick County for the flood control project. He said he understands that state law enacted in the time from 1984

to 1986 gave cities the right to dispose of certain lands held in public to private interests, and that is what this application is based on. However, he has not seen that, and does not know if application of that statute is appropriate and applicable in this case. He said flood control right-of-way is unzoned at the present time. He requested that the MAPC not forward this proposal to the City Council for approval until this issue of maintaining flood control areas is settled to his satisfaction or to the satisfaction of the persons in charge of maintenance of this project. He said, as of today, flood control staff he spoke with were not aware of the loss of this right-of-way. He said he does not believe the developer has enough room to build with the lakes that exist there now, and he believes the project would fail without this sliver of land. He concluded by stating that the City and County have hired a consultant to perform an assessment of the flood control project and its effectiveness. He said if it is found that the project fails the standards of today, the Federal Emergency Management Agency (FEMA) may remove the protection provided by the levees from the floodplain maps. He said everything in Wichita that flooded or was susceptible to flooding prior to 1958-59 then will be required to have flood insurance, and that would be a major issue. He said there may be some connection between that study and this change in land use and the MAPC should be concerned about that.

Responding to a question from **MCKAY, MITCHELL** said he is concerned about the entire piece of property (not just the small sliver being discussed) because 150 feet of the right-of-way is used for the levee and he doesn't know the effect of this application on that levee.

DIRECTOR SCHLEGEL asked **MITCHELL** if he has raised his concerns with the people who are responsible for the Big Ditch.

MITCHELL responded that the City Flood Control Superintendent was unaware that the property had gone from public to private ownership.

HENTZEN said the ditch runs for miles and miles (**MITCHELL** clarified that the ditch is 18 miles long) and asked if this was the first time there was a problem with someone claiming they own part of the floodway.

MITCHELL commented that there have been numerous requests for parcels to be reverted back to the adjacent property owners over the years; however, he was unaware that any of those have been seriously considered.

There was brief discussion concerning the center of the levee, toe drain system, and seepage escape.

THOMAS FOLEY, 6611 SCHOOL CIRCLE said he was authorized by the Spinnaker Cove Homeowners Association to make a blanket statement for the group. He said they are opposed to Multi-family zoning based on the density and the traffic. He said he is also opposed to the bridge because it will have a significant impact on the privacy of his home. He said there was an assumption when they moved in that the area was for single family residential homes and that was what would back up to his house. He said he didn't sign on for this kind of deal and asked the Commission if there was any way around it. He said development of the south property should be single-family and the density should be compatible with the north property.

SHERMAN clarified that Mr. Foley was opposed to MF-29 zoning on the south end of the property although it was not adjacent to Spinnaker Cove.

FOLEY said yes he was opposed to the MF-29 zoning because the developer is now asking for increased vertical stipulations. He said they would like them to create a plan that would be compatible and similar to the single-family zoning.

TERRY SMYTHE reiterated that the north 110 feet of the property will be single-family homes. He further clarified that his client does own the property; he said they have a deed and title insurance. He said he understands Mr. Mitchell's concerns, but added that there is plenty of time between now and when the item goes to the City Council to resolve the issue. He concluded by mentioning their inclusion of the public hike/bike path, which they will totally fund in the plan, the removal of MF-29 zoning on the north 110 feet of the property, and their assurances on the gated/private drive on the north and south ends of the property. He said they feel the proposed plan is compatible with the area and that they have done more than is usually required on a zoning request.

SMYTHE responded to several questions from **MCKAY** concerning density on the south portion of the property and commented that density will be anywhere from 175 or 200 units.

MARNELL asked about the impact on the project if it is determined that the City made an error in selling the flood control property. He also mentioned that it might be premature to go forward with the zoning case if there is a question about property ownership.

SMYTHE said it will kill the whole project.

TAPE 1, SIDE 2

JOE LANG, CITY ATTORNEY stated that the comment in the agenda report regarding reversionary rights was not correct and added that the City deeded the property to the owner of the rest of the parcel, Mr. Hoskinson. He said it was a presumption that the applicant/owner owned the property legally. He said he did not think property ownership was an appropriate issue for the MAPC to be discussing; they needed to be discussing the zoning issue and if the proposal was an appropriate use of the property/land. He said staff will follow-up on Mr. Mitchell's concerns; however, he did not think that was a reason to delay or deny the zoning request.

JOHNSON asked how the area was presently zoned and, if the zoning was changed, how that would affect the value of the parcel. He commented that it was an unusual case and said he appreciated Mr. Mitchell looking into the issues.

DALE MILLER, PLANNING STAFF stated that there was a clause in the Unified Zoning Code that indicated that any "omitted" land would be deemed to be zoned Single-family Residential or SF-5.

LANG said he could not answer the question concerning property value, since he didn't know the price of the property or if zoning entered into the valuation process.

There was brief discussion concerning property ownership, possible re-purchase of the property by the City, and what would happen if it was deemed that the City made a mistake selling flood control right-of-way.

FOSTER mentioned discussion at the Advanced Plans Committee meeting that day, and how the toe of the levee was an important issue.

MCKAY suggested a motion that the request be approved subject to verification of ownership, right-of-way, toe, etc.

DIRECTOR SCHLEGEL said if the motion was going to be contingent upon certain conditions, that the conditions needed to be clearly articulated.

MCKAY expressed concern that if the flood control property was removed, would there be room enough for the drive to come into the property.

SMYTHE referred to the east property line and said they could hook up with the existing driveway. He said according to the survey, the toe of the berm was not encroached upon. He mentioned the possibility of moving the access point further to the west.

> **MOTION:** To approve subject to staff recommendation with the inclusion of elimination of Multi-family zoning on the north 110 feet of the property.
>
> **DOWNING** moved, **MARNELL** seconded the motion, and it carried (11-2).
> **FOSTER** and **HILLMAN** – No.

JOHNSON clarified that the motion included elimination of Multi-family zoning on the north 110 feet of the property.

DOWNING said yes, that provision was included in the motion.

FOSTER asked if the motion included the addition of the hike/bike path.

DOWNING said he would not add the hike/path provision to the motion because he felt that could be worked out between the developer and other concerned parties.

MITCHELL returned as chair.

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

Mayor and Wichita City Council Members

FROM: Megan Buckmaster, District V Neighborhood Assistant

SUBJECT: ZON2008-00033

DATE: August 07, 2008

On Monday, August 04, 2008, the *District Advisory Board (DAB) for Council District V* considered an application for a request for zone change from "SF-5", Single Family Residential to "MF-29", Multi-Family Residential generally located along the west bank of the Wichita-Valley Center Floodway, on the north side of West Central Avenue: 40.6 acres.

Due to the location of the subject site, the whole property is located within a flood zone. In the case of this site, it is located in two different zone categories. The west half of the subject site is considered a floodway in Zone AE, with the majority of the east half of the property being categorized in Zone X which describes property that is protected by a levee. Drainage issues will have to be addressed during the platting process, during which time a drainage study will be required.

The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The proposed use is for a multi family dwelling. This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services

Developers have agreed to leave 110 feet of the northern property adjacent to Spinnaker Coves as SF-5: Single family residential to act as a buffer to current residents.

Planning staff recommends the application be APPROVED subject to platting within a year and development of the site with a road connection to the north.

The request was approved by DAB V with a unanimous vote of 10-0-to move forward to City Council for vote per planning staff recommendation and to have the legal description changed to include the 110 feet of the northern property left as SF-5: Single Family residential.

Agenda Item No. V-2

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: ZON2008-00033 – City zone change from SF-5 Single-family Residential ("SF-5") to MF-29 Multi-family Residential ("MF-29"); generally located along the west bank of the Wichita-Valley Center Floodway, on the north side of West Central Avenue. (District V)

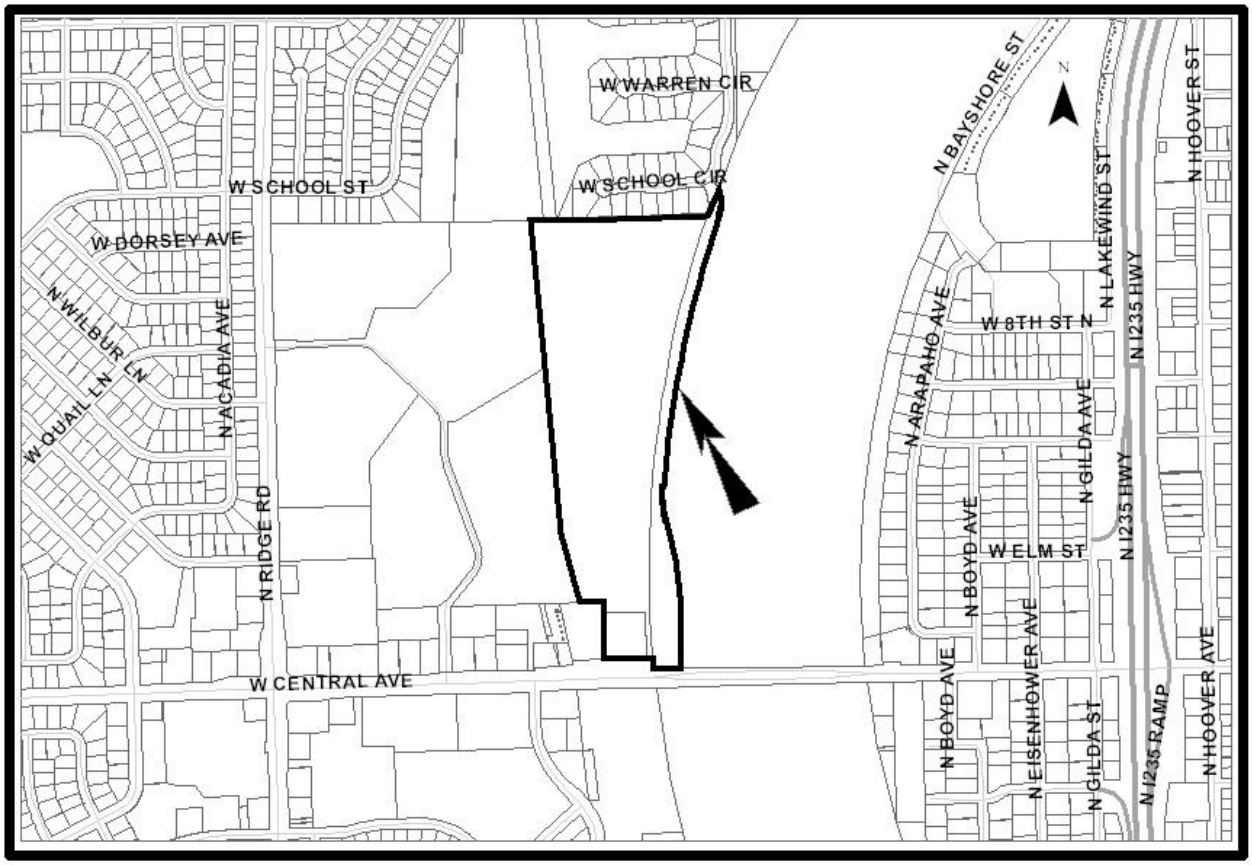
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

DAB V Recommendation: Approve, vote (10-0)

MAPC Recommendation: Approve, subject to staff recommendation and exclusion of multi-family zoning on the north 110 feet of the property, vote (11-2)

MAPD Staff Recommendation: Approve, subject to platting within one year



Background: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to MF-29 Multi-Family Residential ("MF-29") on a 40.6 acre unplatted tract located on the north side of West Central Avenue, along the west bank of the Wichita-Valley Center Floodway. The applicant proposes to develop the property with multi-family uses. If 35 percent of the site's gross land area were to be developed at a density of 29 dwelling units per acre, the site could potentially accommodate 412 dwelling units. However, total density will be affected by drainage issues discussed below. Four-hundred twelve units could generate 2,719 average daily trips (6.6 average daily trips per dwelling unit).

Due to the location of the subject site, the whole property is located within a flood zone. In the case of this site, it is located in two different zone categories. The west half of the subject site is considered a floodway in Zone AE, with the majority of the east half of the property being categorized in Zone X which describes property that is protected by a levee. Drainage issues will have to be addressed during the platting process, during which time a drainage study will be required.

A sliver of land running north and south along the east edge of the subject site is currently unzoned. This property was a part of an easement for the Wichita-Valley Center Floodway. This property was deeded from the city to the adjoining property owner. This situation is similar to ZON2007-00064, located directly east of the subject site on the other side of the floodway, in which un-zoned property was rezoned.

Since the abutting property to the north is zoned SF-5, screening and buffer landscaping will be required along the north property line. Screening and buffering may be provided by decorative fencing, evergreen vegetation or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the affected property lines. Since the subject property has frontage along an arterial street, a landscaped street yard and parking lot screening will be required along the south property line for any new building construction or parking areas. The street right-of-way and access controls will have to comply with the Subdivision Regulations and may need to be upgraded through dedications during the platting process, which will be a requirement for the rezone and for obtaining any building permits.

The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south, on the south side of Central Avenue, are largely undeveloped with one retail store on properties zoned TF-3 Two-family Residential ("TF-3") and LC Limited Commercial ("LC"). Property to the north is zoned SF-5 and is developed with single-family residences. To the east of the subject site runs the Wichita-Valley Center Floodway, an approximately 1,500 foot buffer from any single-family residences located to the east. The property to the west is developed with a large, high density, multi-family development and a restaurant, zoned MF-29 (DP-26, Silver Springs Community Unit Plan) and LC respectively.

Analysis: At the MAPC meeting held July 24, 2008, the MAPC voted (11-2) to recommend approval of the request for MF-29 zoning subject to staff recommendations and with the exclusion of multi-family zoning on the north 110 feet of the property. Two citizens spoke in opposition to the request. Their opposition was to the proposed bridge and the property owner's acquisition of land near the levee of the Wichita-Valley Center Floodway.

At the DAB V meeting held on August 4, 2008, the DAB voted (10-0) to move forward to City Council for vote per planning staff recommendation and to have the legal description changed to include the 110 feet of the northern property left as SF-5. There were citizens that spoke in favor of the request and in opposition.

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 subject to platting in one year and the elimination of the request for Multi-family zoning on the north 110-feet of the property; withhold publication of the ordinance until the plat is recorded; 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.)

ORDINANCE NO. 47-985

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. ZON2008-00033

Zone change from SF-5 Single-family Residential ("SF-5") to MF-29 Multi-family Residential ("MF-29") on property described as:

> That part of the Northwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas lying south and east of Spinnaker Coves-Hoskinson Addition, Wichita, Sedgwick County, Kansas, and lying south and west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849.
>
> That part of the East Half of the Southwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849, and east of a line described as commencing at the Northwest corner of said Southwest Quarter; thence east along the North line of said Southwest Quarter, 1537.6 feet to a place of beginning; thence with an angle to the right of 85°00'30", a distance of 1800 feet; thence southeasterly 862 feet, more or less, to a point 1856.43 feet east of the Southwest corner of said Southwest Quarter, EXCEPT that part deeded to the City of Wichita for Widening of Central Avenue; AND EXCEPT the north 110.00 feet thereof; AND EXCEPT that part platted as Hoskinson Addition, Wichita, Sedgwick County, Kansas.

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

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

ADOPTED AT WICHITA, KANSAS, September 9, 2008.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

EXCERPT OF JULY 24, 2008 MAPC HEARING

Case No.: ZON2008-36 – Auburn Pointe, LLC, Gary Oborny; MKEC Engineering Consultants, Inc., Greg Allison Request Amendment to Protective Overlay PO-130 to eliminate the prohibition on drive-through service, to increase the permitted size of restaurants from 2000 to 5000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit.

Lot 1, Block 1 and Reserve A, Auburn Hills Commercial 4th Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Maple and 800 feet east of South 135th Street West.

BACKGROUND: The applicant requests an amendment to Protective Overlay 130 (PO-130), to eliminate the prohibition on drive-through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit. The proposed sign would remain in the current sign location along Maple and west of the strip building on the site; the proposed drive-through coffee shop would be in the parking lot west of the strip building (see the attached site plan). PO-130 has been amended and adjusted several times, and currently exists as written below:

(1) 35-foot building setbacks along the site's south, north and east sides.
(2) Monument sign with a maximum sign face of 72 square-feet and a height of 12 feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
(3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.
(4) Shared internal access and shared access onto Maple Street with DP-219 AUBURN HILLS C.U.P.
(5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to lighting provided in the DP-219 AUBURN HILL C.U.P. Lighting elements shall be no higher than 14-foot when within 100-feet abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
(6) All utilities shall be installed underground.
(7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Evergreen trees may be planted along the south and east sides of the property at a spacing of 10 feet. The required front yard landscaping may be reduced by 50% if 50% of the landscaping materials are placed along the west side yard area. Landscaping shall be required prior to the issuance of any occupancy permit.
(8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be provided along the site's east and south sides.
(9) Screening of trash receptacles is not required for the building on the current approved site plan. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary.
(10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.

(11) A metal east façade is permitted for the building on the current approved site plan. All future buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.

(12) A 10-foot landscape easement shall be provided along the south and east sides of the tract. Austrian pine trees 14-feet in height shall be provided at a spacing of 12 feet along the east property line for the building on the current approved site plan. Elsewhere, evergreen trees shall be provided at a spacing of 10 feet.

(13) Prohibited uses include group residences, correctional placement residences, group homes, multi-family, asphalt and concrete plant, limited.

(14) Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. All other uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overly should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council.

The applicant has met with three property owners located to the east of the subject site and reports no opposition to this request. Several other neighbors have called staff opposed to this request, and one neighbor e-mailed staff with opposition to the request (see attached). This site was originally re-zoned in 2003 from SF-5 Single-family Residential ("SF-5") to NR Neighborhood Retail ("NR") with PO-130. The PO has since been administratively adjusted twice (in 2006 and 2007) with the effect of increasing the sign size from 8-feet tall and 48 square feet to the current 12 feet tall and 72 square feet; reducing landscaping requirements; waiving the architectural requirements to allow for a metal building façade, and waiving the dumpster screening requirement. The property was then rezoned in 2007 from NR to the current LC Limited Commercial ("LC") with a PO addition that the only LC land use permitted would be Limited Animal Care. It was this PO requirement that left NR land use restrictions in place, prohibiting restaurants over 2000 square feet, and prohibiting drive-through service.

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills CUP, located to the west. Property to the north, across Maple, is zoned SF-5 and developed with single-family residences. Property to the northwest is zoned LC and subject to development restrictions, Protective Overlay #17 that limits uses, building signage and access points. The property to the south is undeveloped and zoned GO General Office ("GO"), and is covered by Protective Overlay #140 that addresses architectural compatibility and density.

CASE HISTORY: The subject site was included in the request for Community Unit Plan DP-219 and associated zoning case Z-3191, a request for a zoning change of AA Single-Family Residential ("AA") to LC on 17.32-acres located on the southeast corner of Maple Street and 135th Street West. DP-219 and Z-3191 were approved by the Wichita City Council on May 7, 1996, but without the subject site being part of the CUP or zoning change. Development of the Far West Side Commercial Development Policy in 1996 was triggered by the DP-219 and Z-3191 application. The policy placed limits on the size of commercial zoning at various west side arterial street intersections and also contained architectural, signage, access and landscaping controls. The Far West Side Commercial Development Policy has since been eliminated. In 2003, ZON2003-59 changed the property's zoning from SF-5 NR, subject to PO-130. Platting cases SUB2004-29 and SUB2005-85 were approved and recorded in 2004 and 2005 respectively. Case ZON2006-12 administratively adjusted PO-130 to increase sign size and height, and decrease landscape requirements. Case BZA2007-23 administratively adjusted PO-130 to permit a metal building façade and waive dumpster screening requirements, with an increase in evergreen tree height and decreased distance in tree spacing. Case ZON2007-39 increased the zoning on the site from NR to LC,

and amended PO-130 to permit only Limited Animal Care as an LC land use, with all other land uses restricted to NR zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residential	Single-family subdivision
SOUTH:	GO	General Office	Undeveloped
EAST:	SF-5	Single-family Residential	Single-family subdivision
WEST:	LC	Limited Commercial	Retail shopping

PUBLIC SERVICES: The site has frontage along Maple Street. Maple is improved with four lanes, a center turn lane and decel lanes at the intersection of Maple and 135th Street West. East of the intersection Maple is classified as a 4-lane arterial. Current average daily trips (ADT) are 3,096 ADTs east of the intersection; with projected traffic volumes for 2030 were estimated at 6,800 ADTs. However, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for Maple. Water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The requested sign size of 132 square feet is within Sign Code restrictions for the LC zone. However, the request exceeds the NR sign limit of 96 square feet.

RECOMMENDATION: Neighborhood opposition of this request appears to be a response to the numerous actions which loosened development controls on this site over time; this current request should have less affect on the residential neighbors to the east than previous changes to PO-130. The proposed sign increase and small coffee drive-through are located west of the existing building, and will not be visible from properties east of the site. The requested increase in restaurant size could produce more trash and accompanying odors; therefore a requirement of solid dumpster screening for restaurants could mitigate these concerns. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an amended PO-130 as follows:

Item (2) shall be amended to read "Monument sign with a maximum sign face of *132* square-feet and a height of *16.5* feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site."

Item (9) shall be amended to read "Screening of trash receptacles is not required for the building on the current approved site plan, *except that all trash receptacles used by any restaurant shall be screened with solid screening*. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary."

Item (14) shall be amended to read "Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. *Restaurants of up to 5,000 square feet shall be permitted. One drive-through coffee service shall be permitted, subject to circulation plan approval by the Traffic Engineer.* All other

uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overly should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council."

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property in the neighborhood is zoned either GO or LC on the four corners of the Maple Street – 135th Street West intersection; all have either a community unit plan overlay or protective overlay on the non-residential zoning. Beyond the intersection, the neighborhood is predominately zoned SF-5, with the exception of some GO zoned property located to the south. The character of the neighborhood is that of a developed and developing suburban residential neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned LC subject to PO-130. PO-130 as it exists without this amendment request is intended to protect the abutting residential areas from any potential negative effects generated by commercial development. The site could continue to be used under the current development controls.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment to PO-130 would increase signage size and height, increase the size of restaurants, and permit a drive-through coffee service. The signage increase could have a negative affect with increased visibility from the residences north of Maple. The increased restaurant size could increase traffic, noise, trash, and odors in the immediate area. The trash and odor negative effect could be mitigated by requiring dumpster screening for restaurants. The addition of drive-through service in the area could increase traffic and noise in the immediate area.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.

5. Impact of the proposed development on community facilities: The increased restaurant size and addition of drive-through service could increase traffic counts on this portion of Maple. Maple can absorb increased traffic demand. The proposed uses may not create greater traffic demand than land uses which could be permitted on the site under the current development controls

MCKAY reported a conflict of interest on this item.

JESS MCNEELY, Planning staff presented the staff report.

HENTZEN asked about the dumpster screening requirement on the back of the building and asked if there was room back there to do that?

MCNEELY said most of the dumpsters are located on concrete pads and that there was room to construct some type of screening.

HILLMAN asked if the expansion of the restaurant space from 2,000 to 5,000 square feet would increase the overall square footage of the building or was the expansion within the existing structure.

MCNEELY said the Protective Overlay does not limit the overall building coverage at the site.

MICHAEL MONTEFERRANTE, 300 NORTH MAIN, APPLICANT, said they concur with staff comments on most points. He mentioned the three e-mails provided as handouts, but he stated that the center has been well received by the neighborhood and provides the type of products needed in the area. He said as far as the restaurant situation is concerned, it will be done within the existing structure. He said the planned restaurant will be an upscale non-smoking establishment. He said it is currently not required that trash receptacles have screening, but if that is the staff's recommendation, then they accept it. He requested that the proposed restaurant be grandfathered in with the existing conditions. He commented that the dumpster tops are painted identical and that the grease container is not visible. He said they want to increase the height of the current pylon sign on Maple so that they have enough room to represent all the building tenants on the sign. He said they also request approval for a drive up restaurant, which will be a Scooters Coffee kiosk, with no bull horns or loudspeakers where coffee is ordered at the window.

DENNIS briefly reviewed the progress and the number of changes to the Protective Overlay that have occurred and stated that the whole purpose of the Neighborhood Retail zoning was to act as a buffer a between the neighborhood and development to the west. He also said he drove by the area today and that he took exception to Monteferrante's comment about the dumpsters matching the rear façade of the building. He asked how many more times they were going to request changes to the Protective Overlay.

MONTEFERRANTE responded that most dumpsters are green corrugation containers and that they will cycle in the new painting requirement. He said the grease trap is contained within the restaurant. He said they will request no more changes to the overlay, and that the Commission won't see him at a meeting again on this case. He concluded by stating that he appreciated the MAPC's patience. He said this amendment is being done to accommodate the last couple of building tenants for the center.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **SHERMAN** seconded the motion, and it carried (12-0-1). **MCKAY -** abstained.

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

Mayor and Wichita City Council Members

FROM: Megan Buckmaster, District V Neighborhood Assistant

SUBJECT: ZON2008-00036

DATE: August 07, 2008

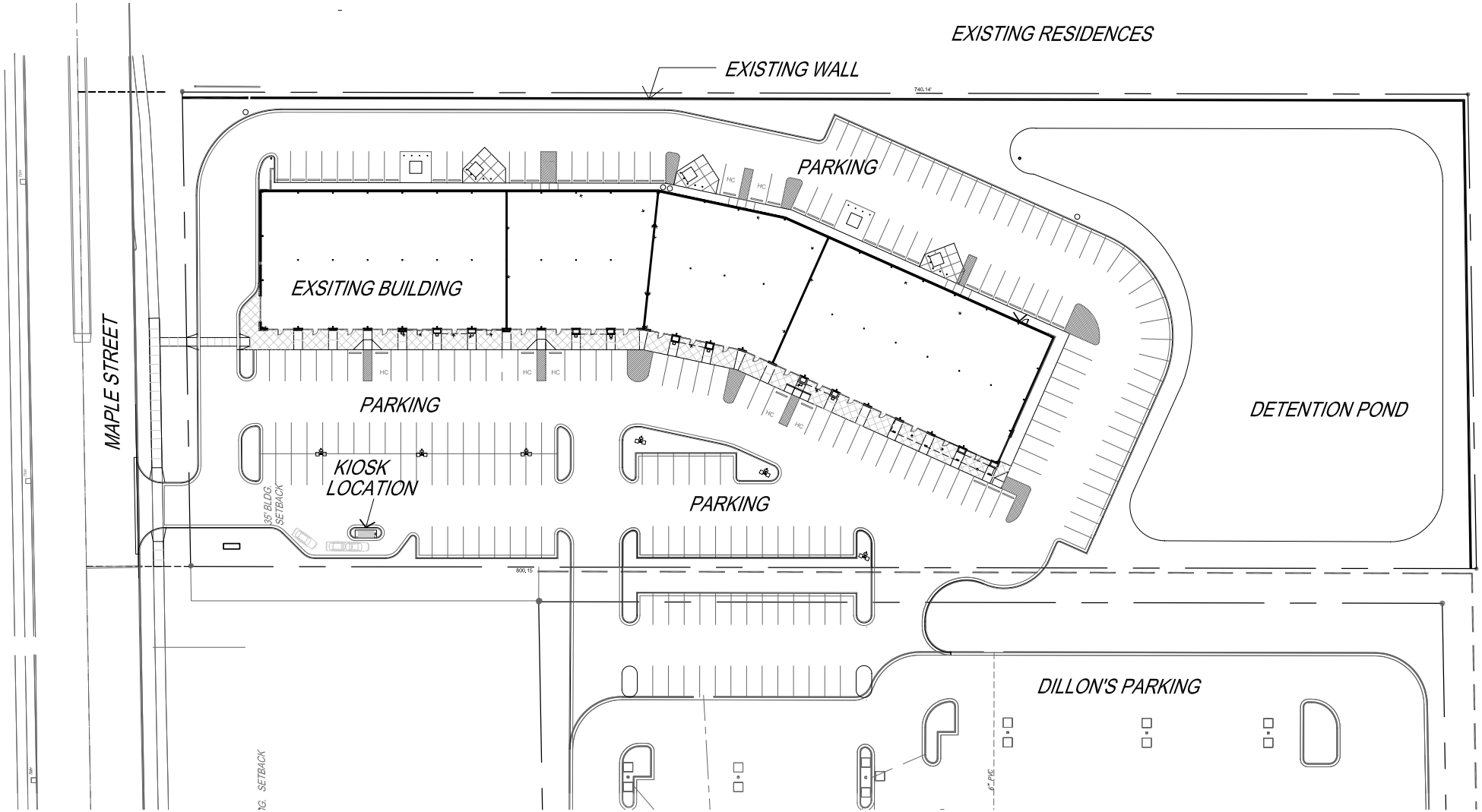
On Monday, August 04, 2008, the *District Advisory Board (DAB) for Council District V* considered an application for an Amendment to Protective Overlay PO-130 to eliminate the prohibition on drive through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 92 square feet with a 16.5-foot height limit located one-quarter mile east of 135 Street West, south of Maple Street: 4.64 acres.

The proposed use is a drive through coffee shop, 5000 square-foot restaurant. The proposed sign would remain in the current sign location along Maple and west of the strip building on the site; the proposed drive-through coffee shop would be in the parking lot west of the strip building

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills CUP, located to the west. Property to the north, across Maple, is zoned SF-5 and developed with single-family residences. Property to the northwest is zoned LC and subject to development restrictions. The applicant has met with three property owners located to the east of the subject site and reports no opposition to this request. Several other neighbors have called staff opposed to this request, and one neighbor e-mailed staff with opposition to the request. The proposed sign increase and small coffee drive-through are located west of the existing building, and will not be visible from properties east of the site. The requested increase in restaurant size could produce more trash and accompanying odors; therefore a requirement of solid dumpster screening for restaurants could mitigate these concerns.

Planning staff recommends that the request be APPROVED, subject to an amended PO-130 as detailed on page 4 and 5 of the Planning Staff Report.

The request was approved with an amendment of specific hours of operation added to the Protective Overlay; closing hour no later than 12:00 midnight: by DAB V with a majority vote of 9-1-to move forward to City Council for vote per planning staff recommendation.



SITE PLAN

0 30'

SPANGENBERG PHILLIPS
ARCHITECTURE
121 N. Mead, Suite 201, Wichita, KS 67202
TEL: 316.267.4002 FAX: 316.267.1509
www.spangenbergphillips.com

AUBURN POINT
WICHITA, KANSAS

1
23 JUNE 08

Please consider this an amendment to my e-mail dated July 5, 2008. After meeting with Mr. Michael Monteferrante, I have the following comments:

1. I support the amendment for the drive-through coffee kiosk on the part of the site. I do not support a blanket approval for a drive-through to be added to the existing center.

2. It was my original belief that residents living closet to Maple (both north and south) would object to the larger sign that is being requested. Mr. Monteferrant has reported that only one person is still in objection to that sign and he was meeting with that person yesterday to discuss the issue. Given that I live far enough south of Maple to not see the sign, the sign will not personally affect me. If those directly affected do not object to the sign, I withdraw my objection to the larger sign.

3. I continue to ask the decision-makers to NOT support the amendment for a restaurant up to 5,000 square feet. This retail center is simply too physically close to our homes to be an appropriate site for a larger restaurant. I believe the Neighborhood Retail restrictions on restaurants is appropriate and should be supported.

Among my concerns are:

- environmental odors--kitchen/cooking smells that affect my family when we're outside
- food waste/trash--garbage pickup, odors, rodents
- truck deliveries--I currently have semis driving right behind my house to make liquor deliveries. I suspect food deliveries would occur even more often.

I appreciate Mr. Monteferrante taking the time to discuss these issues with me, and I understand he will be disappointed if he's not granted an amendment for the restaurant. However, if the financial success of this center depends on a large, anchor restaurant, this center should have been built on different land with different zoning. It is zoned NR for a reason and needs to maintain as many of the NR restrictions as possible to protect our home values and our quality of life in this particular neighborhood.

Thank you for your consideration.

Valerie Johnson

Agenda Item No. V-3

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: ZON2008-36– Amendment to Protective Overlay 130 (PO-130) to eliminate the prohibition on drive through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit. Generally located south of Maple and 800 feet east of 135th Street West. (District V)

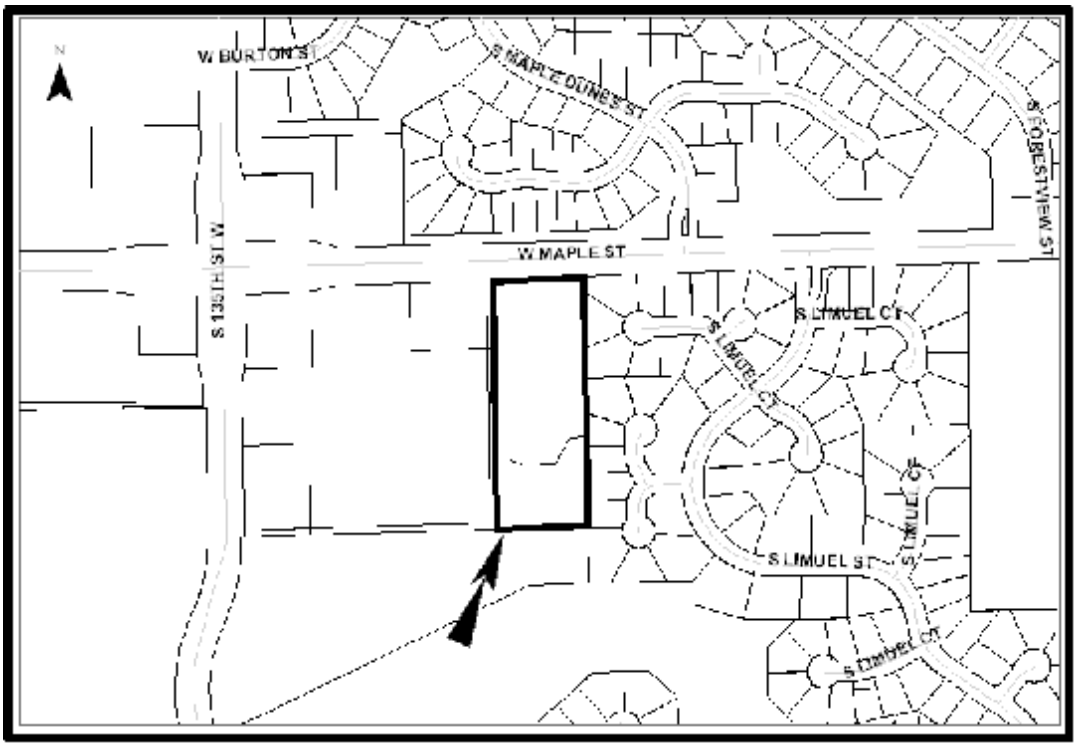
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendation for an amended Protective Overlay 130 (12-0-1).

MAPD Staff Recommendations: Approve, subject to an amended Protective Overlay 130.

DAB Recommendations: Approve, subject to staff recommendation and with the additional recommended amendment to limit the specific hours of operation for Protective Overlay 130 (9-1).



BACKGROUND: The applicant requests an amendment to Protective Overlay 130 (PO-130) to eliminate the prohibition on drive-through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit. The proposed sign would remain in the current sign location along Maple and west of the strip building on the site; the proposed drive-through coffee shop would be in the parking lot west of the strip building (see the attached site plan). PO-130 has been amended and adjusted several times, and currently exists as written below:

(1) 35-foot building setbacks along the site's south, north and east sides.
(2) Monument sign with a maximum sign face of 72 square-feet and a height of 12 feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
(3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.
(4) Shared internal access and shared access onto Maple Street with DP-219 AUBURN HILLS C.U.P.
(5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to lighting provided in the DP-219 AUBURN HILL C.U.P. Lighting elements shall be no higher than 14-foot when within 100-feet abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
(6) All utilities shall be installed underground.
(7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Evergreen trees may be planted along the south and east sides of the property at a spacing of 10 feet. The required front yard landscaping may be reduced by 50% if 50% of the landscaping materials are placed along the west side yard area. Landscaping shall be required prior to the issuance of any occupancy permit.
(8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be provided along the site's east and south sides.
(9) Screening of trash receptacles is not required for the building on the current approved site plan. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary.
(10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
(11) A metal east façade is permitted for the building on the current approved site plan. All future buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
(12) A 10-foot landscape easement shall be provided along the south and east sides of the tract. Austrian pine trees 14-feet in height shall be provided at a spacing of 12 feet along the east property line for the building on the current approved site plan. Elsewhere, evergreen trees shall be provided at a spacing of 10 feet.
(13) Prohibited uses include group residences, correctional placement residences, group homes, multi-family, asphalt and concrete plant, limited.
(14) Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. All other uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overly should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council.

The applicant has met with three property owners located to the east of the subject site and reports no opposition to this request. Several other neighbors have called staff opposed to this request, and one neighbor e-mailed staff with opposition to the request (see attached). This site was originally rezoned in 2003 from SF-5 Single-family Residential ("SF-5") to NR Neighborhood Retail ("NR") with PO-130.

The PO has since been administratively adjusted twice (in 2006 and 2007) with the effect of increasing the sign size from 8-feet tall and 48 square feet to the current 12 feet tall and 72 square feet; reducing landscaping requirements; waiving the architectural requirements to allow for a metal building façade; and waiving the dumpster screening requirement. The property was then rezoned in 2007 from NR to the current LC Limited Commercial ("LC") with a PO addition that the only LC land use permitted would be Limited Animal Care. It was this PO requirement that left NR land use restrictions in place, prohibiting restaurants over 2000 square feet, and prohibiting drive-through service.

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills CUP, located to the west. Property to the north, across Maple, is zoned SF-5 and developed with single-family residences. Property to the northwest is zoned LC and subject to development restrictions, Protective Overlay #17 that limits uses, building signage and access points. The property to the south is undeveloped and zoned GO General Office ("GO"), and is covered by Protective Overlay #140 that addresses architectural compatibility and density.

Analysis: At the MAPC meeting held July 24, 2008, the MAPC voted (12-0-1) to recommend approval of the protective overlay as recommended by staff. Opposition submitted by a neighbor via email was provided to the MAPC. At the District V Advisory Board meeting held August 4, 2008, DAB V voted (9-1) to recommend amending the protective overlay as recommended by staff with an additional amendment that would specify that the closing hour be no later than 12:00 a.m. No protest petitions have been received. The recommended amendment to the P-O 130 is as follows:

> Item (2) shall be amended to read "Monument sign with a maximum sign face of *132* square-feet and a height of *16.5* feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site."
>
> Item (9) shall be amended to read "Screening of trash receptacles is not required for the building on the current approved site plan, *except that all trash receptacles used by any restaurant shall be screened with solid screening*. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary."
>
> Item (14) shall be amended to read "Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. *Restaurants of up to 5,000 square feet shall be permitted. One drive-through coffee service shall be permitted, subject to circulation plan approval by the Traffic Engineer.* All other uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overly should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council."

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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 Amendment to Protective Overlay 130; 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.)

ORDINANCE NO. 47-986

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. ZON2008-00036

Request to amend Protective Overlay 130 on property described as:

Lot 1, Block 1 and Reserve A, Auburn Hills Commercial 4th Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Maple and 800 feet east of South 135th Street West.

.

THE AMENDED PROVISIONS OF PROTECTIVE OVERLAY DISTRICT 130:

Item (2) shall be amended to read "Monument sign with a maximum sign face of 132 square-feet and a height of 16.5 feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site."

Item (9) shall be amended to read "Screening of trash receptacles is not required for the building on the current approved site plan, except that all trash receptacles used by any restaurant shall be screened with solid screening. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary."

Item (14) shall be amended to read "Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. Restaurants of up to 5,000 square feet shall be permitted. One drive-through coffee service shall be permitted, subject to circulation plan approval by the Traffic Engineer. All other uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overly should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council."

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, September 9, 2008.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

Clear Lake

COMMUNITY UNIT PLAN (DP-307)

GENERAL PROVISIONS

1. This project is proposed to contain 24.45 gross acres.
2. The proposed development contains 2 parcels with a mixture of housing types.
3. Within the parcels, there are several land use options as indicated. Additionally, there is an option to mix the types of land uses within the parcels.
4. Setbacks are to be determined at the time of platting, depending on the land use below.
5. Should an alternate land use, permitted under parcel descriptions below, be developed instead of the parcel plan, a conceptual site plan shall be submitted to the Director of Planning for approval. The approval of this conceptual plan shall be subject to the conditions of platting.
6. All utilities shall be installed underground.
7. Signs designating the name of the proposed development shall be permitted at the entrance to the proposed development if they follow in accordance with the provisions of Section 28.04.139 of the Code of the City of Wichita.
8. An Owner's association shall be filed with the plat to provide for the maintenance of non-public space, parking areas, private streets or drives, walls, buffer areas, lakes, drainage channels, swales, etc. Failure of the homeowners association(s) to properly maintain the private spaces/ facilities/ systems, and after a joint determination by the Director of Planning and Superintendent of Central Inspection, shall constitute a violation of the building permit authorizing the construction of the proposed development, and shall give the city the right to properly assess the cost of maintenance to the association.
9. Any proposed drainage facilities, lakes, detention facilities, drainageways, swales, etc. shall be determined at the time of platting.
10. A divided median entrance off of 13th Street North will be allowed to permit the construction of a security gate if access is by a private street.
11. To provide a secondary point of access for emergency vehicles, an all-weather surface road shall be constructed within a platted emergency access easement to Hazelwood.
12. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.
13. Appropriate turn-arounds for dead end streets will be determined at the time of platting.
14. Off-street parking: Parking shall be provided in accordance with Section 28.04.140 et. seq. of the Code of the City of Wichita. If the street is designed with parking restrictions, a restrictive covenant requiring four (4) spaces per dwelling unit will be submitted at the time of platting.
15. The transfer of title on all or any portion of the land included in the C.U.P. does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns and their lessees unless amended.
16. A sidewalk and bike path plan connecting 13th Street North to the south property line shall be submitted for review and approval at the time of platting and in accordance with Park Board approval.
17. Street improvements to 13th Street North shall be addressed at the time of platting.
18. Trash receptacles shall be screened from view at ground level when commercial sized units are used.
19. Landscaping will be required for Parcel 2 where the development abuts residential lots.
20. At the time of building permit, a landscape plan developed by a Kansas licensed landscape architect will be required.

LEGAL DESCRIPTION

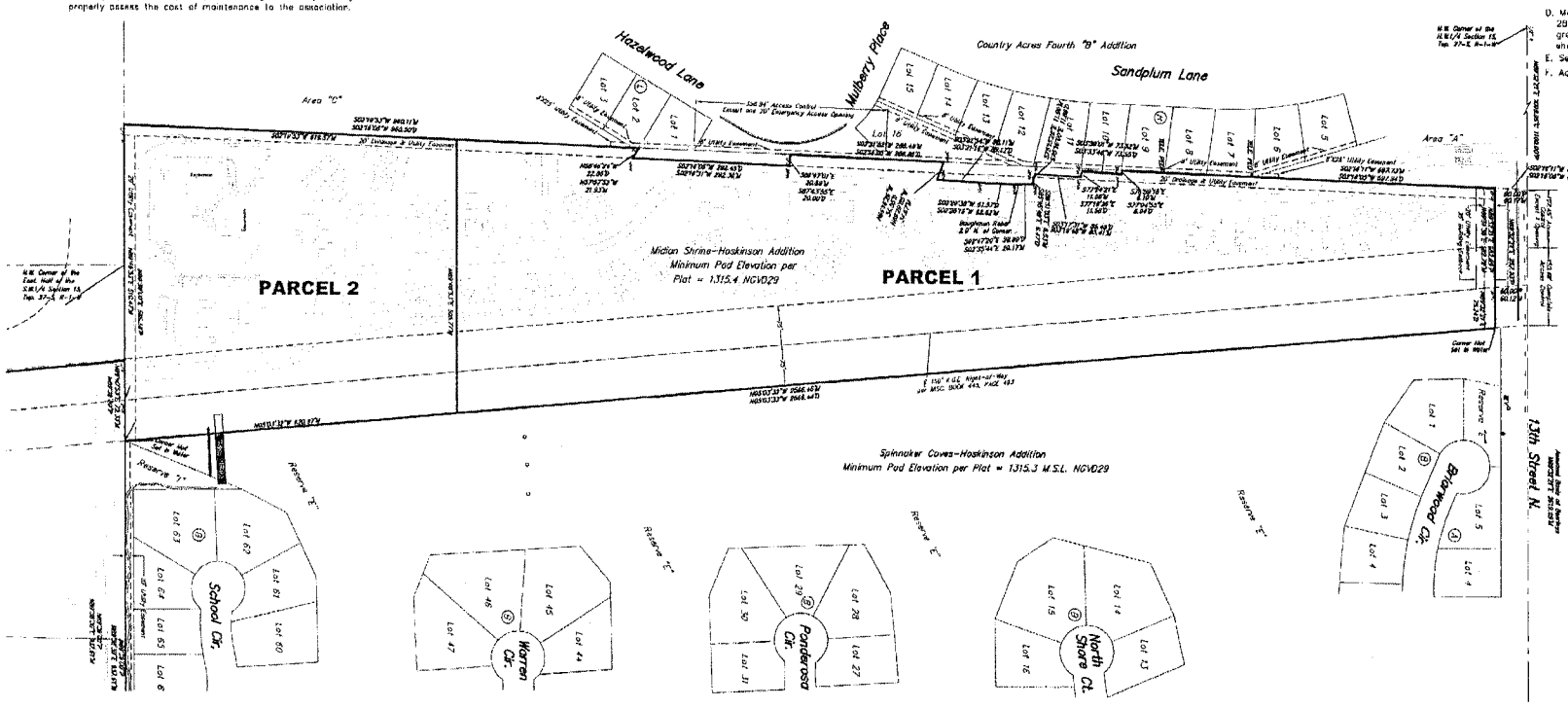
Lot 1, Block A, Midian Shrine-Hoskinson Addition, Wichita, Sedgwick County, Kansas, EXCEPT that part of said Lot 1 described as follows: Commencing at the Northeast corner of said Lot 1; thence S02°16'05"W along the West line of said Lot 1, 697.86 feet for a point of beginning; thence continuing S02°16'05"W along the West line of said Lot 1, 333.50 feet; thence S69°16'26"E, 34.55 feet; thence N03°21'14"E, 89.17 feet; thence N02°29'38"E, 61.57 feet; thence N02°47'20"W, 28.59 feet; thence N65°46'45"W, 6.47 feet; thence N75°16'00"W, 11.86 feet; thence N03°17'31"E, 85.45 feet; thence N77°18'26"W, 11.56 feet; thence N03°33'48"E, 73.55 feet; thence N77°04'55"W, 8.04 feet to the point of beginning. AND EXCEPT that part of said Lot 1 described as follows: Commencing at the Northwest corner of said Lot 1; thence S02°16'05"W along the West line of said Lot 1, 1318.22 feet for a point of beginning; thence continuing S02°16'05"W along the West line of said Lot 1, 291.38 feet; thence S58°46'24"E, 22.65 feet to a point on the East line of a 20 foot drainage and utility easement as granted in said Midian Shrine-Hoskinson Addition; thence N02°16'05"E, along the East line of said 20 foot drainage and utility easement, 292.45 feet; thence N87°43'55"W, 20.00 feet to the point of beginning. TOGETHER WITH all of Reserve "A" of said Midian Shrine-Hoskinson Addition, Wichita, Sedgwick County, Kansas.

PARCEL 1

A. Net Area:	±727,363 sq. ft.
A. Net Area:	or 16.70 acres
B. Proposed Uses:	Single Family, Patio Homes, Assisted Living, Townhomes, or Duplexes
C. Maximum Dwelling Units:	Single Family, Patio Home, Duplex, and/ or Townhome- 42 Units (NOTE: 1 Duplex= 2 Units)
D. Maximum building height to conform to Chapter 28.08 code of the city of Wichita, but shall not be greater than 35 feet, however, heights of structures shall be subject to UZC Sec. IV-C.5.b.	
E. Setbacks:	See General Provisions
F. Access Points	See Drawing

PARCEL 2

A. Net Area:	±337,770 sq. ft.
A. Net Area:	or 7.75 acres
B. Proposed Uses:	Independent Living Complex, Assisted Living, Single Family, Patio Homes, Townhomes, or Duplexes
C. Maximum Dwelling Units:	Single Family, Patio Home, Duplex, and/ or Townhome- 12 Units (NOTE: 1 Duplex= 2 Units) Independent Living= 150 Units
D. Maximum building height to conform to Chapter 28.08 code of the city of Wichita, but shall not be greater than 45 feet, however, heights of structures shall be subject to UZC Sec. IV-C.5.b.	
E. Setbacks:	See General Provisions
F. Access Points	See Drawing



Kuggles & Bohm, P.A.
Engineering, Surveying, Land Planning
Date of Preparation: June 24, 2008
Project No.: 5089

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

Mayor and Wichita City Council Members

FROM: Megan Buckmaster, District V Neighborhood Assistant

SUBJECT: CUP2007-00044

DATE: August 06, 2008

On Monday, August 04, 2008, the *District Advisory Board (DAB) for Council District V* considered an application for CUP2007-44 DP-307 Clear Lake Residential Community Unit Plan: a Community Unit Plan to permit single-family residential, patio homes, two-family residential, town homes and assisted and independent living facilities located 1/8 mile east of Ridge Road, south of 13th Street North; 24.46 acres.

The site is currently zoned SF-5 Single-family Residential ("SF-5") with a Conditional Use (CON2003-48) that permits "community assembly," subject to specific development conditions. Access to the site is via a divided median entrance off of 13th Street located on property currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and Park Board have been in talks to trade property in return for an access through the site. The applicant is offering to construct a bike path through the Park Board's land and the subject site, extending from 13th Street to Central Avenue.

Planning staff recommends the request be APPROVED subject to re-platting within one year, development of the site with a road connection to the south, and to the conditions contained in the proposed CUP, as may be amended, by the MAPC.

The request was approved by DAB V with a unanimous vote of 10-0-to move forward to City Council for vote per planning staff recommendation.

EXCERPT OF JULY 24, 2008 MAPC HEARING

Case No.: CUP2007-44 – Midian Temple Co., Inc., (Delbert E. Fowler); Ruggles & Bohm (Terry Smythe); LAM Properties (Mike Lies) Request Creation of DP-307 Clear Lake Community Unit Plan on property described as;

Lot 1 and Reserve A, Midian Shrine Hoskinson Addition, Sedgwick County, Kansas. Generally located south and east of the intersection of 13th Street North and Ridge Road.

BACKGROUND: The application area is 24.46 platted acres located 1/8 mile east of Ridge Road, just south of 13th Street North. The site is currently zoned SF-5 Single-family Residential ("SF-5") with a Conditional Use (CON2003-48) that permits "community assembly," subject to specific development conditions: development of the site is to follow the adopted site plan; a bulletin board sign up to 48 square feet along an arterial street may be permitted; portable signs are prohibited; architectural compatibility with surrounding neighborhood is required; parking lot light standards are limited to 14 feet and are required to use cut-off luminaries; trash receptacles and HVAC units are to be screened from ground view and lighting of outdoor playing fields is prohibited. The applicant is currently requesting the creation of the Clear Lake Community Unit Plan DP-307, which would permit a variety of residential uses.

As proposed, Clear Lake Community Unit Plan would permit: single-family residential, patio homes, two-family residential, townhomes, assisted living and independent living on two parcels. (Since the request does not include multi-family, the no more than two townhomes can be attached, since three attached units are considered multi-family by the zoning code. Assisted living is a defined use in the zoning code; independent living is not.) Density of the dwelling units would vary depending upon the type of construction. With its current SF-5 zoning, the gross maximum number of units that could potentially be built would be 212 at 8.71 dwelling units per acre. The gross dwelling unit density proposed by the CUP is to be 54 dwelling units for the single-family residential, patio homes, two-family residential and townhomes in both parcels (42 units for Parcel 1 and 12 units for Parcel 2) versus the 144 units initially proposed. The proposed dwelling unit density for Parcel 1 is 2.5 units per acre, while Parcel 2 does propose an independent living complex with around 150 units. The total number of units proposed for Parcel 2 is 162, which equates to 20.8 units per acre. However, the density is determined by the total area of the CUP, not the individual parcels. The total number of units proposed for this development is 204 units (versus the original 212 units) at 8.34 dwelling units per acre, just under the gross maximum allowed for the SF-5 zone district.

Maximum building height is set at 35 feet, which is consistent with the SF-5 height standard. Parking is to be provided per code, and if the street is designed with parking restrictions, a restrictive covenant requiring four (4) spaces per dwelling unit will be submitted at the time of platting.

Access to the site is via a divided median entrance off of 13th Street located on property currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and Park Board have been in talks to trade property in return for an access through the site. The applicant is offering to construct a bike path through the Park Board's land and the subject site, extending from 13th Street to Central Avenue. The agreement between the two parties will be contingent on the outcome of this case. Buildings located on the site are to be served by a nearly ½ mile long street that travels along the west edge of the property, then ends up towards the eastern portion of the property near the extreme southern side of the property. The applicant proposes an "emergency access only" stub, going west to North Hazelwood Lane, and located approximately half way down the primary street within the subdivision. This emergency access will be a gated access for emergency vehicles only, on an all-weather surface to be

constructed within a platted emergency access easement to Hazelwood. The applicant is also proposing the possibility of gated access to the site (General Note 10). If the roadway is private then a gated entrance will likely not be an issue. Staff is not aware of any gated public streets in the City of Wichita.

Up to one-fourth of the eastern portion of the site is currently located within the floodway (zone AE) while all of the remainder of the southern half of the site is located in a flood fringe zone that in any given year has a .2 percent chance of flooding. A 150-foot wide utility easement is located along the eastern property line, and may well encompass all of the land encumbered by the floodway. The utility easement is developed with overhead electric lines and poles. As shown on the proposed CUP, the rear of the homes would set just west of the 150-foot Westar utility easement located along the property's eastern boundary. This arrangement places all of the backyards of the dwelling units backing towards the lake within the utility easement.

A 30-foot building setback is shown along 13th Street. Setbacks are to be determines at the time of platting, depending on the land use. In general, front setbacks range from 20 to 25 feet; rear setbacks are set at 20 feet. A 20-foot utility and drainage easement is shown along the western property line.

The site's base zoning of SF-5 permits minimum lot sizes of 5,000 square feet, and permits 8.712 dwelling units per acre. Spinnaker Cove Addition is developed at approximately 1.16 dwelling units per acre while Country Acres Addition is developed at approximately 3.01 dwelling units per acre.

Property to the west is zoned SF-5 Single-family Residential ("SF-5") and is developed with single-family residences, while property to the east, separated from the subject site by a lake, is zoned SF-5 and is also developed with single family residences. Property to the south is zoned MF-29 Multi-family Residential ("MF-29") and is developed as a high density apartment complex, while property to the north is zoned SF-20 Single-family Residential ("SF-20") and is developed with as a public park (Sedgwick County Zoo/Park.)

CASE HISTORY: CON2003-48, discussed above, was approved by the City Council on May 4, 2004, and the Midian Shrine Hoskinson Addition was recorded in October 2004. The current case (Clear Lake Community Unit Plan) is a continuation of the amended deferred case, Tranquility Bay Community Unit Plan, which was deferred at the September 20, 2007, MAPC meeting, and then denied at the October 4, 2007 MAPC meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20 Single-family Residential ("SF-20")	Sedgwick County Park
SOUTH:	MF-29 Multi-family Residential ("MF-29")	Apartments
EAST:	SF-5 Single-family Residential ("SF-5")	Lake, Single-family residences
WEST:	SF-5 Single-family Residential ("SF-5")	Single-family residences

PUBLIC SERVICES: 13th Street is designated as a five-lane arterial on the 2030 Transportation Plan map. At this location, 13th Street has 60 feet of half street right-of-way, and is developed as a four-lane arterial. Average daily traffic volume on 13th Street east of Ridge Road is 12,704. Access is proposed to enter the site from the northwest, through property that is currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and Park Board have been in talks to trade property in return for an access through the site. "Retirement communities," on a daily average, generate less than one trip per day per unit while single-family units generate 9.5 average daily trips. Fifty-four single-family units and 150 assisted living units could be expected to generate approximately 663 average daily trips; whereas 144 single-family units could be expected to generate 1,368 trips per day. The applicant is offering to construct a bike path through this property and the subject site, extending from

13th Street to Central Avenue. The agreement between the two parties will be contingent on the outcome of this case. Public sewer and water is available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes).

The Comprehensive Plan's "Residential Locational Guidelines" for medium and high density residential state that such uses should be: (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to areas within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

RECOMMENDATION: Staff is generally supportive of applications dealing with vacant passed over land that has public services located nearby. Staff is encouraged by the possibility of a bike path being constructed and the lower densities than what has been proposed in the past. The new design of the CUP keeps the location of the proposed dwelling units out of the utility easement and up to 110 feet from the shoreline of the lake located on the eastern edge of the subject site. Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to re-platting within one year, development of the site with a road connection to the south, and to the conditions contained in the proposed CUP, as may be amended, by the MAPC.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the west is zoned SF-5 Single-family Residential ("SF-5") and is developed with single-family residences, while property to the east, separated from the subject site by a lake, is zoned SF-5 and is also developed with single family residences. Property to the south is zoned MF-29 Multi-family Residential ("MF-29") and is developed as a high density apartment complex, while property to the north is zoned SF-20 Single-family Residential ("SF-20") and is developed with as a public park (Sedgwick County Zoo/Park.)

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential, and by zoning permits up to 8.71 units per acre for a total

of 212 single-family units. Although there are floodplain issues and other development constraints that likely would reduce the ultimate density of the site. The site could be developed as zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site could potentially allow up to 212 single-family units, which could generate as many as 2,014 average daily trips. As proposed by the application, 663 average daily trips can be expected. The applicant is proposing up to 54 single-family and/or duplex units and up to 150 assisted living units for a total of 204 units. As proposed, the development is essentially self contained in that all non-emergency traffic will be directed north or south and not east of west through existing neighborhoods and streets. The only connection to existing neighborhood streets is an emergency access only drive where Mulberry Place and Hazelwood Lane meet. The lake to the east provides exceptional buffer for the Spinnaker Coves neighborhood. Country Acres Neighborhood will be the most effected in that the Country Acres lots fronting Sandplum Lane will now have a roadway to their rear, and use of the park for a roadway will be a significant change from park and open space use. However, these impacts should not be any greater than those experienced by other typically laid out neighborhoods where houses front other houses or back up to each other. Drainage concerns have been expressed in previous hearings. If approved, drainage issues will have to be addressed at the time of platting.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

5. Length of time the property has been vacant: The property is currently vacant.

6. Impact of the proposed development on community facilities: Public sewer and water services are available and can be extended to the site. Drainage issue will have to be addressed. There may be a need for decel and center-left turn lanes in 13th Street.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

HILLMAN commented that the proposed recreation pathway and utility easement along the west edge of the property looked complicated. He also asked if water and sewer was under the electrical easement, and if there would be overlapping.

SLOCUM commented that he believed the proposed hike/bike path would run east of the housing.

DENNIS asked about access to the City owned parkland located in the southwest corner next to the parcel.

FOSTER asked about the possibility of adding the potential bike path as a condition of approval.

MILLER commented that staff had originally added the bike path as a condition of approval on an earlier proposal concerning this property. He said when that proposal was rejected and denied, staff decided not to add that as a condition this time around.

There was brief discussion as to whether enough time had passed since the last denial on this parcel (one year between applications); however, it was also noted that if there were sufficient changes to the application, only six months was required.

LANG commented that after the MAPC finding that there were sufficient changes from the original application, this case can qualify for a 6 month delay. He suggested that the Commission act on that item first.

> **MOTION:** That there were enough changes to the application that it qualified for a six-month delay
>
> **MARNELL** moved, **DOWNING** seconded the motion, and it carried (13-0).

SHERMAN out @3:35 P.M**.**

TERRY SMYTHE, RUGGLES & BOHM, AGENT FOR APPLICANT said that this was part of continuation of an old hearing that met with a resounding thud. He said they have revised the proposed layout, and spent time meeting with staff and the Spinnaker Cove and County Acres Homeowners Associations and the Park Board. He said the proposal was for an independent and assisted senior living center that would generate low level traffic density. He mentioned various aspects of the development including the proposed bridge to the south; the northern piece along 13th Street; and the possibility of a drive occurring on the park property to the west of the Shriner's Addition property so that the north entrance driveway will be further away from the bridge on 13th Street. He mentioned that the Park Board still owns a small piece of property on the southwest end of the parcel, which is landlocked, and he does not believe the Park Board is interested in disposing of it. He said everyone loves the idea of the hike/ bike path, the location of which is yet to be determined. He said they would spend more time with the Park Board regarding that issue. He concluded by stating that they are in agreement with staff comments.

MCKAY clarified that this would be a gated community. He also mentioned his concern about ingress/egress for emergency vehicles, adding that since this was a retirement complex, ambulances would probably be a daily occurrence.

SMYTHE said they envision that the gates on both ends of the property will be key coded or accessed with a computer key card. He said emergency services will be provided with the key code or key card. He added that there will be no access to County Acres from the private drive, other than for emergency services.

DENNIS commented that he liked this proposal better than anything else that has been brought before the Commission for this property. He asked about the possibility of using some of the north parcel for a park.

SMYTHE said they haven't entertained that idea.

DENNIS said he was concerned about how the Park Department would maintain its property and asked if the developer would allow access across the property they own for that purpose.

SMYTHE said they have no problem with allowing City personnel access across their property to maintain the park. He said they understand that most of the land is being mowed and maintained by the homeowners whose property backs up to the parkland.

There was brief discussion concerning lake rights at Spinnaker Cove and signs that may have to be posted restricting lake use.

THOMAS FOLEY, 6611 SCHOOL CIRCLE said they generally agreed with the proposal, but they have not seen enough detail on the proposed housing units. He mentioned size and approximate price range that would be compatible with Spinnaker Cove. He mentioned discussion of the lake rules and the proposal that this be a 24-hour gated community. He added that he was not looking forward to hearing an ambulance a day 120 feet from his house. He said they would like to see the bridge eliminated from the proposal and 13th Street used as the sole entrance into the complex. He mentioned how the road was configured and stated that headlights will shine directly into his and his neighbor's houses. He also requested that the turnaround point be eliminated. He further mentioned that they would like to see the hike/bike path as private use for that addition and the north and south properties. He mentioned fishing in Clear Lake and how association dues pay to stock the lake for the exclusive fishing enjoyment of members of the association and asked how those rights could be protected. He concluded by stating that they were also concerned about crime, trash, and unauthorized lake use.

SMYTHE commented that they have met with the Spinnaker Cove Homeowner's Association and thought they had a pretty good understanding. He said this was a general site plan and any issues such as lights shining into Mr. Foley's backyard could be dealt with by screening or landscaping. He said they are committed to taking care of him. He said the hike/bike path is critical for the City and that it cannot be a "private" path. He suggested that signs could be posted along the area to indicate that Clear Lake is a private lake for residential use only. He said estimated cost per unit is approximately $175,000, depending on what the market will bear and making the units as affordable as possible.

HILLMAN commented that since the pathway was so critical to the City that it be included in the motion. He clarified that the Park Board is contributing land but not actually paying for the pathway.

SMYTHE said they are in preliminary discussion concerning the location of the hike/bike path; how they will finance the project, which he said will cost approximately $800,000 for one mile. He said they have been looking at the property for some time and feel this is a good proposal.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **DOWNING** seconded the motion, and it carried (12-0).

Agenda Item No. V-4

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: CUP2007-00044 – Community Unit Plan to permit single-family residential, patio homes, two-family residential, townhomes, assisted living and independent living; generally located 1/8 mile east of Ridge Road, south of 13th Street North. (District V)

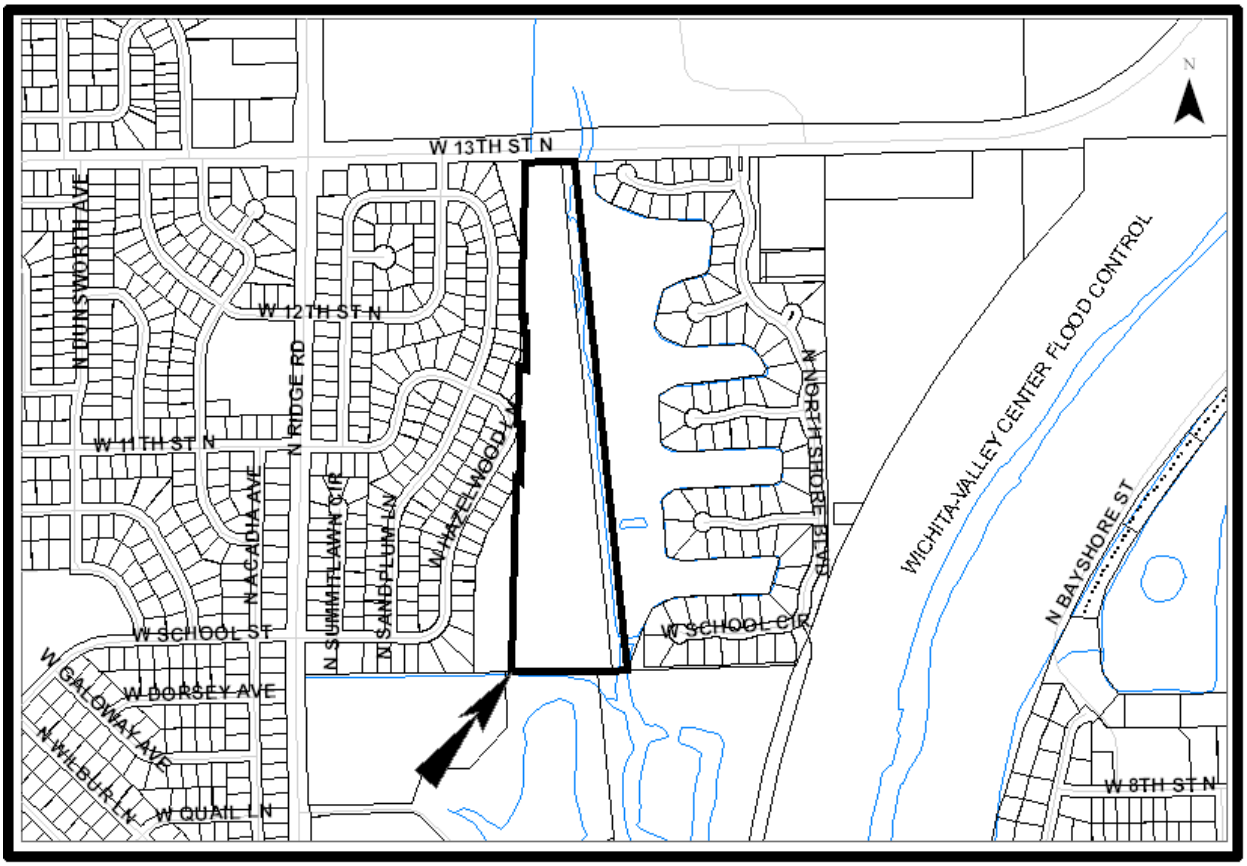
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, (12-0)

MAPD Staff Recommendations: Approve

DAB Recommendations: Approve, (10-0)



Background: The application area is 24.46 platted acres located 1/8 mile east of Ridge Road, just south of 13th Street North. The site is currently zoned SF-5 Single-family Residential ("SF-5") with a Conditional Use (CON2003-48) that permits "community assembly," subject to specific development conditions: development of the site is to follow the adopted site plan; a bulletin board sign up to 48 square feet along an arterial street may be permitted; portable signs are prohibited; architectural compatibility with surrounding neighborhood is required; parking lot light standards are limited to 14 feet and are required to use cut-off luminaries; trash receptacles and HVAC units are to be screened from ground view and lighting of outdoor playing fields is prohibited. The applicant is currently requesting the creation of DP-307 Clear Lake Community Unit Plan, which would permit a variety of residential uses.

As proposed, Clear Lake Community Unit Plan would permit: single-family residential, patio homes, two-family residential, townhomes, assisted living and independent living on two parcels. Density of the dwelling units would vary depending upon the type of construction. With its current SF-5 zoning, the maximum number of units that could potentially be built would be 212 at the maximum density of 8.71 dwelling units per acre. The gross number of dwelling units proposed by the CUP is to be 54 dwelling units for the single-family residential, patio homes, two-family residential and townhomes in both parcels (42 units for Parcel 1 and 12 units for Parcel 2.) The proposed dwelling unit density for Parcel 1 is 2.5 units per acre. Parcel 2 does propose an independent living complex with around 150 units. This brings the total number of units proposed for Parcel 2 to 162 units, which equates to 20.8 units per acre. However, the density is determined by the total area of the CUP, not the individual parcels. The total number of units proposed for this development is 204 units, which is 8.34 dwelling units per acre, just under the gross maximum allowed for the SF-5 zone district.

Maximum building height is set at 35 feet, which is consistent with the SF-5 height standard. Parking is to be provided per code, and if the street is designed with parking restrictions, a restrictive covenant requiring four (4) spaces per dwelling unit will be submitted at the time of platting.

Access to the site is via a divided median entrance off of 13th Street North located on property currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and the Park Board have been in talks to trade property in return for access through the site. The applicant is offering to construct a bike path through this property and the subject site, extending from 13th Street North to Central Avenue. The agreement between the two parties will be contingent on the outcome of this case. Buildings located on the site are to be served by a nearly ½ mile long street that travels along the west edge of the property, then ends up towards the eastern portion of the property near the extreme southern side of the property. The applicant proposes an "emergency access only" stub, going west to North Hazelwood Lane, and located approximately half way down the primary street within the subdivision. This emergency access will be a gated access for emergency vehicles only, on an all-weather surface to be constructed within a platted emergency access easement to Hazelwood. The applicant is also proposing the possibility of gated access to the site (General Note 10). If the roadway is private, then a gated entrance will likely not be an issue. Staff is not aware of any gated public streets in the City of Wichita.

Up to one-fourth of the eastern portion of the site is currently located within the floodway (zone AE) while all of the remainder of the southern half of the site is located in a flood fringe zone that in any given year has a .2 percent chance of flooding. A 150-foot wide utility easement is located along the eastern property line, and may well encompass all of the land encumbered by the floodway. The utility easement is developed with overhead electric lines and poles. As shown on the proposed CUP, the rear of the homes would set just west of the 150-foot Westar utility easement located along the property's eastern boundary. This arrangement places all of the backyards of the dwelling units backing towards the lake within the utility easement.

A 30-foot building setback is shown along 13th Street. Setbacks are to be determined at the time of platting, depending on the land use. In general, front setbacks range from 20 to 25 feet; rear setbacks are set at 20 feet. A 20-foot utility and drainage easement is shown along the western property line.

The site's base zoning of SF-5 permits minimum lot sizes of 5,000 square feet, and permits 8.712 dwelling units per acre. Spinnaker Cove Addition is developed at approximately 1.16 dwelling units per acre while Country Acres Addition is developed at approximately 3.01 dwelling units per acre.

Property to the west is zoned SF-5 Single-family Residential ("SF-5") and is developed with single-family residences, while property to the east, separated from the subject site by a lake, is zoned SF-5 and is also developed with single family residences. Property to the south is zoned MF-29 Multi-family Residential ("MF-29") and is developed as a high density apartment complex, while property to the north is zoned SF-20 Single-family Residential ("SF-20") and is developed with as a public park (Sedgwick County Zoo/Park.)

Analysis: At the MAPC meeting held July 24, 2008, the MAPC voted (12-0) to approve subject to staff recommendations and with the additional conditions set by the Planning Commission including: development of the site with a road connection to the south, cooperation with the Park Board in regards to the use and access of properties to the northwest and southwest of the subject site, the construction of a bike path and to the conditions contained in the proposed CUP. One citizen spoke in opposition and no protests have been received. DAB V heard this request at their August 4, 2008 meeting and voted (10-0) to approve subject to staff recommendations.

Financial Considerations: None.

Goal Impact: Ensure Economic Vitality.

Legal Considerations: None.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the Community Unit Plan, subject to re-platting within one year, development of the site with a road connection to the south, cooperation with the Park Board in regards to the use and access of properties to the northwest and southwest of the subject site, the construction of a bike path and to the conditions contained in the proposed CUP; or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3-majority vote of the membership of the governing body on the first hearing.)

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Repeal Resolution No. 08-233 pertaining to island annexation case A08-03R Request by Ernie R. Kumpe, of Kumpe Development Inc. and Corwyn Oldfield, of American Inc. to annex land generally located northwest of 45th Street North and 135th Street West. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Repeal Resolution No. 08-233 and withdraw the annexation request to Sedgwick County.

Background:
On March 24, 2008, the City of Wichita received an island annexation request from Ernie R. Kumpe, of Kumpe Development Inc. and Corwyn Oldfield, of American Inc. to annex 72.3 acres of land generally located northwest of 45th Street North and 135th Street West. The developer was referred to the City of Colwich by the Development Coordinating Committee (DCC) as the property was in the Colwich growth area.

On May 6, 2008, the island annexation was presented to the Wichita City Council with the understanding that the developer had received consent from the City of Colwich to request annexation from the City of Wichita. Therefore, the City of Wichita adopted a resolution to initiate the island annexation process by requesting the Sedgwick County Board of County Commissioners to make a finding that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other city located within the county. On May 9, 2008, the Wichita City Clerk filed a certified copy of the resolution with the Board of County Commissioners.

The Board of County Commissioners' policy is to send a notice of the proposed annexation to any city in the surrounding area that may have concerns about the effect of the annexation on their city's growth. By May 22, 2008, the City of Maize notified the County and the City of Wichita of questions it had about the proposed annexation. City staff had overlooked the boundary lines of the Wichita/Maize Agreement when addressing the Colwich growth area. As a result, the City of Wichita staff requested Sedgwick County to defer this agenda item until matters could be resolved with the City of Maize.

In April 2005, the City Council approved a settlement of a lawsuit between the City of Maize and the City of Wichita related to disputed unilateral annexations. The purpose of the Settlement Agreement was to define future growth areas between the cities. The Settlement Agreement provides that neither party would annex across the boundary lines established in the agreement. The proposed island annexation was within the Maize annexation area.

Maize has informed the City of Wichita of their preference to annex the subject property. The developer is agreeable to being annexed by the City of Maize and also having water service provided by Maize. Under the terms of the agreement, the City of Wichita has the option of providing sewer service to the property.

Analysis:
The proposed action will repeal Resolution No. 08-233 and withdraw the annexation request to Sedgwick County. This action is necessary to comply with the Wichita/Maize Settlement Agreement.

Financial Considerations: There is no direct financial impact of the proposed withdrawal.

Goal Impact: Repealing Resolution No. 08-233 would impact Wichita's Economic Vitality Goal by assuring compliance with the City's legal obligations.

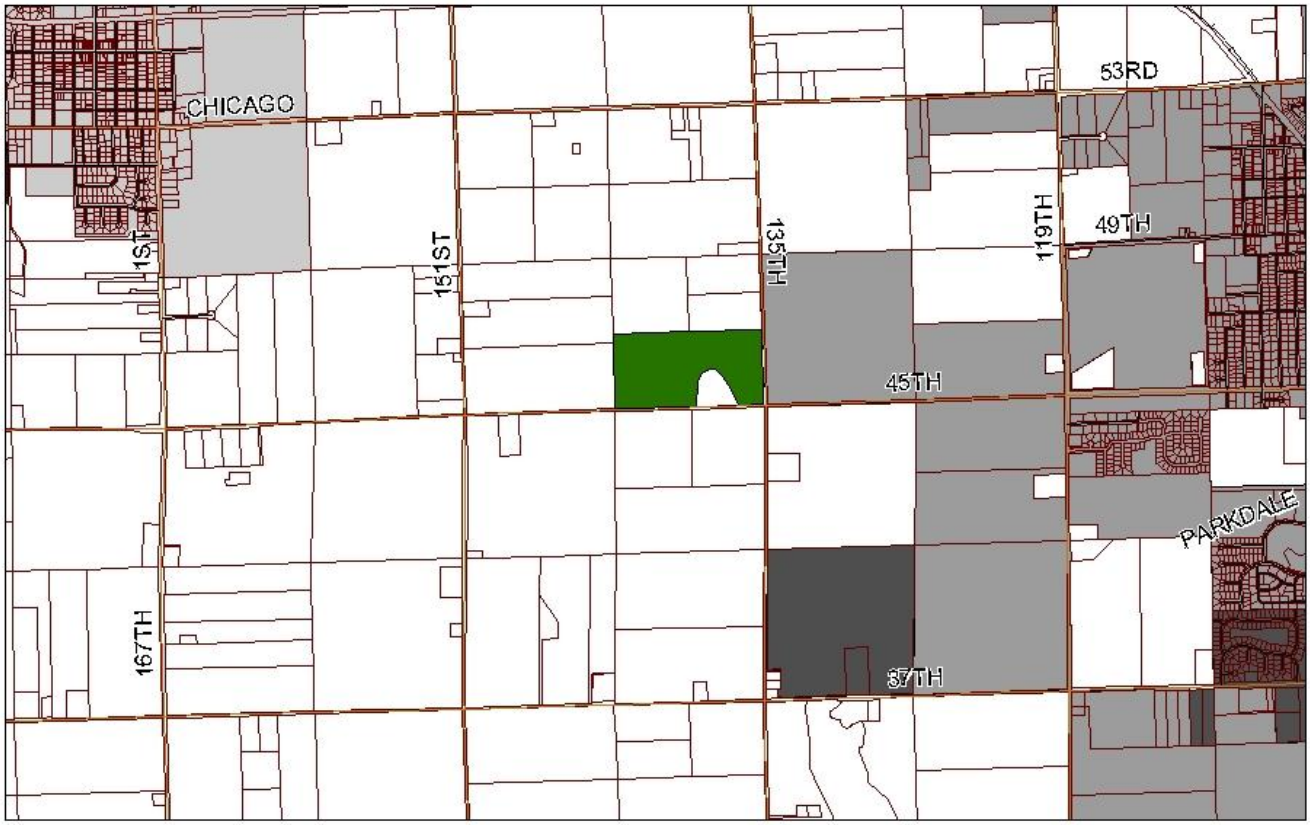
Legal Considerations: Annexation of this property would be a violation of the Wichita/Maize Settlement Agreement; therefore, repealing Resolution No. 08-233 is in the best interest of the City of Wichita. The proposed action is approved as to form by the Law Department.

Recommendations/Actions: Repeal Resolution No. 08-233 and withdraw the annexation request to Sedgwick County.

Planning Agenda **Item:** A08-03 Attachment No. 1

General Location: Land generally located northwest of 45th Street North and 135th Street West.

Repeal Resolution No. 08-233
Pertaining to Island Annexation Case A08-03



Subject Property **City Limits**

COLWICH

MAIZE

WICHITA

N

Software: ArcGIS
Map Data Sources:
City if Wichita
Sedgwick County
Prepared: 3/31/08

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property represented on this map is not intended to be inclusive.

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL AUGUST 26, 2008

a. Berkley Square Parkway, Phase 2, from the west line of Lot 1, Block 1 to the east line of Lot 3, Block 1 to serve Greenwich Office park and others (north of 13th Street North, west of Greenwich) (472-84644a/766189/490207) Does not affect existing traffic. (District II) - $112,314.00

b. Ridgepoint from the west line of Nickleton, west ot the east ine of Decker; Decker from the south line of the plat, north to the south line of Westport; Westport from the east line of Decker, west to the west line of Lot 48, Block C; Westport Ct. from the north line of Westport north and east including the cul-de-sac; Decker Ct. from the east line of Decker, east to and including the cul-de-sac; sidewalk be constructed on Ridgepoint, Decker and Westport to serve Silverton Addition (north of 13th Street North, west of 135th Street West) (472-84460/766205/490223) Does not affect existing traffic. (District V) - $654,350.00

c. Westport from the west line of Lot 48, Block C, west to the west line of Lot 23, Block F; Bellick from the north line of Westport, north to the north line of the plat; Bellick Ct. (Lots 1 through 19, Block D) from the west line of Bellick, west to and including the cul-de-sac; Bellick Ct (Lots 61 through 72, Block C) from the east line of Bellick, east to and including the cul-de-sac; sidewalk be constructed on Westport and Bellick to serve Silverton Addition (north of 13th Street North, west of 135th Street West) (472-84461/766203/490221) Does not affect existing traffic. (District V) - $626,400.00

Agenda Item No. XII-5a

City of Wichita
City Council Meeting
August 26, 2008

TO:	Mayor and City Council Members
SUBJECT:	Petitions to Renovate Building Facades in the Core Area (Districts I & VI)
INITIATED BY:	Office of Urban Development
AGENDA:	Consent

Recommendation: Approve the petitions, adopt the resolutions, and establish September 9, 2008 as the date for a formal public hearing.

Background: Since 2001, the City has provided a Facade Improvement Program. It is available to properties in defined areas, including the City's core area. On January 15, 2008, the City Council conceptually approved a request from Real Development for exterior improvements to seven high-rise buildings in the downtown area. Costs of improvements are paid through issuance of special assessment debt against the subject buildings. The buildings are:

- Kaufman Building – 208 South Market
- Landmark Square Building – 212 North Market
- Farmers and Bankers Building – 200 East 1st
- Orpheum Office Building – 200 North Broadway
- Petroleum Building – 221 South Broadway
- Sutton Place Building – 209 East William
- SC TelCom Building – 125 North Market

On March 4, 2008, the City Council approved petitions, adopted resolutions and established a public hearing for March 18, 2008 to formally consider the request. Due to issues with fractional ownership and lending agreements, the public hearing was deferred to provide an opportunity to address these issues. On April 22, 2008 the City Council approved petitions, adopted resolutions and established a new public hearing for May 6, 2008 to formally consider the request for three of these properties where there was no fractional ownership. The City Council approved the requests for these properties and formally adopted the resolutions. These properties were:

- Kaufman – 208 South Market
- Landmark Square – 212 North Market
- Farmers and Bankers – 200 East 1st

Also on May 6, 2008 the City Council held a public hearing on the advisability of the facade improvements to the Wichita Executive Center (SC Telecom) facade (as part of an "ordering in" process), approved the project, adopted a resolution authorizing the creation of an improvement district and established a new public hearing for May 20, 2008 to formally consider special assessments for these improvements. On May 20, 2008, the City Council adopted the ordinance and approved the special assessments for the Wichita Executive Center. These improvements represented only about 18% of the total facade improvements initially requested for the WEC. Real Development is expected to return at a

later date with a request for special assessment financing of the balance of facade improvements envisioned for the WEC.

The three remaining buildings – Orpheum, Petroleum, Sutton Place – all have fractional ownership. For this reason it was necessary to obtain petitions signed by all owners of each building. At this time, Real Development would like to move forward with Facade Improvement Program petitions for these three buildings, having secured the necessary petition signatures from all partial owners.

Analysis: Total combined cost for the three proposed facade improvements identified above (Orpheum, Petroleum and Sutton Place) is projected to be $3,111,689 (exclusive of financing costs). The table below itemizes the costs for each building.

BUILDING	CONSTRUCTION, ARCHITECT & ENGINEER	REAL DEV PROJ MGR	10% CONTINGENCY	PW ADMIN FEE (2%)	10% DEVELOPMENT FEES	TOTAL
Orpheum	172,456	5,576	17,246	3,449	16,743	215,470
Petroleum	458,749	14,833	45,875	9,175	44,539	573,171
Sutton Place	1,859,300	60,117	185,930	37,186	180,515	2,323,048
TOTAL	$ 2,490,505	$ 80,526	$ 249,051	$ 49,810	$ 241,797	$ 3,111,689

This project will utilize a slightly different process than normal special assessments. The protest period that normally comes at the end of a completed project (after there is a final statement of cost) will instead take place on the front end. For this reason, a ***maximum assessment amount*** is provided, which cannot be exceeded. Therefore, a 10% contingency is included in the estimated costs. An administrative charge for the City that is part of the Facade Improvement Program and development fees for Real Development are also included. A summary for each building follows:

The **Orpheum Office Building** is a seven story office building with 44,428 s.f. located at 200 N. Broadway. Owners have already invested in interior improvements, including technology infrastructure and common area remodeling. Projected cost for the facade improvements on this building is $215,470 (increasing to $280,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The **Petroleum Building** is an eight story office building with a total of 44,804 s.f. located at 221 S. Broadway. Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building is $573,171 (increasing to $750,000 with estimated financing costs). The proposal assumes 15-year special assessment financing.

The **Sutton Place** is an eight story building (plus a basement and penthouse) with a total 92,000 s.f. located at 209 E. William Owners have already invested in technology and common area improvements. Projected cost for the facade improvements on this building is $2,323,048 (increasing to $2,955,000 with estimated financing costs). The proposal assumes 20-year special assessment financing.

Some improvements to the buildings are general and involve improvements such as masonry repair, tuckpointing, cornice repair, power washing, exterior painting, and window and door repair/replacement. In addition, more substantial improvements include changing the exterior appearance of the building on some sides to create a visually stimulating impact to travelers entering the downtown area.

Each building improvement project will require a separate special benefit district to be established. State

law requires a formal public hearing to levy assessments for each special assessment benefit district. All projects may share the same public hearing.

Financial Considerations: The combined project budget for all three buildings to be paid by special assessments at this time is estimated at $3,985,000. These will be Taxable General Obligation Special Assessment Bonds, paid as to principal and interest with special assessments levied against the improved properties and will be backed by the full faith and credit of the City of Wichita. Staff has been working with Bond Counsel (Kutak Rock) and a Financial Advisor (Springsted) to perform due diligence with regard to the City's risk and how the bonds would be structured. Included in the issue will be a one year debt service reserve and a small financing contingency to mitigate risk and ensure the maximum assessment is not exceeded. Also, interest rates have been cautiously assumed at 6.75% for permanent financing. Other risk mitigation options that could be applied include: requiring the City to approve any sale of the assessed buildings (or at least requiring the City to receive notification of a pending sale); requiring the sale of a building to trigger the funding of an escrow account to ensure payment of all future principal and interest; and/or phase the financing in a manner that would allow the City on-going information on actual occupancy and lease rates.

A "not to exceed" amount for each special assessment district is included in each of the separate petitions and resolutions. The following table itemizes the estimated cost per facade project, including the estimated financing costs:

BUILDING	Total Net Bond Proceeds	Estimated Financing Costs	Total Principal
Orpheum	215,470	64,530	280,000
Petroleum	573,171	176,829	750,000
Sutton Place	2,323,048	631,952	2,955,000
TOTAL	$ 3,111,689	$ 873,311	$ 3,985,000

Goal Impact: The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

Legal Considerations: State statutes provide the City Council authority to use special assessment funding for the projects. A formal public hearing is required as part of the approval process. The petitions approved and resolutions adopted today will set the maximum amount for each special assessment district and establish the date of the public hearing (September 9, 2008). Actual amounts to be special assessed at the completion of construction may be less, but they may not exceed the amounts included in the petitions and resolutions.

Recommendation/Action: It is recommended that the City Council approve the Petitions, adopt the Resolutions, authorize the necessary signatures, and set the public hearing for September 9, 2008.

*Attachments: Petitions (3)
Resolutions (3)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-426

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF FACADE IMPROVEMENTS AT 200 NORTH BROADWAY (NORTH OF 1ST, EAST OF BROADWAY) 472-84681 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING FACADE IMPROVEMENTS AT 200 NORTH BROADWAY (NORTH OF 1ST, EAST OF BROADWAY) 472-84681 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Facade Improvements at 200 North Broadway abutting public ways, including 1st Street and Broadway Street (north of 1st, east of Broadway) 472-84681.

Said improvements shall be constructed in accordance with plans and specifications approved by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Two Hundred Eighty Thousand Dollars ($280,000).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

PARCEL 1

That part of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Southwest corner of lot 32; thence north to the northwest corner of lot 40, thence east 49.99 feet; thence south 85.1 feet; thence east 2.5 feet; thence south 18.1 feet; thence east 5.5 feet; thence south 46.8 feet to the south line of said lot 32; thence west 57.99 feet to the point of beginning; excluding the point of beginning Southwest corner lot 32; north 32.9 feet; east 40.89 feet; north 5.3 feet; east 10.3 feet; north 8.6 feet; east 6.8 feet; south 46.8 feet to south line of said lot 32; west 57.99 feet to the point of beginning.

PARCEL 2

That part of Lots 32 and 34, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Southwest corner of Lot 32; thence north along the West line of said Lots 32 and 34, 32.9 feet to a point 2.9 feet north of the Southwest corner of said Lot 34; thence east 40.89 feet; thence north 5.3 feet; thence east 10.3 feet; thence north 8.6 feet; thence east 6.8 feet; thence south 46.8 feet to the south

line of said Lot 32; thence west 57.99 feet to beginning, being on and the same area as the theater vestibule and stairs and theater lobby excluded from the Condominium Definition in Paragraph 2 f. of the Declaration of Condominium filed on Film 695, Page 1458, recorded in the Office of the Register of Deeds, Sedgwick County, Kansas.

PARCEL 3

That part of Lots 34, 36, 38 and 40, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at a point on the North line of said Lot 40, said point being 49.99 feet east of the Northwest corner of said Lot 40; thence south 85.1 feet; thence east 2.5 feet; thence south 18.1 feet; thence east 5.5 feet; thence north 93.4 feet to a point 9.8 feet south and 82 feet west of the Northeast corner of said Lot 40; thence east 82 feet to a point 9.05 feet south of the Northeast corner of said Lot 40; thence north 9.05 feet to the Northeast corner of said Lot 40; thence west 89.85 feet to the point of beginning.

PARCEL 4

Lots 42, 44, 46, 48, 50 and 52, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas

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

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

SECTION 5. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 6. The approved estimated cost of the Improvements is the estimated cost of the Improvements as set forth in this Resolution. The Finance Director shall prepare a proposed assessment roll for the Improvements which shall set forth the proposed maximum assessment against each lot, piece or parcel of land within the improvement district for the Improvements in the manner set forth in this Resolution based on such estimated cost of the Improvements. The proposed assessment roll shall be maintained on file with the City Clerk and be open for public inspection. Following preparation of the proposed assessment roll, the Governing Body shall hold a public hearing on the proposed maximum assessments on September 9, 2008, or the first regularly scheduled City Council meeting thereafter after compliance with the notice provisions set forth in this paragraph. The City Clerk shall publish notice of the public hearing for the improvement district at least once not less than 10 days prior to the public hearing, and shall mail to the owner of the property liable to pay the assessments, at its last known post office address, a

notice of the hearing and a statement of the maximum cost proposed to be assessed all in accordance with K.S.A. 12-6a09.

SECTION 7. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 8. That Resolution No. 08-139 adopted on March 4, 2008, is hereby repealed and replaced.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-427

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF FACADE IMPROVEMENTS AT 221 SOUTH BROADWAY (SOUTH OF WILLIAM, WEST OF BROADWAY) 472-84680 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING FACADE IMPROVEMENTS AT 221 SOUTH BROADWAY (SOUTH OF WILLIAM, WEST OF BROADWAY) 472-84680 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Facade Improvements at 221 South Broadway abutting public ways, including Broadway Street and alley right-of-way (south of William, west of Broadway) 472-84680.

Said improvements shall be constructed in accordance with plans and specifications approved by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Seven Hundred Fifty Thousand Dollars ($750,000).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GRIEFFENSTEIN'S ORIGINAL TOWN

Lots 28, 30, 32 and 34, on Lawrence Avenue, now Broadway Avenue in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue and Lots 22, 24 and 26 on Lawrence Avenue, now Broadway Avenue in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue

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

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

SECTION 5. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 6. The approved estimated cost of the Improvements is the estimated cost of the Improvements as set forth in this Resolution. The Finance Director shall prepare a proposed assessment roll for the Improvements which shall set forth the proposed maximum assessment against each lot, piece or parcel of land within the improvement district for the Improvements in the manner set forth in this Resolution based on such estimated cost of the Improvements. The proposed assessment roll shall be maintained on file with the City Clerk and be open for public inspection. Following preparation of the proposed assessment roll, the Governing Body shall hold a public hearing on the proposed maximum assessments on September 9, 2008, or the first regularly scheduled City Council meeting thereafter after compliance with the notice provisions set forth in this paragraph. The City Clerk shall publish notice of the public hearing for the improvement district at least once not less than 10 days prior to the public hearing, and shall mail to the owner of the property liable to pay the assessments, at its last known post office address, a notice of the hearing and a statement of the maximum cost proposed to be assessed all in accordance with K.S.A. 12-6a09.

SECTION 7. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 8. That Resolution No. 08-140 adopted on March 4, 2008, is hereby repealed and replaced.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-428

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF FACADE IMPROVEMENTS AT 209 EAST WILLIAM (EAST OF MARKET, SOUTH OF WILLIAM) 472-84679 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING FACADE IMPROVEMENTS AT 209 EAST WILLIAM (EAST OF MARKET, SOUTH OF WILLIAM) 472-84679 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Facade Improvements at 209 East William abutting public ways, including Market Street, William Street and alley right-of-way (east of Market, south of William) 472-84679.

Said improvement shall be constructed in accordance with plans and specifications approved by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Two Million Nine Hundred Fifty-Five Thousand Dollars ($2,955,000).

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GRIEFFENSTEIN'S ORIGINAL TOWN

Lots 14, 16 and 18, on Market Street, in Greiffensteins's Original Town of Wichita, Sedgwick County, Kansas.

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

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

SECTION 5. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners

of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 6. The approved estimated cost of the Improvements is the estimated cost of the Improvements as set forth in this Resolution. The Finance Director shall prepare a proposed assessment roll for the Improvements which shall set forth the proposed maximum assessment against each lot, piece or parcel of land within the improvement district for the Improvements in the manner set forth in this Resolution based on such estimated cost of the Improvements. The proposed assessment roll shall be maintained on file with the City Clerk and be open for public inspection. Following preparation of the proposed assessment roll, the Governing Body shall hold a public hearing on the proposed maximum assessments on September 9, 2008, or the first regularly scheduled City Council meeting thereafter after compliance with the notice provisions set forth in this paragraph. The City Clerk shall publish notice of the public hearing for the improvement district at least once not less than 10 days prior to the public hearing, and shall mail to the owner of the property liable to pay the assessments, at its last known post office address, a notice of the hearing and a statement of the maximum cost proposed to be assessed all in accordance with K.S.A. 12-6a09.

SECTION 7. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 8. That Resolution No. 08-141 adopted on March 4, 2008, is hereby repealed and replaced.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

FACADE IMPROVEMENT PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record (Orpheum Office Building Owners Association, Inc.) as below designated, of Lots, Parcels, and Tracts of real property described as follows:

Parcel #1:
That part of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Southwest corner of lot 32; thence north to the northwest corner of lot 40, thence east 49.99 feet; thence south 85.1 feet; thence east 2.5 feet; thence south 18.1 feet; thence east 5.5 feet; thence south 46.8 feet to the south line of said lot 32; thence west 57.99 feet to the point of beginning; excluding the point of beginning Southwest corner lot 32; north 32.9 feet; east 40.89 feet; north 5.3 feet; east 10.3 feet; north 8.6 feet; east 6.8 feet; south 46.8 feet to south line of said lot 32; west 57.99 feet to the point of beginning.

Parcel #2:
That part of Lots 32 and 34, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Southwest corner of Lot 32; thence north along the West line of said Lots 32 and 34, 32.9 feet to a point 2.9 feet north of the Southwest corner of said Lot 34; thence east 40.89 feet; thence north 5.3 feet; thence east 10.3 feet; thence north 8.6 feet; thence east 6.8 feet; thence south 46.8 feet to the south line of said Lot 32; thence west 57.99 feet to beginning, being on and the same area as the theater vestibule and stairs and theater lobby excluded from the Condominium Definition in Paragraph 2 f. of the Declaration of Condominium filed on Film 695, Page 1458, recorded in the Office of the Register of Deeds, Sedgwick County, Kansas.

Parcel #3:
That part of Lots 34, 36, 38 and 40, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas, described as beginning at a point on the North line of said Lot 40, said point being 49.99 feet east of the Northwest corner of said Lot 40; thence south 85.1 feet; thence east 2.5 feet; thence south 18.1 feet; thence east 5.5 feet; thence north 93.4 feet to a point 9.8 feet south and 82 feet west of the Northeast corner of said Lot 40; thence east 82 feet to a point 9.05 feet south of the Northeast corner of said Lot 40; thence north 9.05 feet to the Northeast corner of said Lot 40; thence west 89.85 feet to the point of beginning.

Parcel #4:
Lots 42, 44, 46, 48, 50 and 52, on Broadway, in J. R. Mead's Addition to Wichita, Sedgwick County, Kansas.

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

(a) That it is necessary and in the public interest to construct improvements to area walls on public ways or land abutting public ways consisting of facade improvements to the portion of 200 North Broadway that abuts public ways, including 1st Street and Broadway Street (north of 1st, east of Broadway).

(b) That the estimated and probable cost of the foregoing improvements is Two Hundred Eighty Thousand Dollars ($280,000).

(c) That the boundaries of the improvement district include the lots, parcels or tracts above described.

(d) That 100% of the total actual cost of the improvements be assessed against the improvement district.

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

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

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

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

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

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick

County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
IMPROVEMENT DISTRICT	Orpheum Office Building Owners Association, Inc.	
Parcels 1, 2, 3, & 4 shown above	By_____	
in J.R. Mead's Addition to Wichita, Kansas, Sedgwick County, Kansas.	Michael Elzufon	

REAL DEVELOPMENT

Ram and Hagit Mofsowitz, owners of the 1st floor at Orpheum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Ram Mofsowitz — Date: 08/03/2008

Hagit Mofsowitz — Date: 8.3.08

Legal Description:

Unit One A; Unite One B; Unit One C; Unit One D; Unit One E; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 763 • 235 • 3100 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 316 • 771 • 7100 316 • 771 • 5159

REAL
DEVELOPMENT

Equity Holding Corp, owner of the 2nd floor at Orpheum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Equity Holding Corp as Trustee

by Thomas P. Stand 8/4/08
Date

its President

Legal Description:

Unit Second: all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 763 • 235 • 3100 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 316 • 771 • 7100 316 • 771 • 5159

REAL
DEVELOPMENT

Karsten Mueller, owner of the 3rd floor at Orpheum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Karsten Meuller

4/28/08
Date

Legal Description:

Unit Third; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2733 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 763 • 235 • 3100 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 316 • 771 • 7100 316 • 771 • 5159

REAL
DEVELOPMENT

Broadway @ First No.4, LLC, owner of the 4th floor at Orpheum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Broadway @ First No.4, LLC

by _____ 4/1/08
Date

its CHIEF MANAGER

Legal Description:

Unit Fourth; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL DEVELOPMENT

Patricia Cascione, owner of the 5th floor at Orpheum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Patricia Cascione — Date: 7/21/08

Nick Cascione — Date: 7-21-08

Legal Description:

Unit Fifth; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 763 • 235 • 3100 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 316 • 771 • 7100 316 • 771 • 5159

REAL
DEVELOPMENT

Broadway at First, LLC, owner of the 6th floor at Orpheum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Broadway at First, LLC

by _____ 4/1/08
Date

its CHIEF MANAGER

Legal Description:

Unit Sixth; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL DEVELOPMENT

Douglas and Lynda Faulkner, owners of the 7th floor at Orpheum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Orpheum building.

Douglas Boyland — Date 5/05/08

Lynda Faulkner — Date 5/05/08

Legal Description:

Unit Seventh; all in Orpheum Centre Condominium, located on a portion of Lots 32, 34, 36, 38, and 40, on Broadway, in J.R. Mead's Addition to Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established in the Declaration filed on Film 695, Page 1458, and as amended.

MINNESOTA 3735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5139

FACADE IMPROVEMENT PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record (Petroleum Building Owners Association, Inc.) as below designated, of Lots, Parcels, and Tracts of real property described as follows:

Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue

And

Lots 22, 24, and 26, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue

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

(a) That it is necessary and in the public interest to construct improvements to area walls on public ways or land abutting public ways consisting of facade improvements to the portion of 221 South Broadway that abuts public ways, including Broadway Street and alley right-of-way (south of William, west of Broadway).

(b) That the estimated and probable cost of the foregoing improvements is Seven Hundred Fifty Thousand Dollars ($750,000).

(c) That the boundaries of the improvement district include the lots, parcels or tracts above described.

(d) That 100% of the total actual cost of the improvements be assessed against the improvement district.

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

the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

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

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

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
IMPROVEMENT DISTRICT	Petroleum Building Owners Association, Inc.	
Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue. **And** Lots 22, 24, and 26, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue.	By_____ Michael Elzufon	_____

REAL DEVELOPMENT

Lynda and Douglas Boyland, owners of the 1st floor at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Lynda Boyland — Date: 5/15/08

Douglas Boyland — Date: 5/15/08

Legal Description:

Unit 1, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2755 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3150
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5139

Paradise Pearl, LLC, owner of the 2nd floor at Petroleum (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Paradise Pearl, LLC

by _____ ; _____ 4/12/08
EDWIN SABADO ; MARICEL V. SABADO Date

its Manager

Legal Description:

Unit 2, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

REAL
DEVELOPMENT

Thomas and Brenda Martinson, owners of the 3rd and 8th floors at Petroleum (whose legal descriptions are listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Thomas Martinson — Date: 4-9-08

Brenda Martinson — Date: 4/9/08

Legal Descriptions:

Unit 3, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

Unit 8, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

Yuen Tiew, owner of the 4th floor at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Yuen Tiew

4/7/08
Date

Legal Description:

Unit 4, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 103 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

Number 5 Petroleum Bldg, LLC, owner of the 5th floor at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Number 5 Petroleum Bldg, LLC

by _____ 4/8/08
Date

its Managing member

Legal Description:

Unit 5A, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

Petroleum Building, LLC, owner of the 5th floor annex at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Petroleum Building, LLC

by _____ 5/29/08
Date

its OWNER

Legal Description:

Unit 5B, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

US Housebuyers, LLC, owners of the 6th floor at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

US Housebuyers, LLC

by _____ April 30, 2008
Date

its Member

Legal Description:

Unit 6, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

Helen and Edward Oshiba, owners of the 7th floor at Petroleum (whose legal description is listed below) hereby join in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Petroleum building.

Helen Oshiba — Date: 4/15/08

Edward Oshiba — Date: 4/15/08

Legal Description:

Unit 7, in Petroleum Building, a Condominium located on Lots 28, 30, 32, and 34, on Lawrence Avenue, now Broadway Avenue, in Greiffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of vacated Lawrence Avenue, now Broadway Avenue, vacated by the City of Wichita Ordinance No. 140., together with an undivided interest in the common areas and facilities as established by the declaration of Petroleum Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

FACADE IMPROVEMENT PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record (Sutton Place Owners Association, Inc.) as below designated, of Lots, Parcels, and Tracts of real property described as follows:

Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas.

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

(a) That it is necessary and in the public interest to construct improvements to area walls on public ways or land abutting public ways consisting of facade improvements to the portion of 209 East William that abuts public ways, including Market Street, William Street and alley right-of-way (east of Market, South of William).

(b) That the estimated and probable cost of the foregoing improvements is Two Million Nine Hundred Fifty Five Thousand Dollars ($2,955,000).

(c) That the boundaries of the improvement district include the lots, parcels or tracts above described.

(d) That 100% of the total actual cost of the improvements be assessed against the improvement district.

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

property described above in accordance with the terms of this petition.

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

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

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
IMPROVEMENT DISTRICT	Sutton Place Owners Association, Inc.	
Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas.	By_____ Michael Elzufon	_____

REAL
DEVELOPMENT

Broadway Plaza No. 2, LLC, owners of the basement floor at Sutton Place (whose legal descriptions are listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Sutton Place building.

Broadway Plaza No. 2, LLC

By: _____ 4/01/08
Date

Its: OWNER

Legal Descriptions:

Unit 12, in Sutton Place, a Condominium located on Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established by the declaration of Sutton Place Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

Karsten Mueller, owner of the 1st floor at Sutton Place (whose legal description is listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Sutton Place building.

Karsten Mueller

4/7/08
Date

Legal Description:

Unit 1, in Sutton Place, a Condominium located on Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established by the declaration of Sutton Place Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

SUTTON MN, LLC, owners of floors 2, 4, 6, 7, 8 ,9 10, & 11 at Sutton Place (whose legal descriptions are listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Sutton Place building.

Sutton MN, LLC

By: _____ 04-01-2008
Date

Its: MANAGING MEMBER

Legal Descriptions:

Units 2, 4, 6, 7, 8 ,9 10, & 11 , in Sutton Place, a Condominium located on Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established by the declaration of Sutton Place Condominium.

MINNESOTA 2735 CHESHIRE LANE NORTH • MINNEAPOLIS • MN • 55447 T 763 • 235 • 3100 F 763 • 235 • 3130
KANSAS 105 S. BROADWAY • STE 100 • WICHITA • KS • 67202 T 316 • 771 • 7100 F 316 • 771 • 5159

REAL
DEVELOPMENT

LACFD, LLC, owner of the 3rd & 5th floors at Sutton Place (whose legal descriptions are listed below) hereby joins in the petition for the façade improvement project as outlined in the attached Façade Improvement Petition for the Sutton Place building.

LACFD, LLC

By: _____ 6/11/08
Date

Its: MANAGER

Legal Descriptions:

Unit 3, in Sutton Place, a Condominium located on Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established by the declaration of Sutton Place Condominium.

Unit 5, in Sutton Place, a Condominium located on Lots 14,16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas, together with an undivided interest in the common areas and facilities as established by the declaration of Sutton Place Condominium.

2735 CHESHIRE LANE NORTH MINNEAPOLIS MN 55447 763 235 3100 763 235 3130
105 S. BROADWAY STE 100 WICHITA KS 67202 316 771 7100 316 771 3139

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Petitions to construct Paving and Drainage Improvements to serve part of Woods North and Greenwich Business Center Additions (south of 29th St. North, west of 127th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petitions.

Background: On February 5, 2008, the City Council approved paving and drainage Petitions for Woods North and Greenwich Business Center Additions. The budgets contained in the Petitions are not sufficient to award construction contracts. The developers have submitted new Petitions with increased budgets. The Petitions have been signed by three owners representing 100% of the improvement districts.

Analysis: The project will provide paving and drainage improvements within residential and commercial developments located south of 29th St. North, west of 127th St. East.

Financial Considerations: The existing Petitions total $1,045,000. The new Petitions total $1,278,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing for the construction of paving and drainage improvements required for new development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, CIP Sheet, Petition and Resolution.

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-429

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER DRAIN NO. 347 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84488 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER DRAIN NO. 347 (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 468-84488 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 08-064 adopted on February 5, 2008 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve Storm Water Drain No. 347 (south of 29th St. North, west of 127th St. East) 468-84488.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Five Hundred Thirty-Five Thousand Dollars ($535,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after February 1, 2008, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

WOODS NORTH ADDITION
Lots 1 through 29, Block A
Lots 1 through 5, Block B
Lots 1 through 8, Block C
Lots 1 through 71, Block D
Lots 1 through 14, Block E
Lots 1 through 12, Block F

GREENWICH BUSINESS CENTER ADDITION
Lots 3 and 4, Block 2
Lots 1 through 15, Block 3
Lots 1 through 3, Block 4

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

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 35 through 59, Block D, Lots 72 through 92, Block D, and Lots 1 through 8, Block E, WOODS NORTH ADDITION shall each pay 39/2668 of the total cost of the improvements; Lots 1 through 29, Block A, Lots 1 through 5, Block B, Lots 1 through 8, Block C, and Lots 1 through 30, Block D, WOODS NORTH ADDITION shall each pay 5/2668 of the total cost of the improvements; Lots 30 through 46, Block A, Lots 31 through 34, Block D, Lots 60 through 71, Block D, Lots 9 through 14, Block E, and Lots 1 through 12, Block F, WOODS NORTH ADDITION shall each pay 2/2668 of the total cost of the improvements, and Lots 3 and 4, Block 2, Lots 1 through 15, Block 3, and Lots 1

through 3, Block 4, GREENWICH BUSINESS CENTER ADDITION shall each pay 5/2668 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on August 29, 2008

RESOLUTION NO. 08-430

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON WOODRIDGE FROM THE SOUTH LINE OF THE PLAT, NORTH TO THE NORTH LINE OF LOT 29, BLOCK A; AND ON WOODSPRING, FROM THE EAST LINE OF WOODRIDGE, EAST TO THE EAST LINE OF THE PLAT AND ON DAVIN FROM THE NORTH LINE OF WOODSPRING, NORTH, EAST, NORTH AND WEST TO THE EAST LINE OF GARNETT; AND ON GARNETT FROM THE WEST LINE OF DAVIN, WEST, NORTH AND EAST TO THE WEST LINE OF DAVIN AND ON WOODBRIDGE CT. (LOTS 1 THROUGH 9, BLOCK D) FROM THE WEST LINE OF WOODBRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC; ON WOODRIDGE CT. (LOTS 10 THROUGH 17, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC; ON WOODRIDGE CT. (LOTS 18 THROUGH 27, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND WOODSPRING (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 472-84651 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON WOODRIDGE FROM THE SOUTH LINE OF THE PLAT, NORTH TO THE NORTH LINE OF LOT 29, BLOCK A; AND ON WOODSPRING, FROM THE EAST LINE OF WOODRIDGE, EAST TO THE EAST LINE OF THE PLAT AND ON DAVIN FROM THE NORTH LINE OF WOODSPRING, NORTH, EAST, NORTH AND WEST TO THE EAST LINE OF GARNETT; AND ON GARNETT FROM THE WEST LINE OF DAVIN, WEST, NORTH AND EAST TO THE WEST LINE OF DAVIN AND ON WOODBRIDGE CT. (LOTS 1 THROUGH 9, BLOCK D) FROM THE WEST LINE OF WOODBRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC; ON WOODRIDGE CT. (LOTS 10 THROUGH 17, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC; ON WOODRIDGE CT. (LOTS 18 THROUGH 27, BLOCK D) FROM THE WEST LINE OF WOODRIDGE, WEST TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON WOODRIDGE AND WOODSPRING (SOUTH OF 29TH ST. NORTH, WEST OF 127TH ST. EAST) 472-84651 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on Woodridge from the south line of the plat, north to the north line of Lot 29, Block A; and on Woodspring, from the east line of Woodridge, east to the east line of the plat and on Davin from the north line of Woodspring, north, east, north and west to the east line of Garnett; and on Garnett from the west line of Davin, west, north and east to the west line of Davin and on Woodbridge Ct. (Lots 1 through 9, Block D) from the west line of Woodbridge, west to and including the cul-de-sac; on Woodridge Ct. (Lots 10 through 17, Block D) from the west line of Woodridge, west to and including the cul-de-sac; on Woodridge Ct. (Lots 18 through 27, Block D) from the west line of Woodridge, west to and including the cul-de-sac and that sidewalk be constructed on Woodridge and Woodspring (south of 29th St. North, west of 127th St. East) 472-84651.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to Seven Hundred Forty-Three Thousand Dollars ($743,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after February 1, 2008 exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

WOODS NORTH ADDITION
Lots 1 through 29, Block A
Lots 1 through 5, Block B
Lots 1 through 8, Block C
Lots 1 through 27, Block D

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

> The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 29, Block A; Lots 1 through 5, Block B; Lots 1 through 8, Block C; and Lots 1 through 27, Block D, WOODS NORTH ADDITION, shall each pay 1/69 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

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

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

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the

improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of August, 2008.

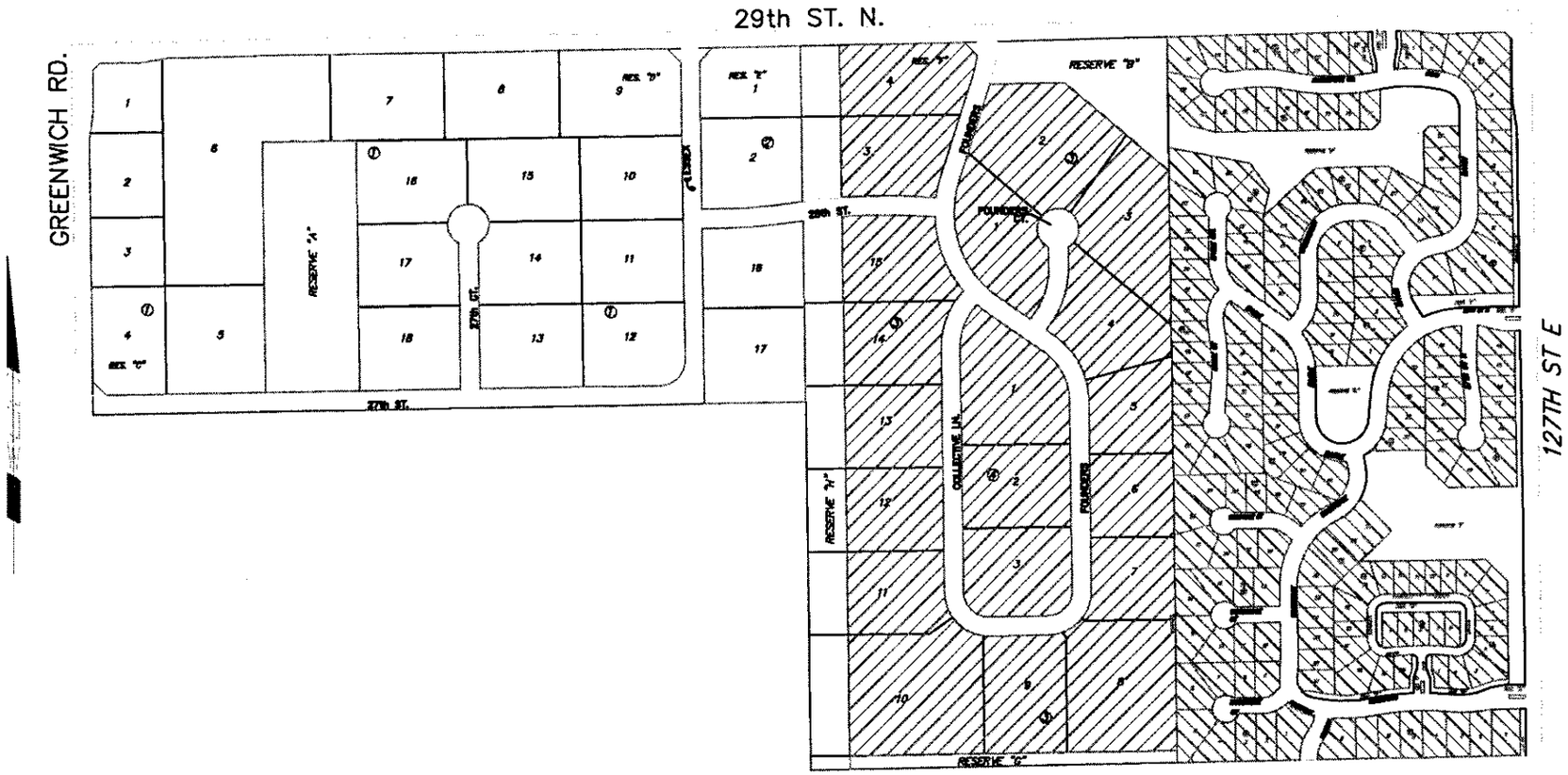
_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

GREENWICH BUSINESS CENTER ADDITION
WOODS NORTH ADDITION



PROPOSED IMPROVEMENT DISTRICT

(ACTUAL ALIGNMENT TO BE DETERMINED BY DESIGN ENGINEER)

Wichita All-America City 1998

THE CITY OF WICHITA
CITY ENGINEER'S OFFICE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	8/6/2008	Pave Woodridge, etc in Woods North Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2008	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving		$743,000		$743,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Street Lights				
Totals		$743,000		$743,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required	X	
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84651

13. Recommendation: Approve the Petition and Adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
[signature]	[signature]	[signature] Date 8/11/08	Date

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	8/6/2008	Storm Water Drain for Woods North and Greenwich Business Center Additions

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2008	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage		$535,000		$535,000
Sanitary Sewer				
Sidewalk				
Water				
Other				
Totals		$535,000		$535,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required	X	
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

* Storm Water Utility

SWD 347

468-84488

13. Recommendation: Approve the petition and Adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
Jim Armour	[signature]	Catherine A. Hiltz Date 8/11/08	Date

RECEIVED

AUG 0 4 '08

CITY CLERK OFFICE

PAVING PETITION
(Phase 1)

REVISED

472-84651

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

WOODS NORTH ADDITION
Lots 1 through 29, Block A
Lots 1 through 5, Block B
Lots 1 through 8, Block C
Lots 1 through 27, Block D

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

(a) That there be constructed pavement on Woodridge from the south line of the plat, north to the north line of Lot 29, Block A; and on Woodspring, from the east line of Woodridge, east to the east line of the plat.

That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

That there be constructed pavement on Davin from the north line of Woodspring, north, east, north and west to the east line of Garnett; and on Garnett from the west line of Davin, west, north and east to the west line of Davin.

That said pavement between aforesaid limits be constructed for a width of twenty-six (26) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty (30) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

That there be constructed pavement on Woodbridge Ct. (Lots 1 through 9, Block D) from the west line of Woodbridge, west to and including the cul-de-sac; on Woodridge Ct. (Lots 10 through 17, Block D) from the west line of Woodridge, west to and including the

cul-de-sac; on Woodridge Ct. (Lots 18 through 27, Block D) from the west line of Woodridge, west to and including the cul-de-sac.

That said pavement between aforesaid limits be constructed for a width of twenty-four (24) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of twenty-eight (28) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

That sidewalk be constructed on Woodridge and Woodspring according to plans and specifications to be furnished by the City Engineer.

(b) That the estimated and probable cost of the foregoing improvement being Seven Hundred Forty-Three Thousand Dollars ($743,000), with 100 percent payable by the improvement district. Said estimated cost as above setforth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata of 1 percent per month from and after February 1, 2008.

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

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

(d) That the method of assessment of all costs of the improvement or which the improvement district shall be liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 29,

Block A, Lots 1 through 5, Block B, Lots 1 through 8, Block C, and Lots 1 through 27, Block D, WOODS NORTH ADDITION shall each pay 1/69 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
WOODS NORTH ADDITION Lots 1 through 29, Block A Lots 1 through 5, Block B Lots 1 through 8, Block C Lots 1 through 27, Block D	Greenwich/4, LLC By: Ritchie Associates, Inc., Manager By: Rob Ramseyer, Vice-President	7/28/08
	Ritchie Development Corporation By: Rob Ramseyer, Vice-President	7/28/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 4 day of August 2008.

Deputy City Clerk

RECEIVED

AUG 0 4 '08

CITY C... E

REVISED

468-84488
(SWO#347)

STORM WATER DRAIN PETITION
Phase 2

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

WOODS NORTH ADDITION
Lots 1 through 29, Block A
Lots 1 through 5, Block B
Lots 1 through 8, Block C
Lots 1 through 71, Block D
Lots 1 through 14, Block E
Lots 1 through 12, Block F

GREENWICH BUSINESS CENTER ADDITION
Lots 3 and 4, Block 2
Lots 1 through 15, Block 3
Lots 1 through 3, Block 4

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

(a) That there be constructed a storm water drainage system to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the lateral sanitary sewer is Five Hundred Thirty-Five Thousand Dollars ($535,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after February 1, 2008.

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

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or

construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the storm water drain for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 35 through 59, Block D, Lots 72 through 92, Block D, and Lots 1 through 8, Block E, WOODS NORTH ADDITION shall each pay 39/2668 of the total cost of the improvements; Lots 1 through 29, Block A, Lots 1 through 5, Block B, Lots 1 through 8, Block C, and Lots 1 through 30, Block D, WOODS NORTH ADDITION shall each pay 5/2668 of the total cost of the improvements; Lots 30 through 46, Block A, Lots 31 through 34, Block D, Lots 60 through 71, Block D, Lots 9 through 14, Block E, and Lots 1 through 12, Block F, WOODS NORTH ADDITION shall each pay 2/2668 of the total cost of the improvements, and Lots 3 and 4, Block 2, Lots 1 through 15, Block 3, and Lots 1 through 3, Block 4, GREENWICH BUSINESS CENTER ADDITION shall each pay 5/2668 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
WOODS NORTH ADDITION Lots 1 through 29, Block A Lots 1 through 5, Block B Lots 1 through 8, Block C Lots 1 through 71, Block D Lots 1 through 14, Block E Lots 1 through 12, Block F	Greenwich/4, LLC By: Ritchie Associates, Inc., Manager By:_____ Rob Ramseyer, Vice-President	7/28/08
	Ritchie Development Corporation By:_____ Rob Ramseyer, Vice-President	7/28/08
GREENWICH BUSINESS CENTER ADDITION Lots 3 and 4, Block 2 Lots 1 through 15, Block 3 Lots 1 through 3, Block 4	Greenwich/4 LLC AND Ritchie Development Corporation AND North Greenwich/29th, LLC By:_____ Rob Ramseyer, Vice-Pres. of Ritchie Development Corporation and Manager of Greenwich/4, LLC, & North Greenwich/29th, LLC	7/28/08.

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 4 day of August 2008.

Deputy City Clerk

Agenda Item No. XII-8a

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Community Events (District II)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events Procedure, Wichita Medical Research Offices is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

2008 Wichita Komen Race for the Cure, September 27, 2008 7:00 am – 11:00 am

- Douglas Avenue, Rock Road to Woodlawn not including the intersection of Douglas Avenue and Rock Road.
- Armour, Willowbrook to Douglas Avenue

Please see attached map.

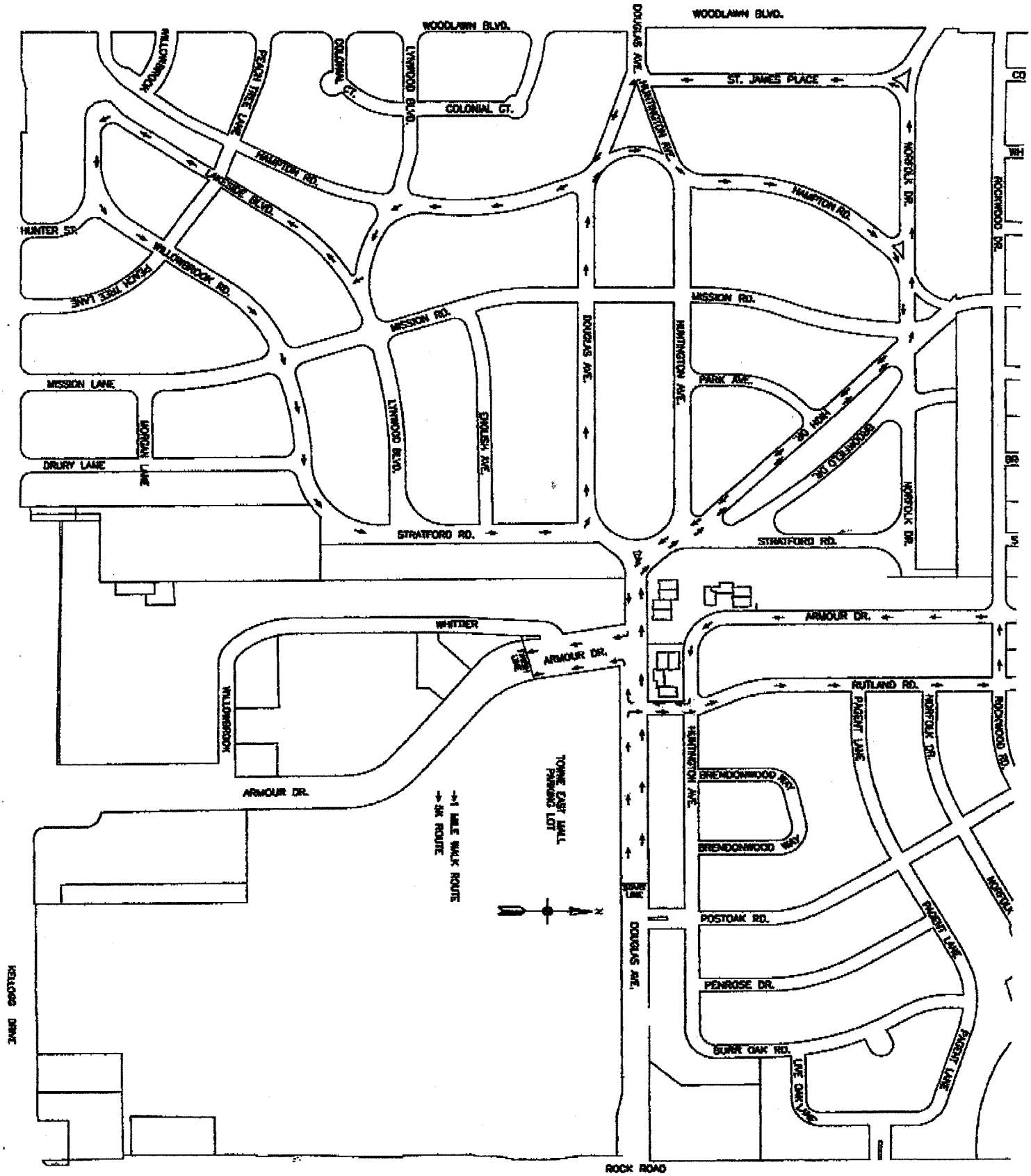
Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

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

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 Event Coordinator.


WOODLAWN BLVD.
WOODLAWN BLVD.
DOUGLAS AVE.
ST. JAMES PLACE
COLONIAL CT.
COLONIAL CT.
LYNWOOD BLVD.
HUNTINGTON AVE.
HAMPTON RD.
HAMPTON RD.
NORFOLK DR.
ROCKWOOD DR.
WILLOWBROOK
PEACH TREE LANE
LAKESIDE BLVD.
HUNTER ST.
WILLOWBROOK RD.
PEACH TREE LANE
MISSION RD.
MISSION RD.
DOUGLAS AVE.
HUNTINGTON AVE.
PARK AVE.
MISSION LANE
MORGAN LANE
DRURY LANE
LYNWOOD BLVD.
ENGLISH AVE.
GREENFIELD DR.
NORFOLK DR.
STRATFORD RD.
STRATFORD RD.
ARMOUR DR.
WHITTIER
ARMOUR DR.
RUTLAND RD.
WILLOWBROOK
PAGENT LANE
NORFOLK DR.
ROCKWOOD RD.
ARMOUR DR.
TOWNE EAST MALL PARKING LOT
1 MILE WALK ROUTE
3K ROUTE
HUNTINGTON AVE.
BRENDONWOOD WAY
BRENDONWOOD WAY
TOWNE EAST BLVD.
POSTOAK RD.
PAGENT LANE
NORFOLK
DOUGLAS AVE.
PENROSE DR.
SURR OAK RD.
LIVE OAK LANE
PAGENT LANE
ROCK ROAD
KELLOGG DRIVE

Agenda Item No. XII-9a

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Agreement for Parking Meter Coin Collection (Districts I & VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City contracts with a private security company to collect and deposit coins from the parking meters in the downtown area. The current agreement is expiring. On June 18, 2008, the Staff Screening and Selection Committee selected Garda CL/AT Systems to perform the work.

Analysis: Coins will be collected from721 canisters which serve 1,312 parking meters in the downtown area. Each canister is collected once a week.

Financial Considerations: Payment to Garda CL/AT Systems will be $4,330 per month for twelve months with a two year option if exercised by the City.

Goal Impact: This project addresses the Efficient Infrastructure goal by regulating on-street parking.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

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

Attachments: Agreement

CONTRACT
for
PARKING METER COINAGE COLLECTION

BLANKET PURCHASE ORDER NUMBER BP800087

HCP 8-12-08

THIS CONTRACT entered into this 14th day of _____, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"**, and **GARDA CL/AT SYSTEMS INC** (Vendor Code Number 821821-003), 2018 S. Kessler, Wichita, Kansas, 67213, Telephone Number (316) 942-9700, hereinafter called **"VENDOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Parking Meter Coinage Collection** (Formal Proposal – FP800046) [Commodity Code Numbers 96864 and 99046]; and

WHEREAS, VENDOR 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. VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800046, 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 – FP800046, shall be considered a part of this contract and is incorporated by reference herein.

2. **Compensation. CITY** agrees to pay to **VENDOR** for **Parking Meter Coinage Collection** (Formal Proposal – FP800046) **the sum of four thousand three hundred thirty dollars ($4,330.00) per month for collection of under 760 canisters per week** (there are six parking lots and ten routes located along side streets, see Exhibit B, which summarizes the various routes and lots) for the Public Works Department, Engineering Division as per the proposal, plans, specifications, addenda and **VENDOR's** proposal of May 21, 2008.

3. **Special Collections.** The **CITY** reserves the right to collect with is own personnel any meter or any number of meters, at any particlar time, upon twelve (12) hours prior notice to the **VENDOR**. However, the **VENDOR** will receive the same financial consideration as if the **VENDOR** had collected these meters under the provisions of this Contract. Collections by **CITY** personnel beause of nonperformance or delay by the **VENDOR**, as provided above, shall not be considered an exercise of the right reserved by the **CITY** under this paragraph. During extremely cold temperature

conditions, the locks and canister opening mechanisms become increasingly subject to malfunction and breakage. The **VENDOR** shall take extra care during these conditions to minimize any potential problems of key and canister opening mechanism breakage or failures. Under extremely cold weather conditions, and upon recommendation from the **VENDOR,** the **CITY** reserves the right to suspend collection operations, at which time the monthly fee will be prorated.

4. Failure To Perform. The **CITY** will randomly inspect the collection process and will promptly report to the **VENDOR** any observed or reported failure to perform on the part of the **VENDOR** not otherwise excused by the terms of this contract. If the **VENDOR** fails to correct performance upon written notice, the **CITY** may elect to collect coinage from the affected parking meters. If the **CITY** so elects, the **VENDOR** must supply all collection equipment as requested and the **CITY** may subtract such costs from the **VENDOR's** monthly payment.

Penalties for violations of the provision of the scope of work shall range from verbal warnings to contract termination. If a meter vault is found to have been uncollected when the vault could be opened and collected, $10.00 will be subtracted from the payment of the **VENDOR** for each documented occurrence. If collection personnel are not in uniform and clearly identified as parking meter collection personnel, $50.00 will be subtracted from the payment of the contractor for each documented occurrence. The **CITY** may cancel the contract at any time if the **VENDOR** fails to comply with the terms of the contract and/or collection schedules.

5. Term. The term of this contract shall be from August 7th, **2008 through** August 7th, **2009,** with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement 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 **VENDOR.**

6. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **VENDOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	$100,000 each accident

c. The **VENDOR** agrees to provide, in addition to other insurance required, evidence of **fidelity bonding** on behalf of each employee involved in work under this contract.

7. Independent Contractor. The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

8. Compliance with Laws. VENDOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

9. No Assignment. The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. Non-Discrimination. VENDOR shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

11. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a

party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

12. No Arbitration. The **VENDOR** 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.

13. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

14. Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents the he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

Karen Sublett
City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

CITY OF WICHITA, KANSAS

Carl G. Brewer
Mayor

GARDA CL/AT SYSTEMS, INC

Signature

HEATH C. PRESSWELL
Print Name

BRANCH MANAGER
Title (President or Corporate Officer)

EXHIBIT A

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

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

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

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

D. Exempted from these requirements are:

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

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

EXHIBIT B

AREA 1

ROUTE	NUMBER OF METERS PER ROUTE	BLOCKS	NUMBER OF METERS PER STREET
1	5	100 W. English	5
2	91	100 E. William	24
		100 E English	13
		100 E. Beacon	5
		200 S. Market	6
		300 S. Market	17
		100 W Tlalnepantla	6
		100 W Century Drive	20
3	25	200 E. William	7
		200 E English	18
4	64	200 S. Topeka	25
		300 S. Topeka	12
		300 E William	17
		300 E. English	10
5	26	200 S. Emporia	7
		400 E. English	8
		400 E. William	3
		500 E. William	8
THERE IS NO ROUTE 6			
7	190	200 N. Topeka	39
		300 N. Topeka	33
		400 N. Topeka	38
		200 N Emporia	27
		300 N Emporia	31
		400 E Third	22
8	59	100 E. Third	19
		200 E. Third	20
		300 E. Third	20
9	153	100 E. Elm	21
		200 N. Market	29
		300 N. Market	37
		400 N. Market	19
		500 N. Market	22
		600 N. Main	19
		700 N. Main	6

ROUTE	NUMBER OF METERS PER ROUTE	BLOCKS	NUMBER OF METERS PER STREET
11	89	100 E. First	10
		200 E. First	15
		300 E. First	16
		400 E. First	9
		100 E. Second	9
		200 E. Second	11
		300 E. Second	11
		400 E. Second	2
		500 E. Second	6
12	58	100 W. First	18
		200 N. Water	29
		200 N. Waco	11
TOTAL METERS	760		760

AREA 2

LOT	DESCRIPTION	NUMBER OF METERS
LOT 2	City Hall	67

AREA 3

LOT	DESCRIPTION	NUMBER OF METERS
Lot 1	Century II, northeast corner	58
Lot 3	Public Library	26
Lot 4	Expo Hall, lot on Waterman	339
Lot 5	Century II, west side	36
Lot 7	MTA Hub	26
TOTAL AREA 3		485

Agenda Item No. XII-9b

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Staking in Cambria Addition (east of 143rd Street East, north of Pawnee) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: The City Council approved the storm water improvements in Cambria Addition on February 5, 2008. On March 18, 2008 the City approved an Agreement with Ruggles & Bohm, P.A. to design the improvements. The Design Agreement with Ruggles & Bohm requires Ruggles & Bohm to provide construction engineering and staking services if requested by the City.

Analysis: The proposed Supplemental Agreement between the City and Ruggles & Bohm provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Financial Considerations: Payment to Ruggles & Bohm will be on a lump sum basis of $33,000 and will be paid by special assessments.

Goal Impact: This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering services needed for the construction of storm water improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

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

Attachments: Supplemental Agreement

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED MARCH 18, 2008

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

RUGGLES & BOHM, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated March 18, 2008) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in **CAMBRIA ADDITION** (east of 143rd Street East, north of Pawnee).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

STAKING & AS-BUILT

(as per the City of Wichita Standard Construction Engineering Practices)

STORM WATER DRAIN NO. 345 serving Lots 1 through 9, Block 1; Lots 1 through 7, Block 2; Lots 1 through 9, Block 3; Lots 1 through 15, Block 4, Cambria Addition (east of 143rd Street East, north of Pawnee) (Project No. 468 84481).

Construction staking and final as-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER, with final as-built plans submitted and sealed by a licensed land surveyor or registered professional engineer. Minimum construction staking shall consist of the following: grade stakes set at 50 foot centers in tangent sections, and 25 foot centers through curve sections, at the street centerline (to match CL street stationing per paving plans); both right-of-way lines (at lot corners); back lot/easement lines (at lot corners); as well as any other grade break lines. Grade stake cuts and fills shall be to the dirt grade as required by the mass grading plan details, and shall not be set for final pavement grade, nor to actual final subgrade elevation. Final elevations for all areas outside the street right-of-way to be graded per plans, provisions or otherwise, including lots, easements, ponds and reserve areas, shall be within +/-0.2' of plan call-outs, unless otherwise

stated in plans or provisions. Final elevations within the street right-of-way shall be within +/-0.1' of plan call-outs. The ENGINEER will be responsible to provide initial as-built(s) to the City's Project Engineer, who will coordinate any rework with the contractor. The ENGINEER'S survey and as-built generation responsibilities will include re-checking all points deemed to be out of compliance by the City project engineer, regardless of the number of times to achieve compliance. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the Project Engineer within 5 days of completion of final grading, will show original plan and final as-built elevations at all original call-out locations. Submittals will include both standard plan sheets as well as an electronic file.

B. PAYMENT PROVISIONS

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

Project No. 468 84481 $**33,000.00**

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2008.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

_____
(Name & Title)

ATTEST:

_____

Agenda Item No. XII-10a

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Supplemental Design Agreement for Main 16, Sanitary Sewer No. 23 (east and west of Arkansas, between 37th and 46th St. North (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No. 3

Background: On March 22, 2005, the City entered into an Agreement with Ruggles & Bohm, P.A. to design a sanitary sewer main to serve an area east and west of Arkansas, between 37th and 46th Street North. The fee was $43,000. On February 7, 2006, the City Council approved a Supplement Agreement to design a lateral sanitary sewer that had been petitioned for the area. The fee was $30,000.

Analysis: Ruggles & Bohm has been asked to make revisions to the plans because of the conditions encountered in the attempted direction drilling of the casing pipe under the flood control channel which prevented the contractor from installing the pipe as planned.

Financial Considerations: Payment to Ruggles & Bohm for this Supplemental Agreement will be made on a lump sum basis of $1,400, and will be paid by Special Assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing sanitary sewer mains and laterals in a developed area.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve Supplemental Agreement No. 2 and authorize the necessary signatures.

Attachments: Supplemental Agreement.

SUPPLEMENTAL AGREEMENT NO. 3

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED MARCH 22, 2005

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

RUGGLES & BOHM, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated March 22, 2005) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to **MAIN 16, SANITARY SEWER NO. 23 – SOUTH BASIN.**

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Main 16, Sanitary Sewer No. 23
(revised plans – dual installation of 8" pipes in an inverted siphon configuration)

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

468 83876 (744088) $ **1,400.00**

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2008.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

_____
(Name and Title)

ATTEST:

_____

Agenda Item No. XII-14

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Relief Sanitary Sewer between Emporia and St. Francis, Douglas to 10th Street Phase I **(**District VI)

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the project to re-route the sanitary sewer around the Via Christi Medical Center Campus.

Background: In the spring of 2000, the Sewer Maintenance Division performed flow monitoring in a sub-basin designated as C03. The flow and rainfall monitoring was performed to analyze the effect of storm events on the sanitary sewer system in this area. The Via Christi Medical Center Campus is located in sub-basin C03, which is an area west of I-135 and east of the Arkansas River from Douglas to 21st Street North.

Analysis: The Sanitary Sewer Response Plan recommended a solution to bypass sewage flows around the Via Christi Medical Center campus on St. Francis Avenue, north of Murdock. The flow would be diverted east on 10th Street North and south on Santa Fe to Pine Street. Sewer Maintenance televised the 18-inch sanitary sewer main between Emporia and St. Francis, from Murdock to the alley north of Douglas, and determined that the main should be reconstructed and enlarged.

Staff recommends constructing the relief sanitary sewer in sub-basin C03 in three phases:

> Phase I will begin at the south end of the project and consist of the reconstruction of the 18-inch sanitary sewer main with a 21-inch sanitary sewer main between Emporia and St. Francis from the alley north of Douglas to the alley south of Central.
>
> Phase II will reconstruct the 18-inch main with a 21-inch main between Emporia and St. Francis, from Central to Pine Street.
>
> Phase III will re-route the sewage flows around Via Christi on Santa Fe Street.

Financial Considerations: This project is included in the current Capital Improvement Program for expenditures in 2007 and 2008. Relief Sanitary Sewer between Emporia & St. Francis, Douglas to 10th Street, Phase I, CIP S-570, has a budget of $2,550,000. Phase I of the construction is proposed to start in 2008 at a cost of approximately $1,100,000. The project will be funded from Sewer Utility revenues and reserves, and/or a future revenue bond issue.

Goal Impact: This project addresses ensuring efficient infrastructure by maintaining the sanitary sewer system in central Wichita.

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

Recommendations/Actions: It is recommended that the City Council; 1) approve the expenditure; 2) adopt the Resolution; and 3) authorize the necessary signatures.

Attachments: Resolution
Map

RESOLUTION NO. 08-431

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY, AND TO ISSUE REVENUE BONDS IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $2,550,000 EXCLUSIVE OF THE COST OF INTEREST ON BORROWED MONEY, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility"; and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 et seq., (the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

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

SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Relief Sanitary Sewer between Emporia & St. Francis, from Douglas to 10th Street (S-570) (the "Project"). The total costs of the Project are estimated to be two million five hundred fifty thousand dollars ($2,550,000) in 2008 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.

SECTION 2. It is hereby found and determined that the construction of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed two million five hundred fifty thousand dollars ($2,550,000) in 2008, exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

SECTION 4. It is hereby found and determined to be necessary, before such revenue bonds can be issued, to publish one time in the City's official newspaper a Notice of the Governing Body's intention to initiate and complete the Project and to issue such revenue bonds, such Notice to be in the form which is attached hereto and made a part hereof by reference as though fully set forth herein. If, within Fifteen (15) days from and after the date of the publication of the Notice, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If a sufficient protest to the Project and

the issuance of the revenue bonds is not filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the sale and issuance of the revenue bonds.

SECTION 5. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, not less than two-thirds of the members voting in favor thereof, on August 26, 2008.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

OCA 624091

(Published in the Wichita Eagle, on August 29, 2008.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $2,550,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 08-431, duly adopted August 26, 2008, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Relief Sanitary Sewer between Emporia & St. Francis, from Douglas to 10th Street (S-570) (called the "Project"). The total costs of the Project are estimated to be two million five hundred fifty thousand dollars ($2,550,000 million) in 2008. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

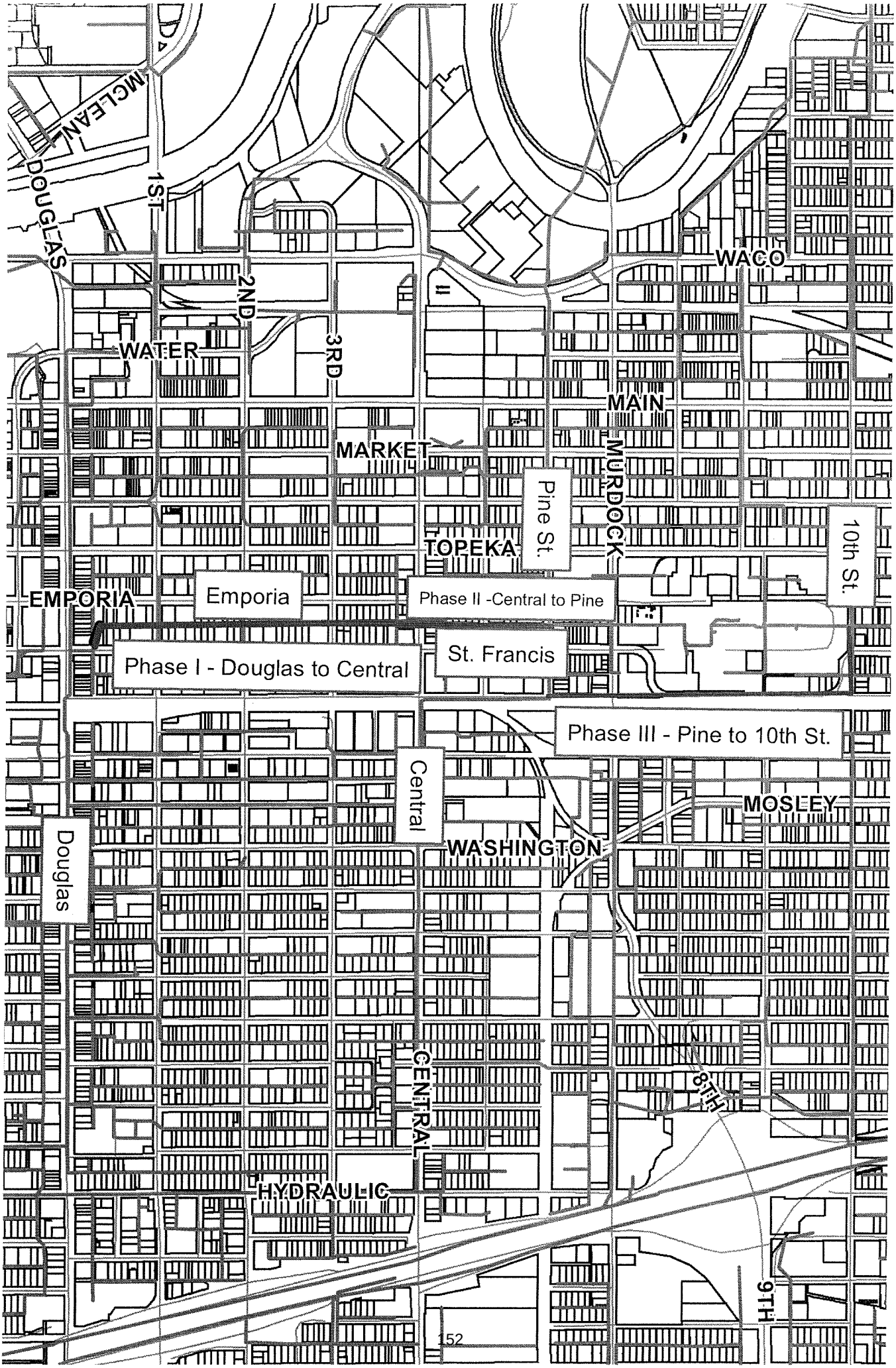
You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $2,550,000, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less that Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on August 26, 2008.

/s/ CARL BREWER, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk


MCLEAN
DOUGLAS
1ST
2ND
3RD
WATER
WACO
MAIN
MARKET
MURDOCK
Pine St.
TOPEKA
10th St.
EMPORIA
Emporia
Phase II -Central to Pine
St. Francis
Phase I - Douglas to Central
Phase III - Pine to 10th St.
Central
MOSLEY
Douglas
WASHINGTON
CENTRAL
8TH
HYDRAULIC
9TH

Agenda Item No. XII-15

CITY OF WICHITA
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Dedication of an Easement Upon a Portion of South Lakes Park to Sedgwick County for the Improvement of Meridian Avenue (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the easement.

Background: Sedgwick County has a project to improve and widen Meridian Avenue from 47th Street South to 71st Street South. As part of this project, the City has agreed to reimburse the County for any costs associated with acquiring right of way within the City limits. The project plans call for 60-foot half street rights of way for Meridian. The southerly 503 feet of South Lakes Park has not been platted and has only 30 feet of half street right of way. The additional right of way required totals approximately .35 acres. South Lakes Park is located within the City limits.

Analysis: The property fence is located within the additional 30 foot requested by the County but is outside the limits of project construction. The northerly 817 feet of South Lakes Park has been platted. In that area, the property fence currently lies within existing right of way. The County is willing to allow the fence in both areas to remain in the right of way after project completion. The Park Board has recommended dedicating the needed right of way with the caveat that if future road expansion requires relocation of the fence, the cost of the relocation will be borne by the future road project.

Financial Considerations: There is no cost to the City.

Goal Impact: Granting this easement assists in providing efficient infrastructure and supporting core neighborhoods.

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

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

Attachments: Permanent easement and tract map

D-1031-UP

R-281 817-V, W ,X
KDOT 87 C-4388-01

EASEMENT FOR RIGHT-OF-WAY

THIS EASEMENT FOR RIGHT-OF-WAY, executed and delivered to the Board of County Commissioners of Sedgwick County, Kansas (hereinafter, "County") by City of Wichita, Kansas, a municipal corporation "Owner").

WITNESSETH:

That for and in consideration of the sum of ONE DOLLAR AND NO CENTS $***1.00 *** and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner hereby grants, bargains, sells and conveys to County a permanent easement in, over, across and upon the following-described premises, to wit:

Commencing from the Northwest Corner of the Southwest Quarter of Section 19, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence South, along the West line of said Quarter, a distance of 817.53 feet to the point of beginning; thence East, perpendicular to said West line, a distance of 60 feet to the Southwest Corner of Lot 1, Block A, South Lakes Sports Complex Addition to Wichita, Sedgwick County, Kansas; thence South, parallel with said West line, a distance of 503.43 feet to the South line of the North Half of said Quarter; thence West, along said South line, a distance of 60 feet to said West line; thence North, along said West line, a distance of 504.02 feet to the point of beginning, containing 0.35 acres more or less, exclusive of existing right of way.

SEE ATTACHED EXHIBIT A FOR FURTHER DESCRIPTION

For the purposes of construction, reconstructing, widening, improving, draining and maintaining a road or highway.

OWNER(S) – CITY OF WICHITA

Carl Brewer, Mayor

Attest:

Karen Sublett, City Clerk

STATE OF KANSAS)
COUNTY OF) ss:

This instrument was acknowledged before me on _____ 2008 by

Notary Public
My appointment expires:_____

(Seal)

ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS THIS _____ DAY OF _____,2008.

RECOMMENDED:

DAVID C. SPEARS, P.E., DIRECTOR,
PUBLIC WORKS/COUNTY ENGINEER

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

THOMAS G. WINTERS, CHAIRMAN
THIRD DISTRICT

APPROVED AS TO FORM:

ROBERT W. PARNACOTT, ASSISTANT
COUNTY COUNSELOR

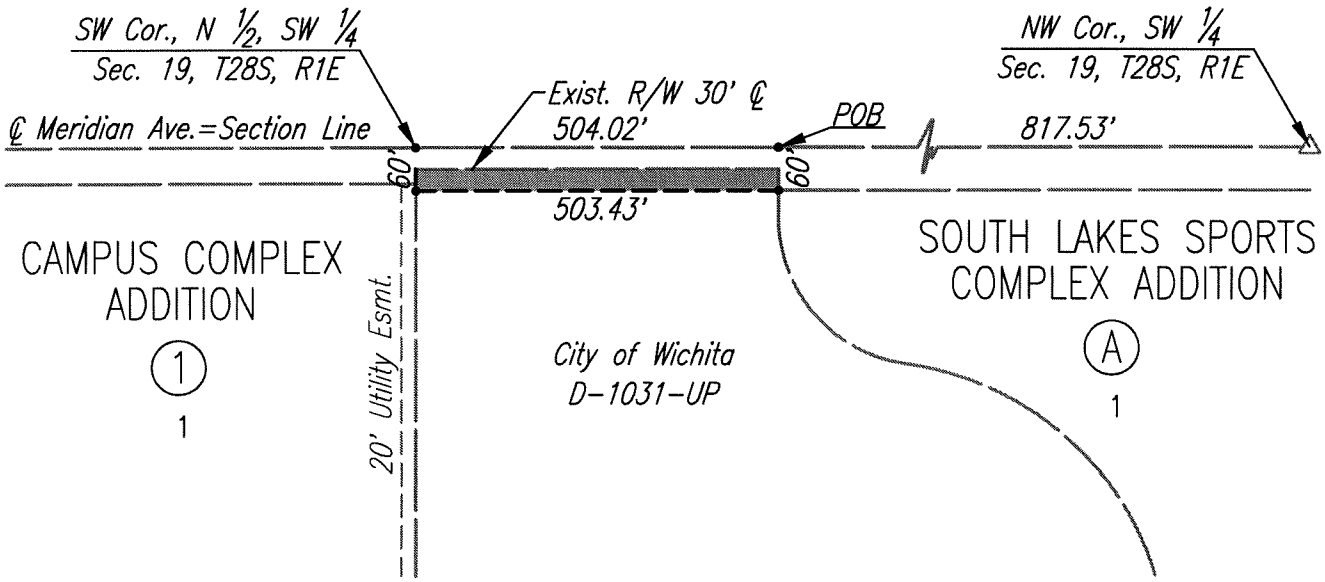
ATTEST:

DON BRACE, COUNTY CLERK

EXHIBIT A

TRACT MAP

EASEMENT FOR RIGHT-OF-WAY



LEGAL DESCRIPTION:

Commencing from the Northwest Corner of the Southwest Quarter of Section 19, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence South, along the West line of said Quarter, a distance of 817.53 feet to the point of beginning; thence East, perpendicular to said West line, a distance of 60 feet to the Southwest Corner of Lot1, Block A, South Lakes Sports Complex Addition to Wichita, Sedgwick County, Kansas; thence South, parallel with said West line, a distance of 503.43 feet to the South line of the North Half of said Quarter; thence West, along said South line, a distance of 60 feet to said West line; thence North, along said West line, a distance of 504.02 feet to the point of beginning, containing 0.35 acres more or less, exclusive of existing right of way.

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Project Access Contract Renewal

INITIATED BY: Human Resources

AGENDA: Consent

- -

Recommendation: Approve contract renewal and authorize necessary signatures.

Background: Since 1999 the City has participated in Project Access, a program that coordinates donated medical services for the uninsured by linking physicians, social service agencies, hospitals, clinics, and area pharmacies. A 2007/08 contract between the City and the Central Plains Regional Health Care Foundation, Inc. (the non-profit organization responsible for Project Access) provided program funds for prescription medications, prescribed durable medical equipment and the coordination of services. This contract expires August 31, 2008 but there are two options to renew for successive one-year periods. A recommendation to renew the contract for a one-year period that runs through August 31, 2009 is being brought before the City Council.

Analysis: It is estimated that 55,000 individuals, approximately 13 % of the local population, is uninsured. From September 1999 through June 2008, 8,067 individuals have received donated medical/dental care and services through Project Access. During those nine years Project Access has:

- Provided 179,872 prescriptions worth approximately $5.3 million;
- Coordinated donated physicians services worth $19.9 million; and
- Coordinated donated hospitals services worth $51.6 million.

During the last four and a half years, pharmaceutical companies have donated prescription medicines valued at over $2 million and have waived their filling fees. Currently 581 physicians, eight hospitals, and 72 pharmacies participate in Project Access.

In 2006 Project Access implemented cost-saving measures that conserved prescription assistance funding and allowed expansion of services to include physician-prescribed medical supplies and/or durable medical equipment. These additional services address an identified ongoing need.

Financial Considerations: The $300,000 contract renewal budget is the same amount provided for the 2007/08 contract. Community Services Block Grant funds, received to serve low-income individuals and families will be used to pay contract costs and the renewal will not obligate general fund monies.

Goal Impact: The City's support of Project Access address the goals of Economic Vitality and Affordable Living by providing prescription drugs and healthcare services at no cost to the low-income, and Enhancement of Quality of Life by improving the overall health of area residents.

Legal Considerations: The Department of Law has approved the contract renewal as to form.

Recommendation/Action: It is recommended that the City Council approve renewal of the Project Access Contract and authorize the necessary signatures.

Attachments: Contract renewal document

AMENDMENT TO THE COMMUNITY SERVICES BLOCK GRANT CONTRACT BETWEEN THE CITY OF WICHITA AND THE CENTRAL PLAINS REGIONAL HEALTH CARE FOUNDATION, INC.

This contract amendment for the provision of physician-authorized medications, medical supplies and durable medical equipment is entered into September 1, 2008 by and between the City of Wichita (hereinafter referred to as the CITY) and the Central Plains Regional Health Care Foundation, Inc. (hereinafter referred to as the DELEGATE AGENCY).

WITNESSETH THAT:

WHEREAS, on the 1st day of September 2007 the above named entities were parties to a contract with the caption as set out above; and

WHEREAS, the above named parties now wish to modify and amend said contract for the purpose of enacting the first renewal option of the contract under the same terms and conditions of the original contract for one additional one-year period.

NOW, THEREFORE, the above parties, in order to exercise the first renewal option of the September 1, 2007 contract and to confirm the original intent of that contract, listed as Attachment A of this amendment, hereby agree, covenant and contract with each other that effective September 1, 2008 the terms of the agreement are hereby reaffirmed and reexecuted for and on behalf of these parties except for the following amendments, modifications, and changes indicated below.

1. Contract, first paragraph, page 1, and Section 2. TIME OF PERFORMANCE, page 1, is hereby amended to renew the contract from September 1, 2008 through August 31, 2009.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

Community Services Block Grant, Project Access

Central Plains Regional Health Care Foundation, Inc. Contract Number _____.

_____. _____.

Christopher Moeller, M.D., President Date

CITY OF WICHITA

_____.

Carl Brewer, Mayor

_____.

Date

ATTEST:

_____.

Karen Sublett, City Clerk

_____.

Date

APPROVED AS TO FORM:

_____.

Gary E. Rebenstorf, Director of Law

_____.

Date

Community Services Block Grant, Project Access

COMMUNITY SERVICES BLOCK GRANT

CONTRACT

THIS CONTRACT entered into this 1st day of September 2007 by and between the City of Wichita, Kansas (hereinafter referred to as the CITY) and the Central Plains Regional Health Care Foundation, Inc. (hereinafter referred to as the DELEGATE AGENCY).

WITNESSETH THAT:

WHEREAS, the CITY desires to enter into a contract with the DELEGATE AGENCY for the provision of certain services necessary to implement a Community Services Block Grant (CSBG) program in Wichita and Sedgwick County; and

WHEREAS, the cooperation of the CITY and the DELEGATE AGENCY is essential for successful implementation of the Project Access component;

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

SECTION 1. SCOPE OF SERVICES. The DELEGATE AGENCY, assuming responsibility for the implementation of actual operation of a certain project herein specified, shall perform services in a satisfactory and proper manner as determined by the CITY and as outlined per Exhibit B.

SECTION 2. TIME OF PERFORMANCE. This contract shall cover services performed or to be performed by the DELEGATE AGENCY commencing September 1, 2007 and ending August 31, 2008. The services of the DELEGATE AGENCY are to commence as soon as practicable on the date of this contract and shall be undertaken and completed in such sequence as to assure their expeditious completion no later than the termination date of the contract. There will be an option to renew the contract under the same terms and conditions for one (1) or two (2) successive one-year periods by mutual agreement of all parties to the contract.

SECTION 3. CONTRACT COMPLIANCE. The DELEGATE AGENCY agrees to perform contract services in accordance with the provisions of this contract, the Community Services Block Grant Program as defined in Title VI, Subtitle B of the Omnibus Budget Reconciliation Act and in revisions thereto (hereinafter referred to as the ACT), the Federal and State rules and regulations issued pursuant to the ACT, the Federal, State, and local laws and ordinances, the goals, objectives and requirements of the local Community Action Plan (hereinafter referred to as the PLAN) and all such general and special assurances included therein, and all correspondence and directives from the Kansas Housing Resources Corporation, the state level agency administering the CSBG Program and hereinafter referred to as KHRC, and the City's Career Development Division (hereinafter referred to as CDD) Director.

SECTION 4. ESTABLISHMENT AND MAINTENANCE OF RECORDS. The DELEGATE AGENCY shall establish and maintain records as prescribed by the KHRC and/or the CITY, with respect to all matters covered by this contract. At a minimum, the DELEGATE AGENCY shall comply with the record retention and custodial requirements set forth in this Section.

A. Record Retention Policy.

The DELEGATE AGENCY shall retain all records pertinent to this contract, including but not limited to: financial, statistical, property, and participant records and supporting documents, for a period of three (3) years, subject to the qualifications set forth in Paragraph B.

B. Retention Periods.

1. The retention period will begin on the date of submission by the DELEGATE AGENCY of the annual or final expenditure report, whichever applies to the particular grant, except that the DELEGATE AGENCY shall retain records for nonexpendable property for a period of three (3) years after final disposition of the property.

2. The DELEGATE AGENCY must request in writing prior approval from the CITY for the destruction of any records relating to this contract.

3. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three year period, the records must be retained until completion of the action and resolution of issues which arise from it, or until the end of the regular three year period, whichever is later.

SECTION 5. ALLOWABLE COSTS. Funds generated under this contract may only be expended for purposes permitted under the provisions of the Federal and State Rules and Regulations pertaining to the ACT. Adjustments in the authorized expenditure budget included as Exhibit C may be requested by the DELEGATE AGENCY and will be considered and, if approved by the Director of CDD, transacted in accordance with this contract's SECTION 22. Modification of Contract procedures herein provided. All such requests should be approved in writing with appropriate signatures obtained prior to the DELEGATE AGENCY incurring any unbudgeted expenditures or obligating unbudgeted funds for such expenditures. The City reserves the right to deny reimbursement for unbudgeted expenditures or obligations for which prior written approval has not been obtained.

SECTION 6. DOCUMENTATION OF COSTS. All contract costs shall be supported by documentation evidencing in proper detail the nature and propriety of the charges.

SECTION 7. REPORTS AND INFORMATION. The DELEGATE AGENCY, at such times and in such forms as the KHRC and/or the CITY may require, shall furnish to the KHRC and/or the CITY such statements, records, reports, data, and information as the KHRC and/or the City may request pertaining to matters covered by this contract. All reports, information, data, and other related materials, prepared or assembled by the DELEGATE AGENCY under this contract, are subject to the requirements of confidentiality set forth in K.S.A. 45-201 et seq.

SECTION 8. AUDITS AND INSPECTIONS. The DELEGATE AGENCY shall as required by the KHRC, CITY, State of Kansas, and/or Comptroller General of the United States make available for examination, to the KHRC, CITY, State of Kansas, and/or Comptroller General of the United States or their designated and authorized representative(s), all its records and data for the purpose of making audits, examinations, excerpts, and transcriptions.

SECTION 9. PROCEDURES FOR DETERMINING LIABILITY FOR DISALLOWED COSTS. The procedures for determining liability for any disallowed costs under this contract are set forth in the Career Development Division Audit Resolution Policies and Procedures Manual, as amended or revised, which is hereby incorporated herein by reference. A copy of this document is available from the CDD upon request.

SECTION 10. PROCUREMENT STANDARDS. The standards to be used for the procurement of supplies, equipment, and other materials and services with this contract's funds are those described in the Office of Management and Budget (OMB) Circular A-102, Grants Management Common Rules or in OMB Circular A-110, Subpart C, as applicable. These standards must be applied in accordance with procedures set forth in the "Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements," as provided

in Exhibit A attached hereto. Further, the DELEGATE AGENCY shall avoid conflicts of interest, real or apparent, by observing the following requirements.

A. Code of Conduct.

The DELEGATE AGENCY shall maintain a written code or written standards of conduct that will govern the performance of its officers, employees, or agents in contracting with or otherwise procuring supplies, equipment, construction, or services with funds provided pursuant to this contract. These standards shall provide that no officer, employee, or agent shall:

1. Solicit or accept gratuities, favors, or anything of monetary value from suppliers or potential suppliers, including subcontractors under sub-recipient contracts; or

2. Participate in the selection, award, or administration of a procurement supported by contract funds subject to this section, where to the individual's knowledge, any of the following has a financial or other substantive interest in any organization which may be considered for award:

   a) the officer, employee, or agent;

   b) any member of his or her immediate family;

   c) his or her partner; or

   d) a person or organization that employs, or is about to employ, any of the above.

SECTION 11. 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, physical handicap, sex or age. [Reference Title VI of the Civil Rights Act of 1964 (Public Law 88-352)]. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the DELEGATE AGENCY receiving funds pursuant to this contract.

B. The DELEGATE AGENCY further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements" as provided in Exhibit A attached hereto.

SECTION 12. 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 13. ASSIGNABILITY. The DELEGATE AGENCY shall not assign any interest in this contract without prior written consent of the CITY.

SECTION 14. COPYRIGHTS. If this contract results in a book or other material that may be copyrighted, the author is free to copyright the work, subject to regulations of the KHRC. The CITY and/or the KHRC reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted material and all material that can be copyrighted.

SECTION 15. PATENTS. Any discovery or invention arising out of or developed in the course of work aided by this contract shall promptly and fully be reported to the CITY and the KHRC for determination by the CITY and/or the KHRC as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest. All such determinations are subject to regulation of the KHRC.

SECTION 16. SECTARIAN ACTIVITY PROHIBITED. The funds provided under this contract shall not be used for the construction, operation, or maintenance of any facility used, or to be used, for sectarian instruction or as a place for religious worship.

SECTION 17. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly 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 5 USC 15.

SECTION 18. 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, the Legislature of the State of Kansas, or the Wichita City Council.

SECTION 19. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the DELEGATE AGENCY 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.

B. Total Payments. Total payments to the DELEGATE AGENCY will not exceed $300,000 as cited in the total of Exhibit C, attached.

C. Restriction on Disbursements. No contract funds shall be disbursed to a DELEGATE AGENCY or contractor except pursuant to a written contract that incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments shall be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the KHRC at any time; or if the Community Services Block Grant funds to the City of Wichita under the ACT are suspended or terminated.

SECTION 20. REFUND OF INCOME. All revenues received by the DELEGATE AGENCY as a result of this contract in excess of costs are to be treated as program income pursuant to 45 CFR Part 74.24 and other applicable federal and state statutes, regulations and policies for the administration of grants. Accordingly, these funds may be retained by the DELEGATE AGENCY to underwrite additional contract related services and expenses. The DELEGATE AGENCY agrees to comply with CITY and/or KHRC accounting and record keeping requirements so that the amount of program income accrued by the DELEGATE AGENCY can be determined, and the DELEGATE AGENCY agrees to maintain adequate records that account for the use of these funds, in anticipation of a possible audit.

SECTION 22. MODIFICATION OF CONTRACT. As a result of additional requirements, the CITY may require modification of this contract. The DELEGATE AGENCY agrees to accept this contract with the

understanding that the contract may be modified. In the event the DELEGATE AGENCY is unable to comply with the required contract modification the CITY shall be notified by the DELEGATE AGENCY within 10 days, at which time the CITY may declare this contract canceled and proceed under the contract cancellation provisions herein provided. Further, in the event the DELEGATE AGENCY is unable to meet the contractual goals and/or obligations as specified herein or in any subsequent contract amendment, the DELEGATE AGENCY may request modification of the contract. Any request for modification of the contract by the DELEGATE AGENCY must be provided to the CITY in writing and must state the reason(s) and provide justification. Any modifications to this contract shall be in accordance with the following provisions:

A. To provide necessary flexibility for the most effective execution of this project, subject to B. and C. below, changes to this contract may be effected by placing them in written form and incorporating them into this contract. Any contract modification must be approved in writing by both the CITY and the DELEGATE AGENCY.

B. Any line item changes to the approved budget per Exhibit C must be requested and justified in writing. Line item changes exceeding $10,000 must be presented to and approved by the City Council.

C. Prior to any financial or programmatic change that would substantially alter the original intent of the contract, a written amendment shall be approved and signed by all signatories to the original contract and by the City Council.

SECTION 23. CONTRACT CANCELLATION. The City shall conduct a periodic and ongoing evaluation of the adequacy of performance of any or all sections of this contract by the DELEGATE AGENCY or its subcontractor. In the event of any failure of the DELEGATE AGENCY or its subcontractor to achieve 85% of the scheduled program goals as set forth in Exhibit B, the CITY reserves the right to require replanning or other appropriate action, which may involve reduction or deobligation of funds or cancellation of this contract; however, any of these actions shall not relieve the DELEGATE AGENCY of the requirement to achieve 100% of the performance goals by the termination date of this agreement.

Cancellation shall be effected by the CITY's notice of cancellation to the DELEGATE AGENCY, which shall specify the reasons for cancellation and the date upon which such cancellation becomes effective. Upon receipt of notice of cancellation the DELEGATE AGENCY shall: (1) discontinue further commitments of contract funds; (2) promptly cancel all subcontractors and agreements utilizing funds under this contract; (3) settle with the approval of the CITY all outstanding claims arising from such cancellation; and (4) submit, within a period of time to be specified by the CITY, a cancellation settlement proposal which shall include a final statement of the contract.

SECTION 24. TERMINATION CLAUSE. Upon breach of the contract by the DELEGATE AGENCY, 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 30 or referenced therein, exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. This contract may also be terminated by mutual agreement of the parties or because the CITY's Community Services Block Grant funding is not appropriated or it is, or is to be, terminated or defunded. If contract termination occurs, as a result of factors other than breach of the contract terms by the DELEGATE AGENCY, the contract cancellation procedure set forth in Sections 22 and 23 of this contract shall take effect.

SECTION 25. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the DELEGATE AGENCY 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 26. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT. All parties to this contract shall comply with all provisions contained in the Americans with Disabilities Act of 1990, as amended.

SECTION 27. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the DELEGATE AGENCY, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the CITY 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 DELEGATE AGENCY pursuant to this contract.

SECTION 28. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COSTS PRINCIPLES. During the administration of this contract, the DELEGATE AGENCY shall comply with and adhere to applicable Office of Management and Budget (OMB) Circulars, as revised, which may include OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," OMB Circular No. A-122, "Cost Principles for Non-Profit Organizations," OMB Circular No. A-21, "Cost Principles for Educational Institutions," OMB Circular No. A-102, "Grants and Cooperative Agreements with State and Local Governments," and OMB Circular A-87, "Cost Principles for State and Local Governments." In particular, the DELEGATE AGENCY shall assure compliance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," which sets out audit requirements and specifies records must be available for review or audit by appropriate officials.

SECTION 29. RENEGOTIATION. This contract may be renegotiated in the event additional or alternate sources of funding become available during the term of the contract.

SECTION 30. APPENDICES. All documents or exhibits referenced herein, all amendments or mutually agreed upon modification(s) made and signed by all parties to this contract, and all exhibits referenced below and attached hereto are hereby incorporated in this contract and made a part thereof as though fully set forth herein.

Exhibit A	Revised Non-Discrimination & Equal Employment Opportunity/Affirmative Action Requirements
Exhibit B	Performance Criteria, Contract Objectives
Exhibit C	Detail of Budget
Exhibit D	Contractual Provisions Attachment
Exhibit E	Federal Certification Regarding Lobbying

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 hereunder.

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.

EXHIBIT B

PERFORMANCE CRITERIA
CONTRACT OBJECTIVES

It is mutually agreed by and between the City of Wichita, Kansas (hereinafter referred to as the CITY) and the Central Plains Regional Health Care Foundation, Inc. (hereinafter referred to as the DELEGATE AGENCY) that it is the intent of this contract to provide physician-authorized medications, medical supplies and durable medical equipment to persons with incomes at or below 125% of federal poverty guidelines. The geographic area to be served under this contract includes all areas within the county limits of Sedgwick County, Kansas.

FIRST, the DELEGATE AGENCY understands and agrees that performance under this contract will be evaluated by the CITY's Career Development Division (hereinafter referred to as the CDD).

SECOND, the DELEGATE AGENCY shall notify the CDD whenever it is unable to provide the quantity or quality of service required under this contract. Upon such notification, the CDD shall determine whether such inability will require a modification or cancellation of the contract or a reduction in the payments to the DELEGATE AGENCY.

THIRD, it is understood that DELEGATE AGENCY records used in preparation of all reports submitted pursuant to this agreement are subject to review by the CITY and/or its agent to ensure the accuracy and validity of the information reported.

FOURTH, the DELEGATE AGENCY understands and agrees that the $300,000 in Community Services Block Grant Program funds shall be the maximum amount provided by the CITY under this contract per Exhibit C. Costs exceeding $300,000 shall be born in full by the DELEGATE AGENCY.

CONTRACT PROVISIONS SPECIFIC TO THE PROJECT'S SCOPE OF SERVICES

The CITY and the DELEGATE AGENCY mutually understand and agree to the following provisions under this contract:

1. The DELEGATE AGENCY is solely responsible for the certification of eligible applicants for physician-authorized medications and/or durable medical supplies.

2. The DELEGATE AGENCY will provide at least 1600 physician-authorized medications through local pharmacies and other providers as appropriate.

3. Only physician-authorized medications, medical supplies and durable medical equipment may be purchased through this contract and provided to persons with incomes at or below 125% of federal poverty guidelines. No DELEGATE AGENCY equipment or materials may be purchased.

4. The DELEGATE AGENCY agrees that all payments under this contract shall be in accordance with established budgeting, purchasing, and accounting procedures of the CITY.

5. The DELEGATE AGENCY agrees to make a written request to the CITY for an advance of $150,000 twice during the contract period, once at the beginning of the contract and once when the unexpended balance of the first advance reaches $30,000. The CITY will monitor the DELEGATE AGENCY's expenditure of grant funds by use of the monthly reports provided by the DELEGATE AGENCY (see item 6 below). At the sole discretion of the CITY, and in accordance with Section 23. CONTRACT CANCELLATION, the CITY may require the DELEGATE AGENCY to return all, or any part of the unexpended funds advanced to the DELEGATE AGENCY. Any unearned or unexpended contract funds on hand at the termination of the contract will be returned to the CITY within 20 calendar days of the termination of the contract.

6. The DELEGATE AGENCY agrees to provide monthly fiscal reports by the 20th of the following month listing financial expenditure information in the detail required for the City to determine the financial status of the project and the amount of funds expended for applicants served during that month.

7. The DELEGATE AGENCY agrees to provide such demographic reports as are determined necessary by the CITY and the Kansas Housing Resources Corporation.

EXHIBIT C

BUDGET DETAIL

FUND: 290-SUBFUND 805 2007-CSBG-01	DEPARTMENT: Human Resources	DIVISION: CDD Project Access	ACTIVITY NO.: 122850

Account Classification	**Budget**
1195 Delegate Agencies-Payroll	$ 40,000
3902 Medical Supplies	260,000
TOTAL	$300,000

GRAND TOTAL	$300,000

CONTRACTUAL PROVISIONS ATTACHMENT

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

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

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 1st day of September 2007.

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.

AGREEMENT WITH KANSAS LAW:
All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

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.

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 canceled, 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 the ADA, such violation shall constitute a breach of contract and the contract may be canceled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of the preceding paragraph (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.

ACCEPTANCE OF CONTRACT:
This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

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.

REPRESENTATIVE'S AUTHORITY TO CONTRACT:
By signing this document, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this document on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

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.

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.

INFORMATION:
No provisions of this contract shall be construed as limiting the Legislative Division of Post Audit from having assess to information pursuant to K.S.A. 46-1101 et seq.

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."

EXHIBIT E

Community Services Block Grant, Project Access

45 CFR Part 604 – New Restrictions on Lobbying

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The applicant certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The applicant shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under loans, and cooperative agreements) and that all subrecipients shall certify and disclosure accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, UPS Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Anne Nelson
Signature

Associate Executive Director/Central Plains Regional Health Care Foundation
Title/Institution

Community Services Block Grant, Project Access

Central Plains Regional Health Care Foundation, Inc. Contract Number _____.

Christopher Moeller, M.D., President

10-26-07
Date

CITY OF WICHITA

Carl Brewer, Mayor
City of Wichita

10-23-07
Date

ATTEST:

Karen Sublett, City Clerk

10-23-07
Date

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

10-22-07
Date

Agenda Item No. XII-17

City of Wichita
City Council Meeting
August 26, 2008

TO:	Mayor and City Council Members
SUBJECT:	Contract for Technical support for Citrix XenApp Environment
INITIATED BY:	IT/IS
AGENDA:	Consent

Recommendation: Approve the contract and authorize the necessary signatures.

Background: On Friday June 20th, 2008 the IT/IS department selected Choice Solutions proposal for technical support in response to FP800055 -"Technical Assistance maintaining a Citrix Zenapp environment "

Analysis: Technical support for the Citrix XenApp is provided by the vendor through its Value Added Resellers.

Financial Considerations: The contract allows for the purchase of time blocks of technical support in 40 Hour increments at $5,800.00 each, the total contract is not to exceed $75,000.00 annually.

Goal Impact: The XenApp solution supports the internal perspectives goal of increasing employee access to information by extending the desktop to any location where internet access is available and by simplifying software distribution.

Legal Considerations: The Law Dept has approved the contract as to form. The contract will be for one year with (2) one-year renewal annual options.

Recommendations/Actions: IT is recommended that the city council approve the contract with Choice solutions for ZenApp technical support and authorize the necessary signatures.

Attachments: Contract

CONTRACT
for
XENAPP TECHNICAL ASSISTANCE
BP800100

THIS CONTRACT entered into this 26th day of September, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY"**, and **CHOICE SOLUTIONS, LLC,** (Vendor Code Number 809824-002), 3020 N. Cypress, , Suite 200, Wichita, KS 67226 Telephone Number (316) 293-2937, hereinafter called **"CONTRACTOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for Xenapp Technical Assistance (Formal Proposal – FP800055) [Commodity Code Number – 91829]; 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 – FP800055, 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 – FP800055, shall be considered a part of this contract and is incorporated by reference herein.

2. **Compensation. CITY** agrees to pay to **CONTRACTOR** the following unit prices under the specified terms as per the proposal, plans, specifications, addenda and Contractor's proposal of June 20, 2008 and as approved by City Council on August 19 , 2008 for Xenapp Technical Assistance for the IT/IS Division.

- **40 hour Time Block will be $5,800.00 or $145 per hour**
- **The time block will be good for 12 Months**
- **Remote support Time will be charged in 30 minute increments**
- **Onsite support time will be charged a 1 Hour Minimum to include one-way travel. Actual Travel expenses may incur for distances over 50 Miles**
- **Usage reports will be sent to the City contact at the end of the month that the usage occurred**
- **Senior Citrix Engineers time will be charged at 150% of normal time**

- **Timeblocks will be subject to a 4% cost of living allowance on an annual basis if the contract is renewed**
- **Weekend , Holiday, and off hour rates apply unless Previously scheduled**

***Contract not to exceed $75,000.00 annually**

3. **Term.** The term of this contract shall be from **Sept 1, 2008 through August 31, 2010** with options to renew for an additional (1) one or (2) year period(s) under the same terms and conditions through the mutual consent of both parties. During this two year period, the City may purchase more 40 hour time blocks as deemed necessary. 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.

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.** The services to be provided by the **CONTRACTOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

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 Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration**. The 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, the representative of the contractor or **CONTRACTOR** represents the he or she is duly authorized by the contractor or C**ONTRACTOR** to execute this contract, and that the contractor or C**ONTRACTOR** 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:

_____
Janis Edwards
Deputy City Clerk

CITY OF WICHITA, KANSAS

_____
Carl G. Brewer
Mayor

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

CHOICE SOLUTIONS, LLC

_____
(Signature)

_____
(Print Name)

_____
(Title-President or Corporate Officer)

EXHIBIT A

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

During the term of this contract, the contractor or subcontractor, Contractor 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, Contractor 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, 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 contractor, 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 Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, 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 Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The Contractor, 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 Contractor, 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 Contractor, 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 Contractor, 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, subcontractor 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, Contractors 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 Contractors, 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, Contractor 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. X11-18

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Safe Routes to School Application Resolution
Infrastructure Planning (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Adopt resolution and authorize necessary signatures.

Background: The Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) was passed in 2005. This federal legislation included funding for the Safe Routes to School (SRTS) program. The SRTS program is administered through the Kansas Department of Transportation (KDOT). The program is a 100% reimbursement program intended to enable and encourage children, including those with disabilities, to walk and bicycle to school; to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and to facilitate the planning, development and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of schools. These funds are available for infrastructure and non-infrastructure projects, and administrative programs that benefit elementary and middle school children in grades K-8.

Analysis: The City of Wichita was awarded Phase I funds ($15,000) in October 2006 to partner with area schools to facilitate the planning, development and implementation of infrastructure projects that will improve safety for students' walking/biking to school. A plan has been developed utilization Phase I funding for Jackson Elementary located at 2717 N. Woodlawn. The City is submitting this plan to be considered for Phase II funding to implement the plan.

Financial Considerations: The federal program is 100% reimbursement with no impact to the City of Wichita budget. Acceptance of the award will not obligate general fund monies.

Goal Impact: The program supports the following goals:

- **Providing a Safe and Secure Community** by increasing awareness and education about traveling safely to schools and providing education to drivers who navigate these areas.
- **Core Area and Neighborhoods** by improving safety and education of alternative methods to access schools in neighborhoods.
- **Quality of Life** improving the health of students encouraging walking and bicycling to schools from home.

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

Recommendations/Actions: It is recommended that the City Council adopt the resolution for application to the Safe Routes to School program and authorize the necessary signatures.

Attachments: Application Resolution.

RESOLUTION NO. 08-425

Resolution of Support and Administration

A RESOLUTION DECLARING THE ELIGIBILITY OF THE CITY OF WICHITA, KS TO SUBMIT AN APPLICATION TO THE KANSAS DEPARTMENT OF TRANSPORTATION FOR USE OF SAFE ROUTES TO SCHOOLS FUNDS SET FORTH BY SAFETEA-LU FOR THE SAFE ROUTES TO SCHOOL PLAN (PHASE A) PROJECT IN THE CITY OF WICHITA AND AUTHORIZING MAYOR CARL BREWER TO SIGN THIS APPLICATION.

Whereas, the City of Wichita, Kansas, has the legal authority to apply for, receive, and administer federal, state, and other monies through Home Rule Power under the Constitution of the State of Kansas and authorized by K.S.A. 12-1662, regarding the expenditure of federal aid to public agencies; and

Whereas, the City of Wichita, Kansas, desires to submit an application to the Kansas Department of Transportation for Safe Routes to Schools funds set forth by SAFETEA-LU; and

Whereas, the City of Wichita, Kansas, is participating in the Kansas Department of Transportation's Safe Routes to Schools program set forth by SAFETEA-LU; and

Whereas, Federal monies are available under a Safe Routes to Schools program set forth by SAFETEA-LU, administered by the State of Kansas, Department of Transportation, for the purpose of creating safer routes to schools in Kansas; and

Whereas, after appropriate public input and due consideration, the Governing Body of the City of Wichita, Kansas has recommended that an application be submitted to the State of Kansas for the Safe Routes to School Plan (Phase II) project.

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

SECTION 1. That the City of Wichita, Kansas, does hereby authorize Mayor Carl Brewer to submit an application to the Kansas Department of Transportation for Safe Routes to Schools program funds set forth by SAFETEA-LU on behalf of the citizens of City of Wichita, Kansas.

SECTION 2. That the City of Wichita, Kansas, hereby assures the Kansas Department of Transportation that sufficient funding for the Safe Routes to School Plan (Phase II) project is available, as the Safe Routes to Schools Program is a reimbursement program.

SECTION 3. That the City of Wichita, Kansas, hereby assures the Kansas Department of Transportation that sufficient funding for the operation and maintenance of the Safe Routes to School Plan (Phase II) project will be available for the life of the project.

SECTION 4. That the City of Wichita, Kansas, hereby assures the Kansas Department of Transportation that the City of Wichita, Kansas, will have title or permanent easement to the Safe Routes to School Plan (Phase II) project by the time of project letting, if necessary.

SECTION 5. That the CEO of City of Wichita, Kansas, is authorized to sign the application to the Kansas Department of Transportation for Safe Routes to Schools program funds set forth by SAFETEA-LU on behalf of the citizens of City of Wichita, Kansas. The CEO is also authorized to submit additional information as may be required and act as the official representative of the City of Wichita in this and subsequent related activities.

SECTION 6. That the City of Wichita, Kansas, hereby assures the Kansas Department of Transportation that the City of Wichita, Kansas, is willing and able to, if the Safe Routes to School Plan (Phase II) project is selected for funding, administer all activities involved with the Safe Routes to School Plan (Phase II) project.

ADOPTED AND PASSED by the Governing Body of the City of Wichita, Kansas, this 26th day of August, 2008.

CITY OF WICHITA

By: _____
Carl Brewer, Mayor

SEAL

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form

_____
Gary Rebenstorf, Director of Law

Safe Routes to Schools

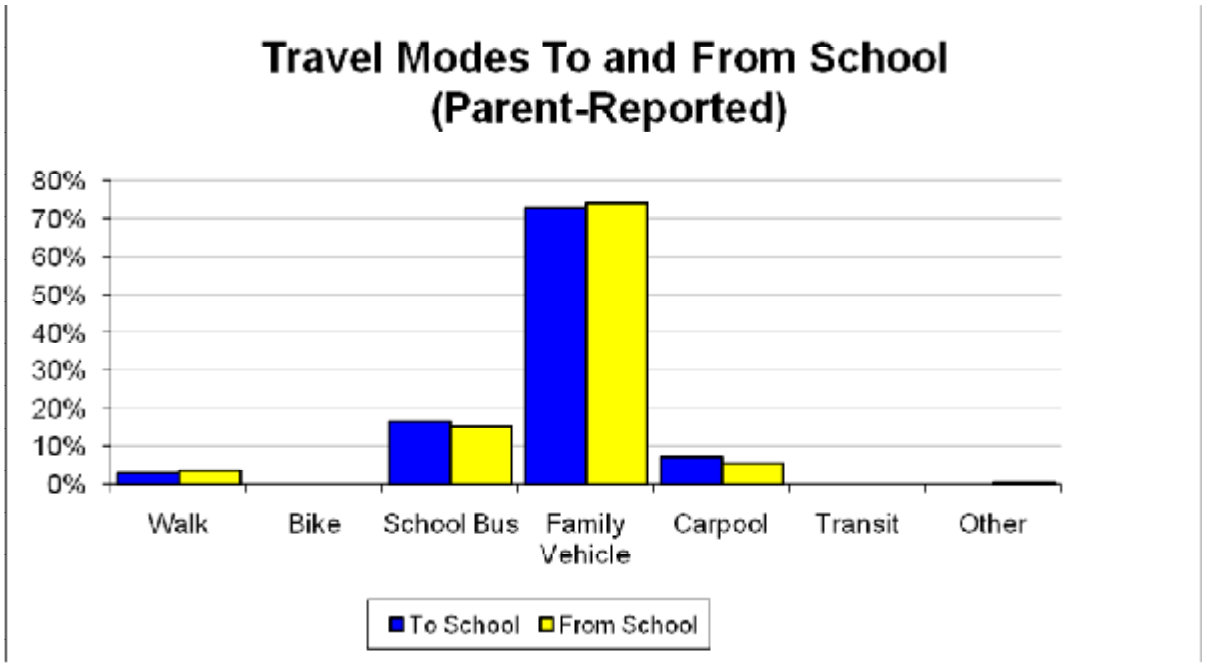
Jackson Elementary

Introduction:

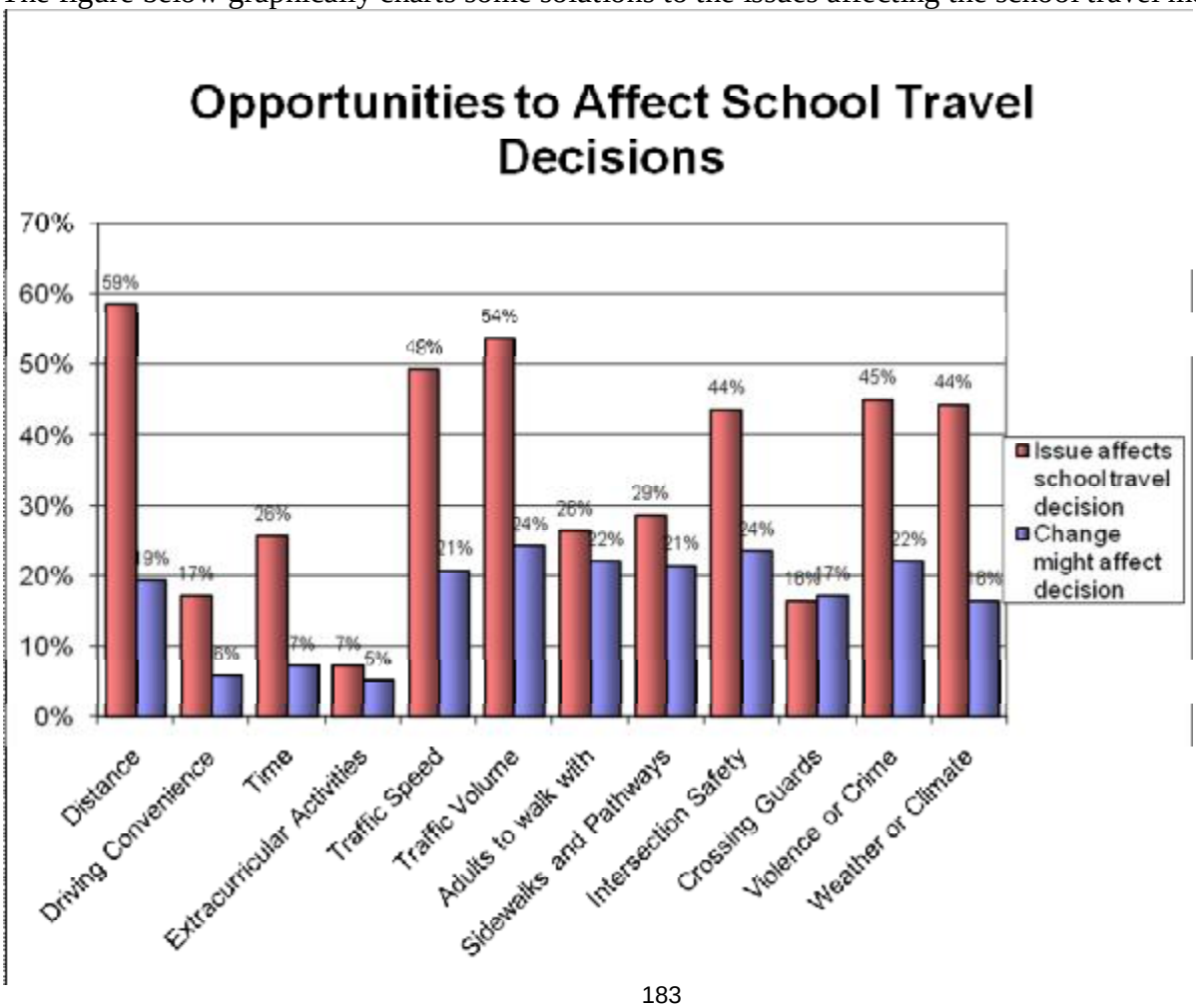
The City of Wichita and USD 259 (Wichita Public Schools) was awarded Phase I funding to develop a Safe Routes to School program for selected schools in Wichita. This plan will focus on Jackson Elementary School. We have partnered during this program to gather the student survey sheets, parent survey sheets, presented a display regarding Safe Routes to School at a family fun night, and discussed the Safe Routes to School program at a neighboring Home Owner's Association.

Traffic Engineering staff, USD 259 staff and a representative from the nearby residential development have met occasionally to discuss priorities and projects to create a Safe Routes to School plan for Jackson Elementary. Most discussion has been regarding providing sidewalk to the school from adjacent arterial streets and the adjacent residential neighborhood, providing a pedestrian crosswalk across 29th Street, and the concept of walking school buses.

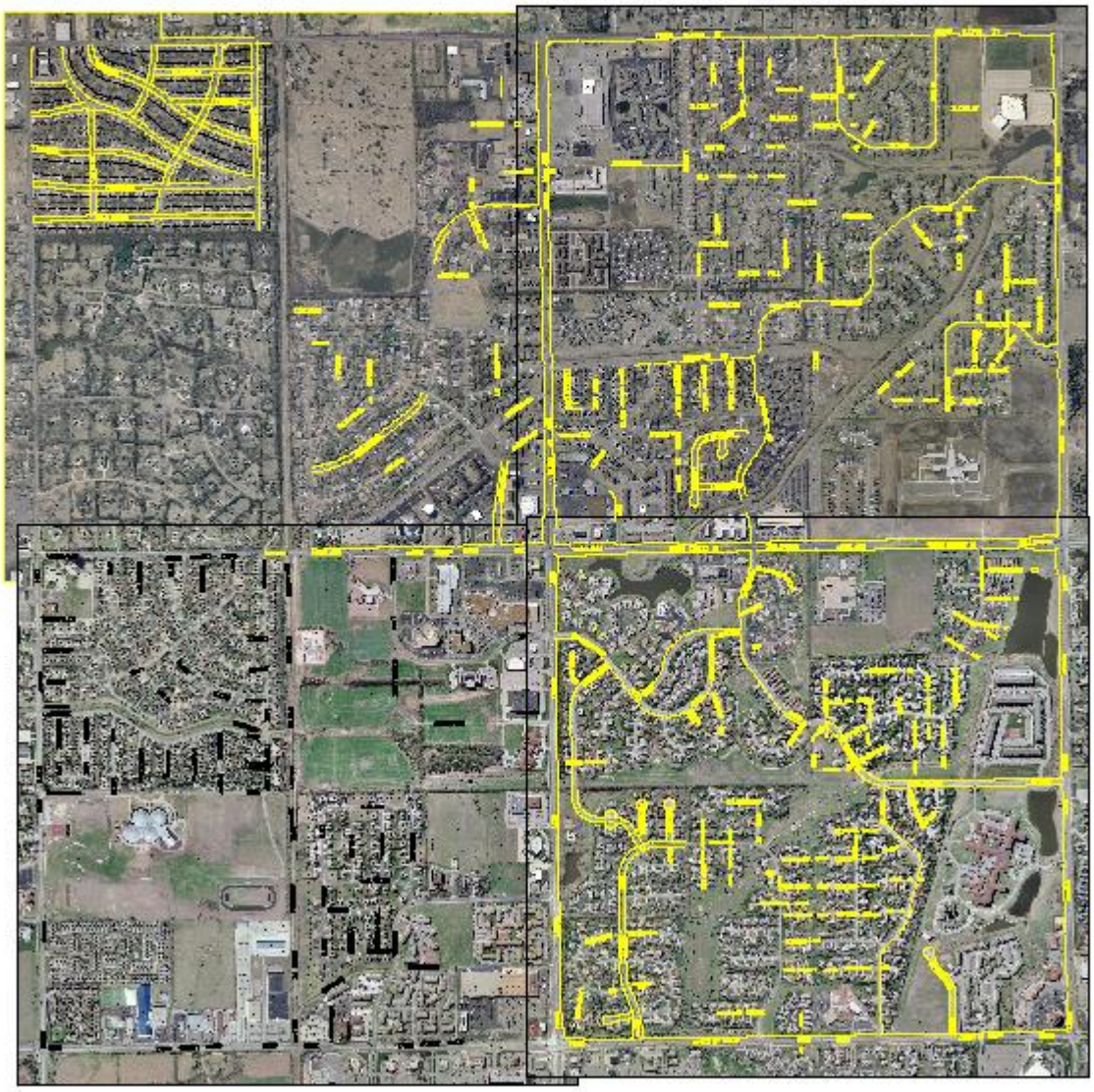
The Parent Surveys indicate approximately 75% of the students arrive/depart Jackson Elementary by family vehicles. Some key factors affecting the school travel decisions are: distance to school, traffic volumes, traffic speeds, intersection safety, violence, and weather.



The figure below graphically charts some solutions to the issues affecting the school travel modes.



Sidewalks and Pathways, Intersection Safety, Traffic Speed, and Adults to Walk With are all items discussed at meetings prior to the results of the survey. There was interest regarding the walking school bus when mentioned as part of Safe Routes to Schools at the booth during the family fun night. The school boundary map has been reviewed and plotted on a map and is located at the end of this report. Sidewalks, as well as bus stop/pick-ups, have been inventoried within the school boundary. The map on the next page (north is to the right) shows existing sidewalk within the school boundary. As the map indicates, the sidewalk in the residential areas near the school is disjointed at best. During Phase II sidewalk connections would be built to provide a more comprehensive sidewalk network. The subdivision east of the school has walking paths in addition to the sidewalk along the streets. These paths may be utilized by students who choose to ride/bike to school.



Existing sidewalks within the school boundary

Engineering:

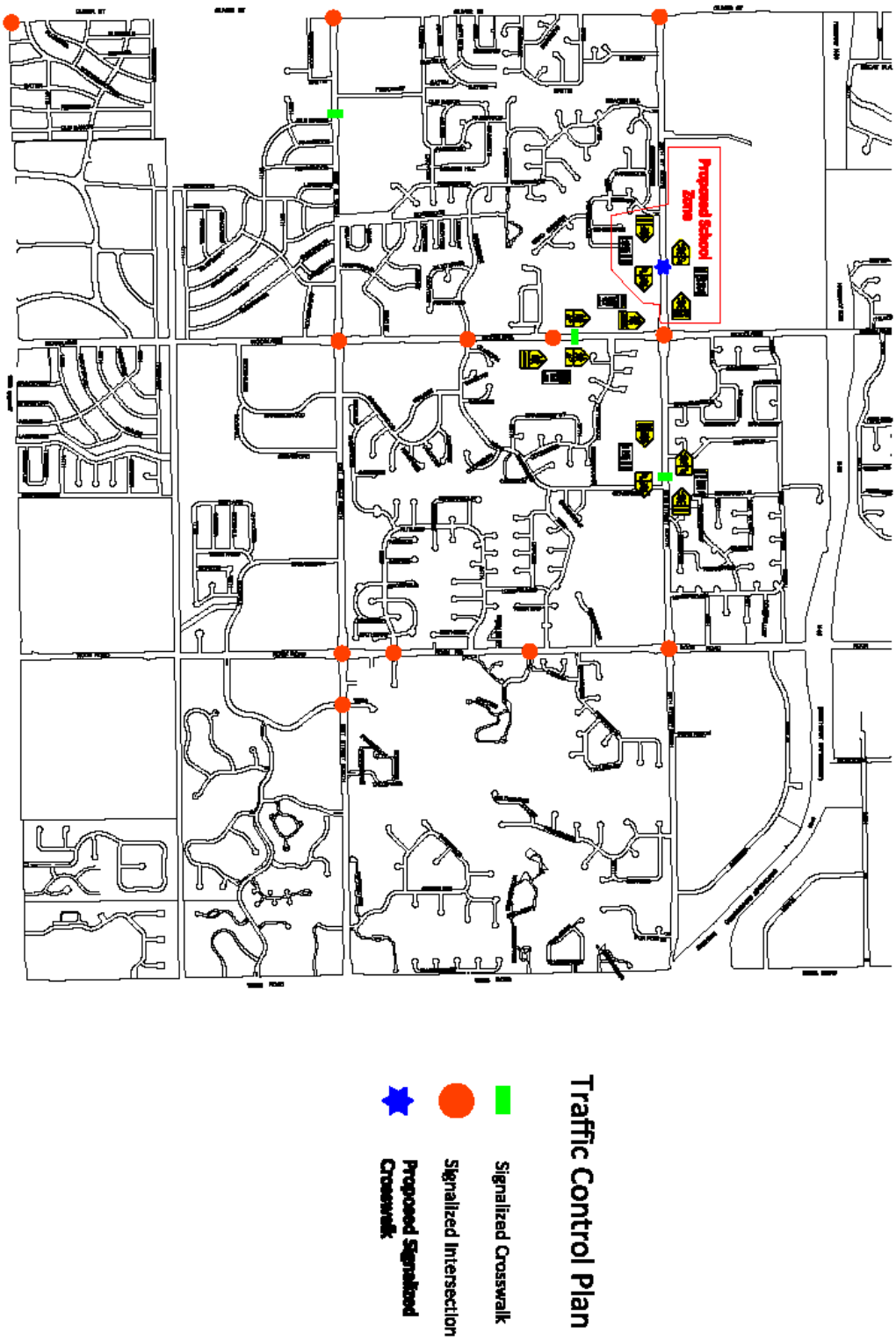
Existing traffic signals, pedestrian crosswalks, school signs, etc. within the school boundary have been inventoried and identified on the map on the following page. Currently, there is one school zone and one signalized pedestrian crosswalk for Jackson Elementary, both located on Woodlawn. There is a desire and recommendation from the team to provide a school zone and crosswalk on 29th Street. The crosswalk would be on the evacuation route Jackson Elementary School utilizes to the Great Plains Nature Center located on the north side of 29th Street. Currently students have to walk in the private

drive or in the grassy area to reach the Great Plains Nature Center. Providing sidewalk would create a hard surface out of traffic to walk on during wet weather. The proposed location of a crosswalk on 29th Street is denoted on the map.

As the map indicates, there are signalized intersections and other pedestrian crossings within the school boundaries. These signalized intersections all include pedestrian indications with push buttons to assist students/parents crossing the street. As part of Phase II, the City of Wichita recommends replacing the current pedestrian indications (with incandescent lamps and word messages) with pedestrian indications utilizing LEDs and the symbolic displays for Walk and Don't Walk. By doing this small project, it will ensure that all pedestrian indications within the school boundary are consistent. It is also recommended to install countdown pedestrian modules at all 12 signalized intersections and both crosswalks within the school boundary. The countdown modules display the amount of time remaining of the Flashing Don't Walk cycle. Research conducted in San Francisco shows overall safety benefits and a substantial reduction in pedestrian - vehicles accidents where countdown modules have been installed. We are not aware of any pedestrian - vehicle accidents in the study area near Jackson Elementary; however, we want to provide the latest technology to provide safe routes to schools in the Wichita area. Installing the countdown modules will alert the students the remaining time they have left to cross the streets, thus reducing the risk of pedestrian - vehicle accidents.

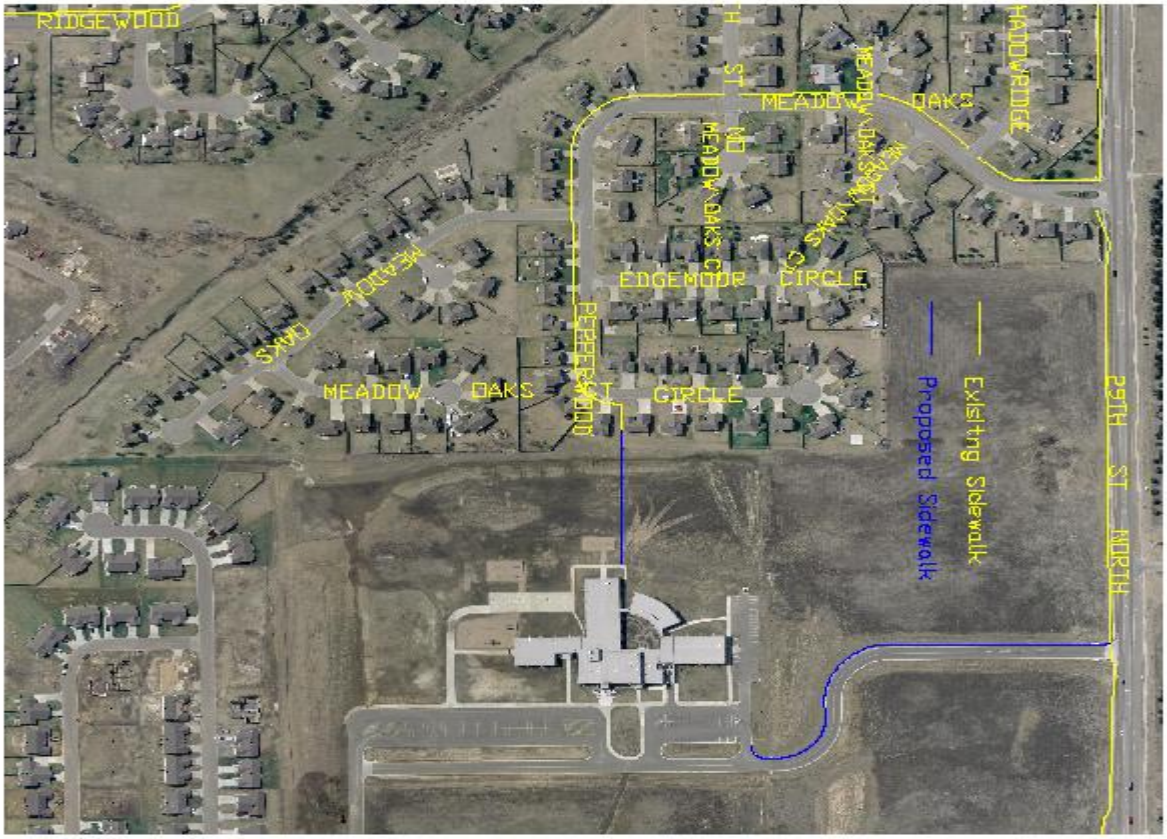
A review of the existing signal timings will also be done to be sure there is enough time provided for pedestrians to cross the street at a travel speed of 3.5 ft/sec as recommended by the Manual on Uniform Traffic Control Devices (MUTCD).

Also, during Phase I, staff conducted a walk-about and found areas where the sidewalk was blocked by overhanging limbs, raised panels of sidewalk causing trip hazards, and raised (rolled) curb, thus not meeting ADA standards for an accessible route. It is our desire to address these issues with Phase II funding. Photos of some of these examples are at the end of the report.



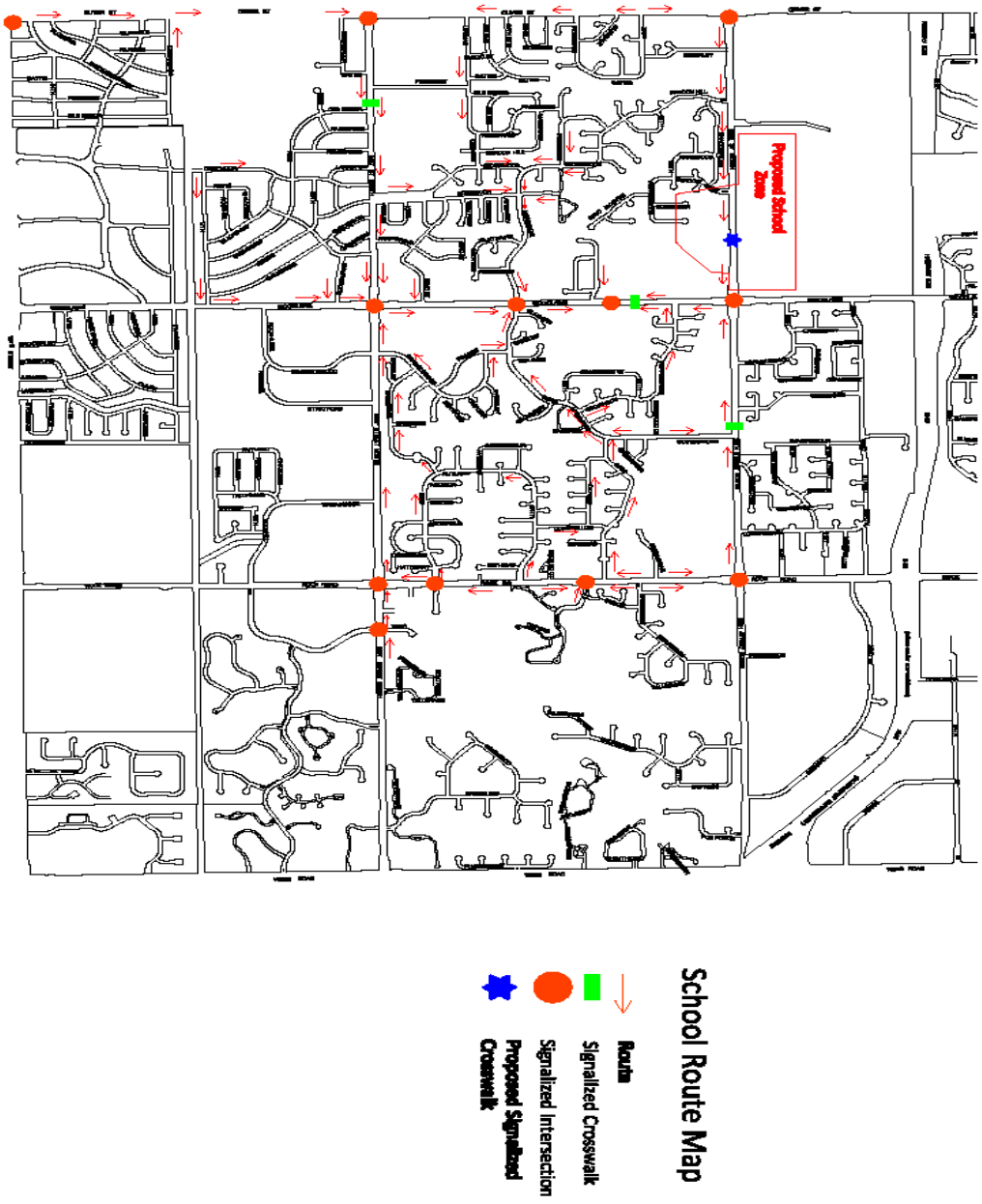
To compliment the proposed safety devices to cross 29th Street, it is recommended to install sidewalk along the school's drive from 29th Street to the existing school sidewalk immediately adjacent to the building. This is a top priority with the team and parents, and as mentioned before; this is the evacuation route to the Great Plains Nature Center.

To encourage walking from the adjacent neighborhood, a sidewalk is proposed from Pepperwood Circle (through an existing pedestrian easement) to the school. The construction of the sidewalk will include drainage structures to cross a small drainage swale. This is also a high priority with the school and team. The following map shows these proposed sidewalk locations.



Education:

As part of the engineering review, a preliminary school route plan has been created. The plan is intended to provide students a map with suggested routes to take to get to school if walking or biking. The plan directs students from streets within the neighborhood to signalized intersections/crosswalks on arterial streets. As part of Phase II, the school route plan (shown below) will be distributed to students and available at the school.



Within the education tool, Traffic Engineering staff will meet with school representatives to educate students about pedestrian safety at signalized intersections. It is important for students/parents to understand how pedestrian traffic signal indications are programmed - what the Walk cycle and Flashing Don't Walk cycles mean. The addition of pedestrian countdown modules will help with the education effort.

Later in the report you will see a graphic indicating Violence or Crime is one of the main issues parents consider to allow/not allow their students to walk/bike to school. The WPD keeps track of crime statistics for each beat. Presenting the crime statistics and understanding the types of crimes near the school may influence parent's decisions to allow their students to walk to school.

Although still in the planning stages, the Wichita Area Metropolitan Planning Area (WAMPO) has also teamed up with USD 259 and the local Safe-Kids Coalition to create a document to assist cities/school districts in the area to educate and encourage students to walk/bike to school. Once this plan has been completed, it will be utilized for Jackson Elementary.

Enforcement:

Traffic Engineering and USD 259 have a close working relationship with the Traffic Section of the Wichita Police Department (WPD). Each substation has a Patrol Sergeant assigned to the bureau to work on traffic related issues. In the past Traffic engineering staff has requested the portable speed trailers to be placed in locations where complaints have been received regarding speeding. We have also worked with School Resource Officers (WPD officers assigned to certain schools with salaries being paid by both City of Wichita and USD 259), regarding traffic congestion/circulation around schools.

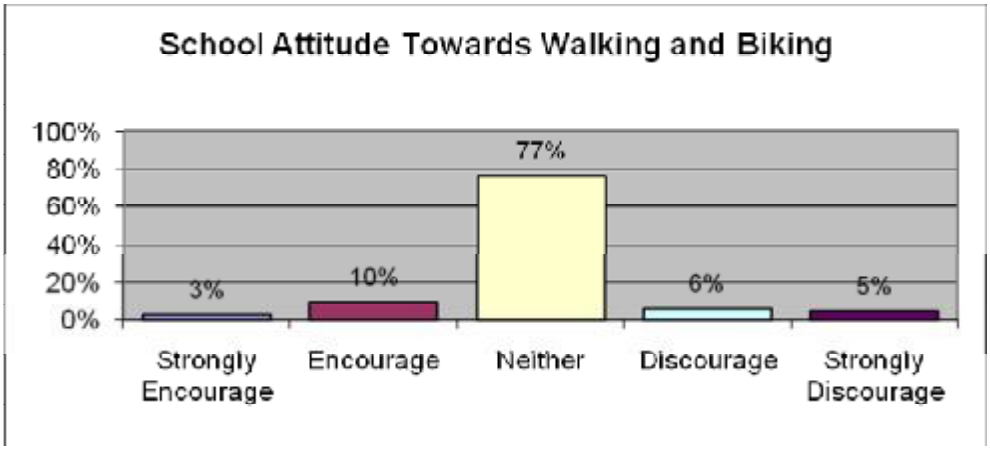
As part of Phase II, Traffic engineering staff will conduct radar studies in the school zones while the flashing beacons are operating to determine compliance with the 20 mph zone. If the study concludes motorists are not obeying the flashing beacons, a request will be sent to WPD to park the portable radar speed trailers within the school zone for a period of time. If motorists still don't comply, enforcement may be needed.

The layout of Jackson Elementary eliminates one of the largest problems we face in Wichita around the schools which is parents dropping-off/picking-up students on the wrong side of the street. However, students at Jackson Elementary still must cross traffic within the school parking lot to reach the school. USD 259 staff monitor students/vehicular traffic during the drop-off/pick-up times. The school has developed a circulation plan and there appears to be good compliance. This plan will be included with the School Route Plan to be distributed to parents.

Encouragement:

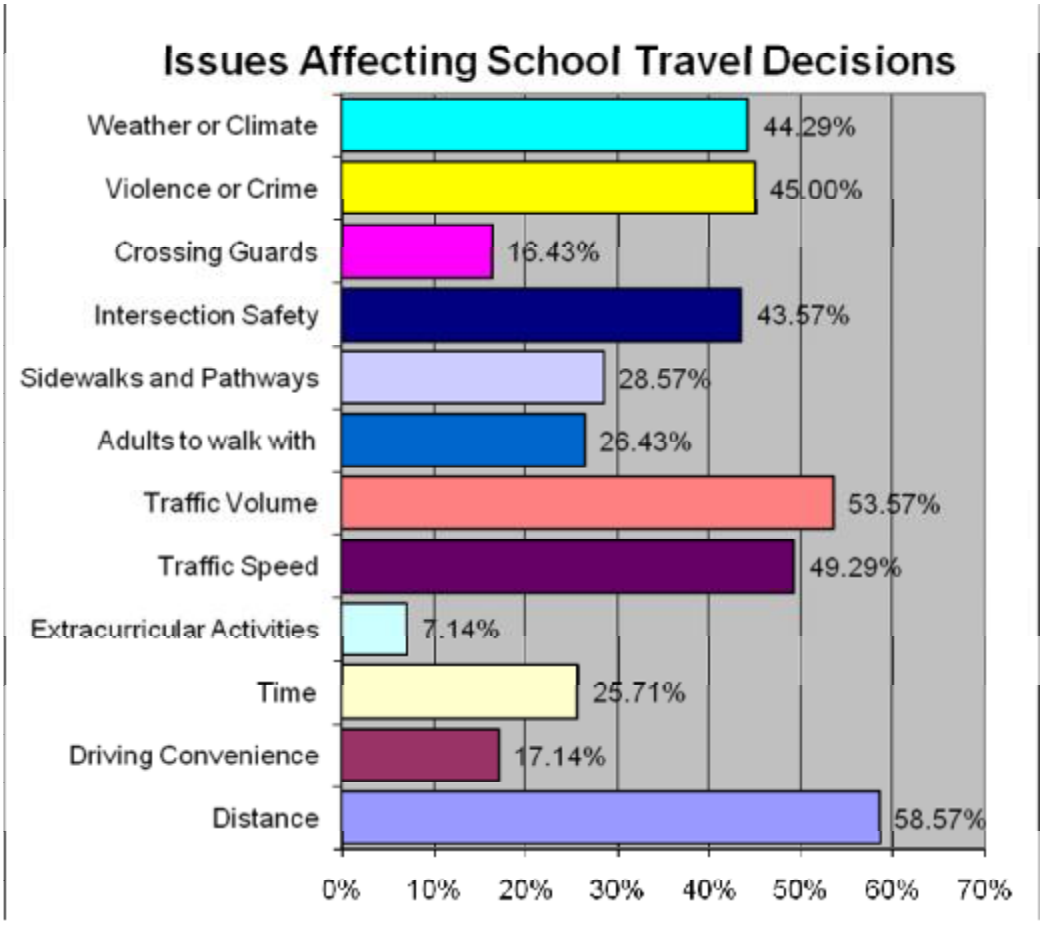
Jackson Elementary has plans to construct a track on their property to encourage physical fitness. Students have raise $1,000 towards the track. The PTO has raised $5,000 and the Latchkey program will contribute $6,000 toward the project. The school has been working with one of the local hospitals to receive a grant to complete the funding for the track. This is proof that there is a strong commitment from the school to teach students that exercise is an important factor of a healthy lifestyle.

This is contrary to what the survey concluded as the graphic shows below. Programs (Walk to School Day, Walking School Buses, etc) will be created with Phase II funding to encourage students to walk to school.



Evaluation:

The graphic below shows weather, crime, intersection safety, traffic volumes, and traffic speeds are the biggest issues affecting parents' decisions to allow/not allow their students to walk/bike to school. While some of these we don't have control over (weather and traffic volumes), there are some we can address thru Phase II. Intersection safety will be improved with the addition of new pedestrian indications with the countdown modules, making sure the crosswalks are clearly marked, etc. Traffic speeds can be enforced if motorists are not obeying the school zones.



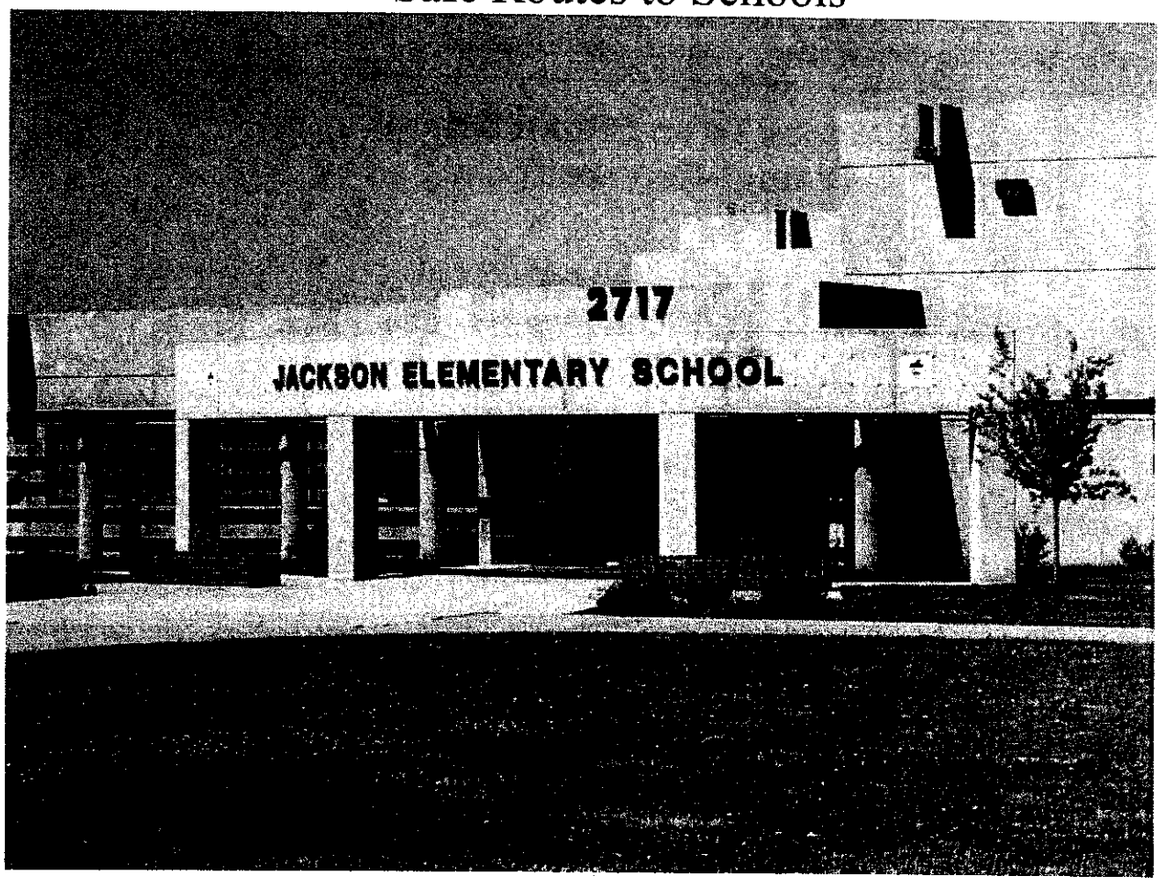
There are key issues we want to address with Phase II. First and foremost are the sidewalk connections to the school from 29th Street and the residential subdivision to the west. Secondly, the pedestrian indications with countdown modules, we feel these will improve compliance and safety for students crossing the busy arterial streets. Third on our priority list is a crosswalk across 29th Street to reach the Great Plains Nature Center. Fourth, we want to find parents that are willing to create Walking School buses.

The City of Wichita has worked with USD 259 on issues around schools for many years. This is another positive project we have teamed together to create a plan to provide safe routes for students to get to school.

APPENDIX

7218
7218

Safe Routes to Schools



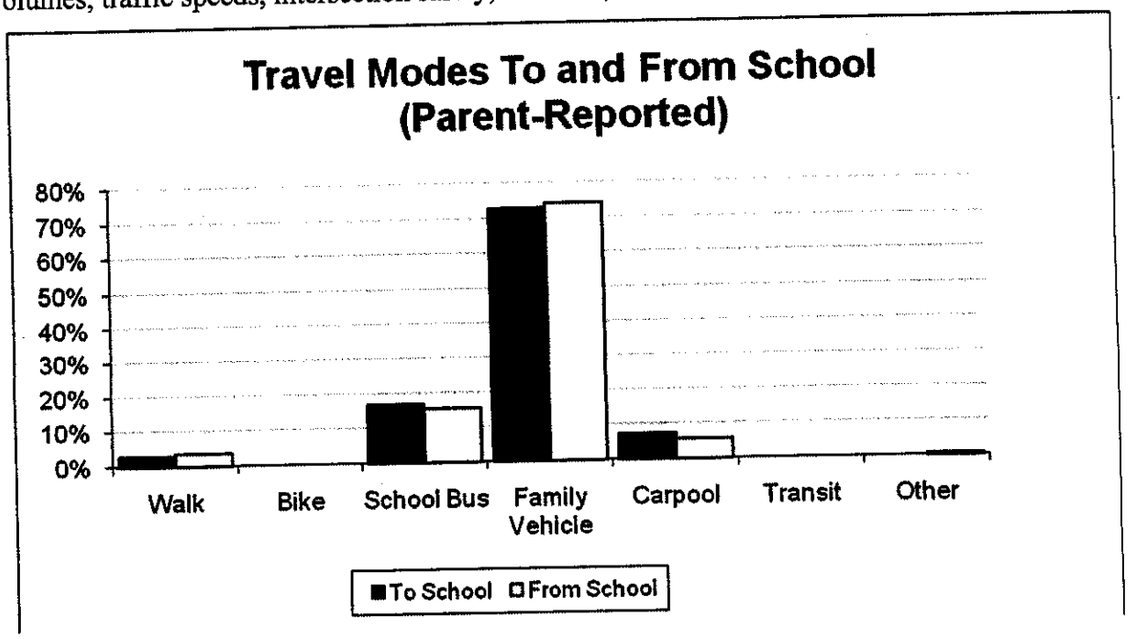
Jackson Elementary

Introduction:

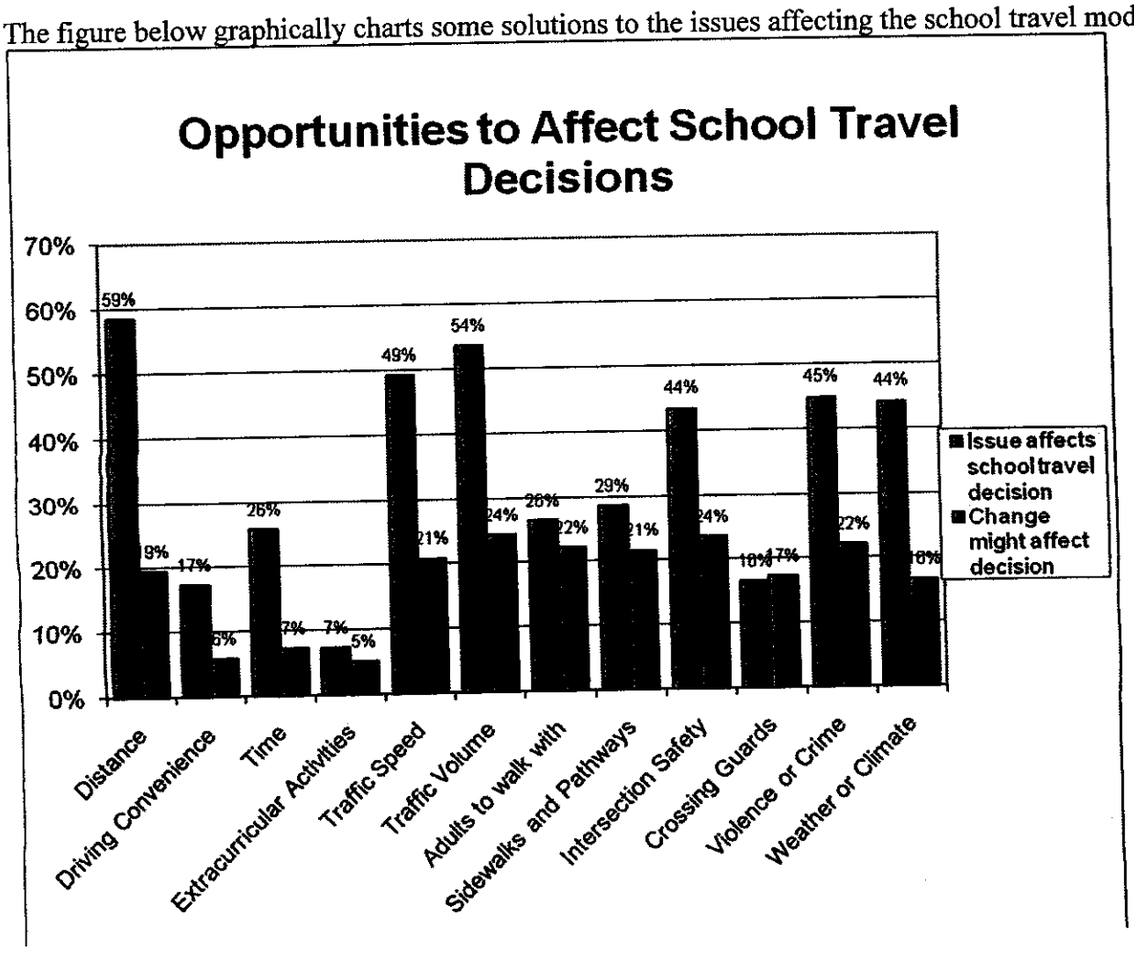
The City of Wichita and USD 259 (Wichita Public Schools) was awarded Phase I funding to develop a Safe Routes to School program for selected schools in Wichita. This plan will focus on Jackson Elementary School. We have partnered during this program to gather the student survey sheets, parent survey sheets, presented a display regarding Safe Routes to School at a family fun night, and discussed the Safe Routes to School program at a neighboring Home Owner's Association.

Traffic Engineering staff, USD 259 staff and a representative from the nearby residential development have met occasionally to discuss priorities and projects to create a Safe Routes to School plan for Jackson Elementary. Most discussion has been regarding providing sidewalk to the school from adjacent arterial streets and the adjacent residential neighborhood, providing a pedestrian crosswalk across 29th Street, and the concept of walking school buses.

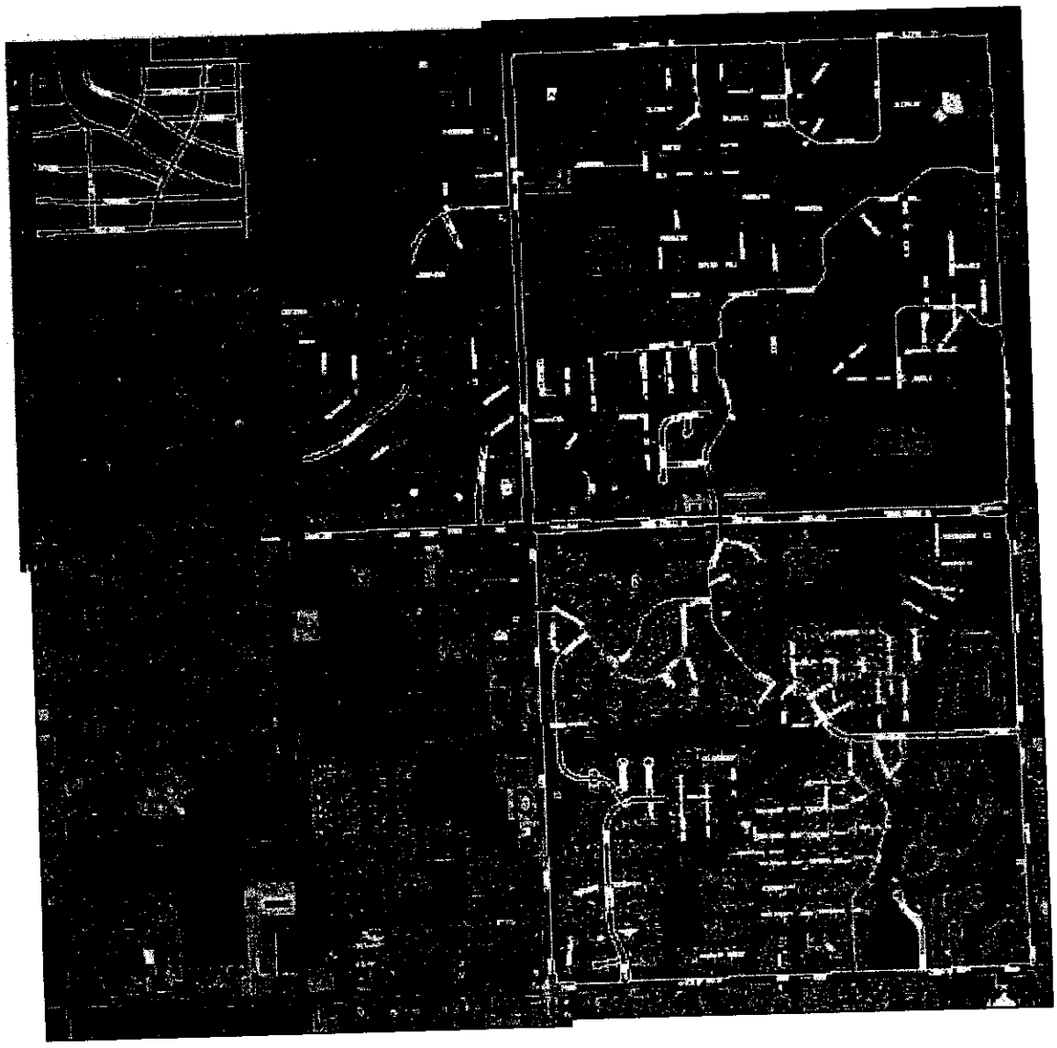
The Parent Surveys indicate approximately 75% of the students arrive/depart Jackson Elementary by family vehicles. Some key factors affecting the school travel decisions are: distance to school, traffic volumes, traffic speeds, intersection safety, violence, and weather.



The figure below graphically charts some solutions to the issues affecting the school travel modes.



Sidewalks and Pathways, Intersection Safety, Traffic Speed, and Adults to Walk With are all items discussed at meetings prior to the results of the survey. There was interest regarding the walking school bus when mentioned as part of Safe Routes to Schools at the booth during the family fun night. The school boundary map has been reviewed and plotted on a map and is located at the end of this report. Sidewalks, as well as bus stop/pick-ups, have been inventoried within the school boundary. The map on the next page (north is to the right) shows existing sidewalk within the school boundary. As the map indicates, the sidewalk in the residential areas near the school is disjointed at best. During Phase II sidewalk connections would be built to provide a more comprehensive sidewalk network. The subdivision east of the school has walking paths in addition to the sidewalk along the streets. These paths may be utilized by students who choose to ride/bike to school.



Existing sidewalks within the school boundary

Engineering:

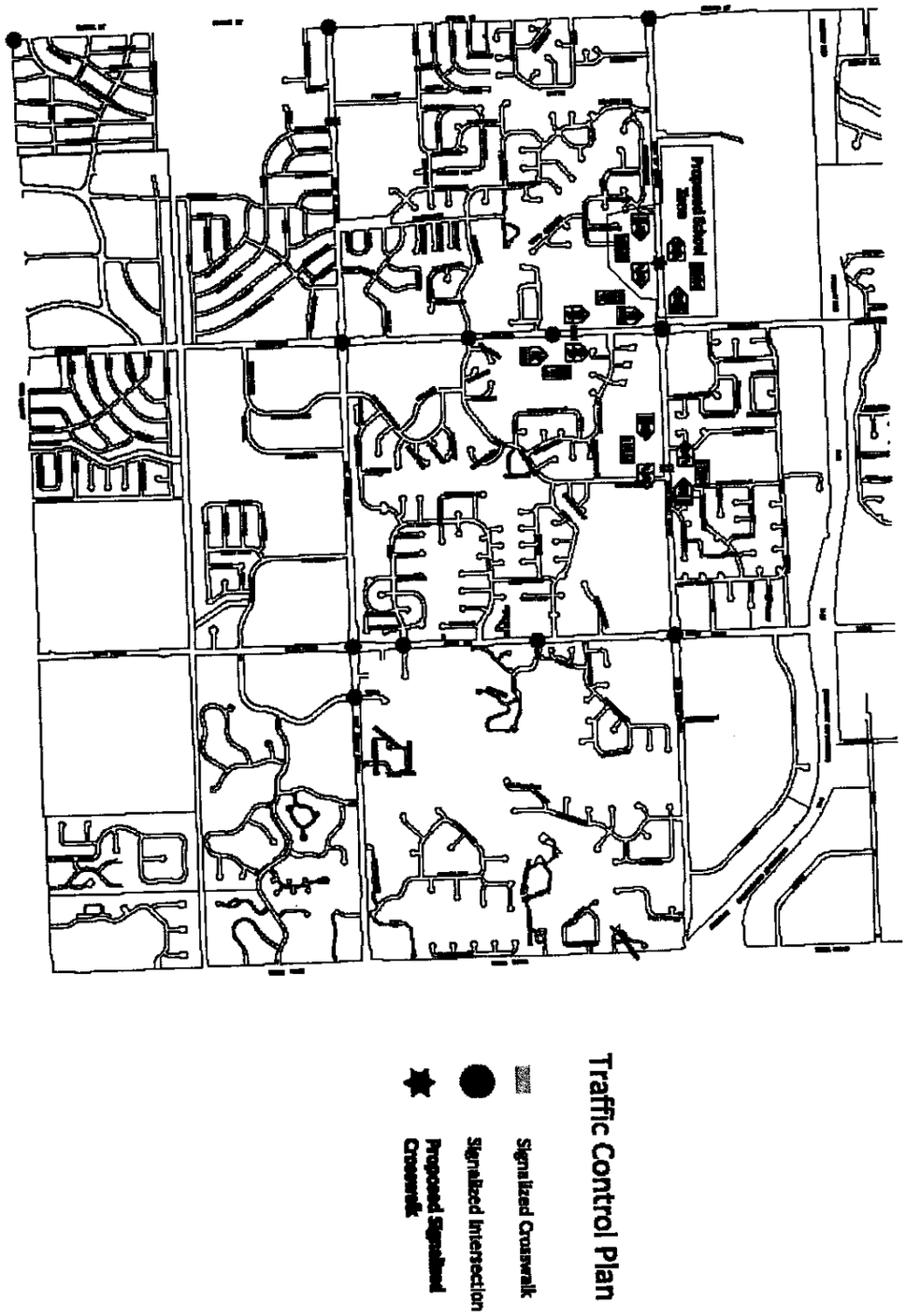
Existing traffic signals, pedestrian crosswalks, school signs, etc. within the school boundary have been inventoried and identified on the map on the following page. Currently, there is one school zone and one signalized pedestrian crosswalk for Jackson Elementary, both located on Woodlawn. There is a desire and recommendation from the team to provide a school zone and crosswalk on 29th Street. The crosswalk would be on the evacuation route Jackson Elementary School utilizes to the Great Plains Nature Center located on the north side of 29th Street. Currently students have to walk in the private

drive or in the grassy area to reach the Great Plains Nature Center. Providing sidewalk would create a hard surface out of traffic to walk on during wet weather. The proposed location of a crosswalk on 29th Street is denoted on the map.

As the map indicates, there are signalized intersections and other pedestrian crossings within the school boundaries. These signalized intersections all include pedestrian indications with push buttons to assist students/parents crossing the street. As part of Phase II, the City of Wichita recommends replacing the current pedestrian indications (with incandescent lamps and word messages) with pedestrian indications utilizing LEDs and the symbolic displays for Walk and Don't Walk. By doing this small project, it will ensure that all pedestrian indications within the school boundary are consistent. It is also recommended to install countdown pedestrian modules at all 12 signalized intersections and both crosswalks within the school boundary. The countdown modules display the amount of time remaining of the Flashing Don't Walk cycle. Research conducted in San Francisco shows overall safety benefits and a substantial reduction in pedestrian - vehicles accidents where countdown modules have been installed. We are not aware of any pedestrian - vehicle accidents in the study area near Jackson Elementary; however, we want to provide the latest technology to provide safe routes to schools in the Wichita area. Installing the countdown modules will alert the students the remaining time they have left to cross the streets, thus reducing the risk of pedestrian - vehicle accidents.

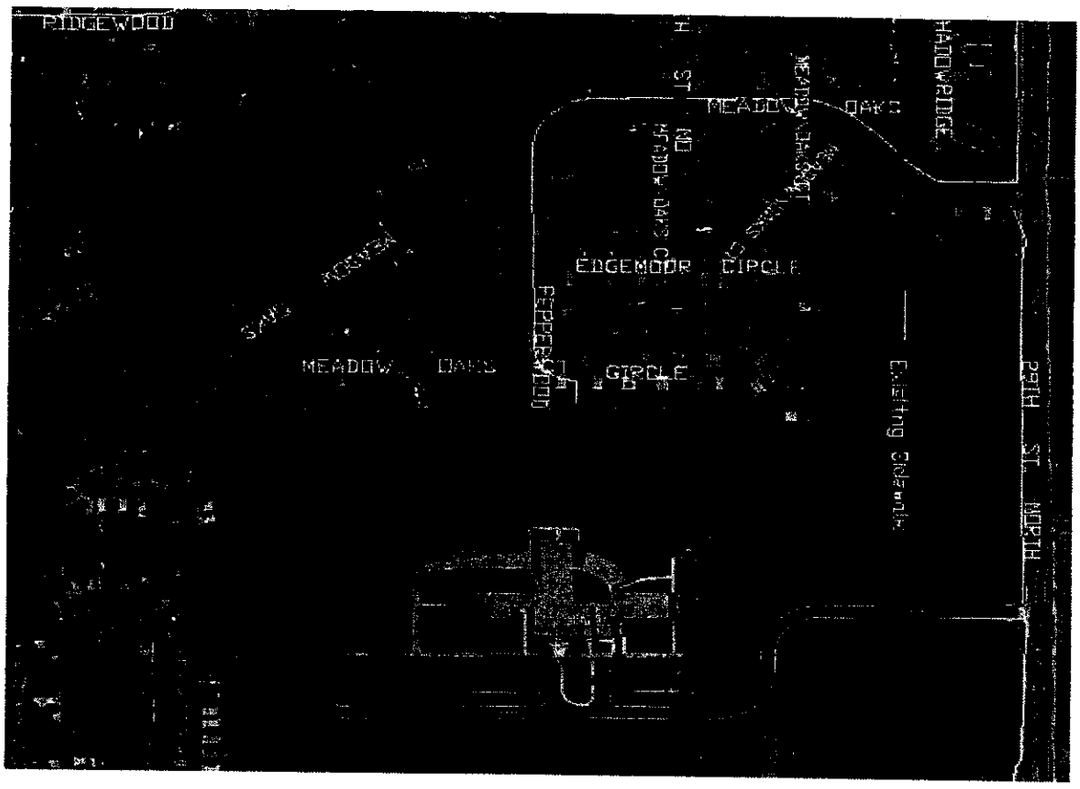
A review of the existing signal timings will also be done to be sure there is enough time provided for pedestrians to cross the street at a travel speed of 3.5 ft/sec as recommended by the Manual on Uniform Traffic Control Devices (MUTCD).

Also, during Phase I, staff conducted a walk-about and found areas where the sidewalk was blocked by overhanging limbs, raised panels of sidewalk causing trip hazards, and raised (rolled) curb, thus not meeting ADA standards for an accessible route. It is our desire to address these issues with Phase II funding. Photos of some of these examples are at the end of the report.



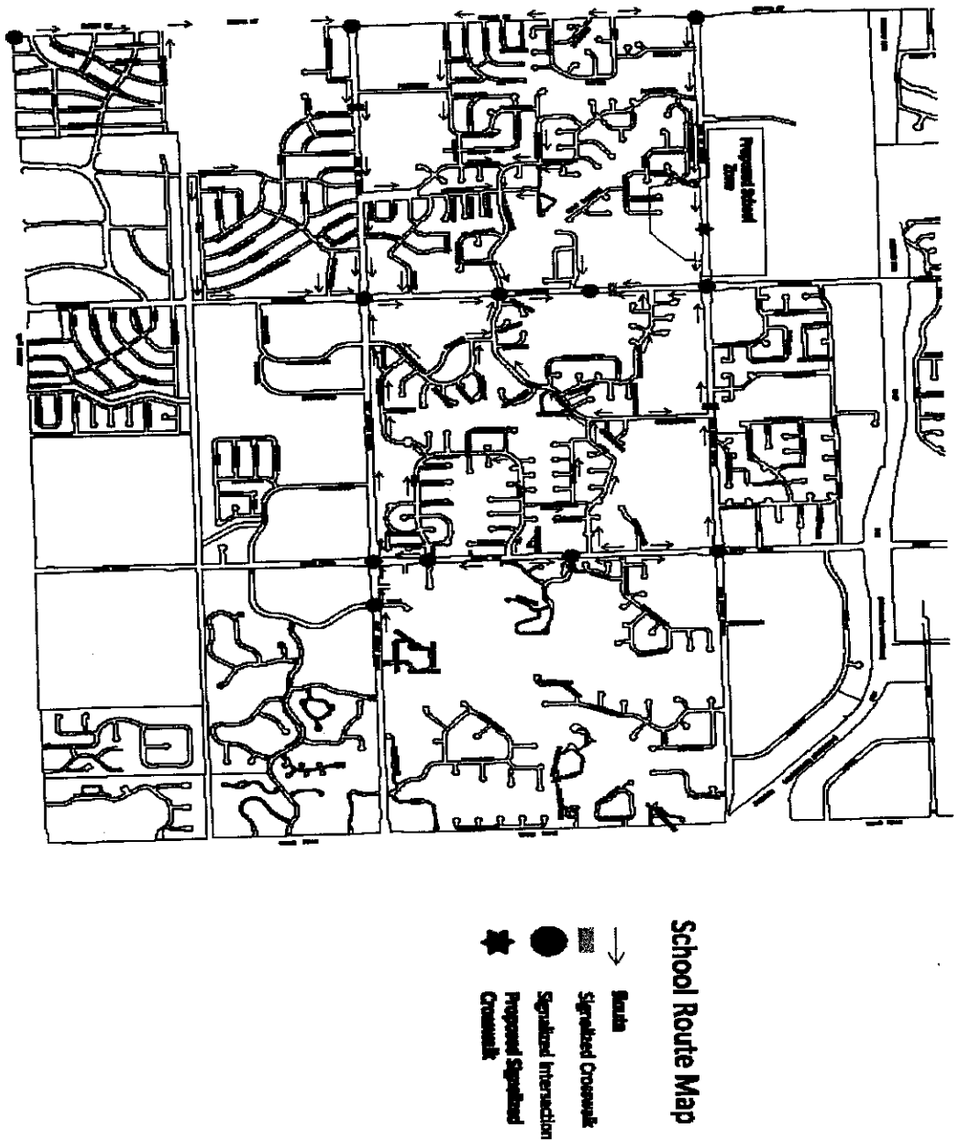
To compliment the proposed safety devices to cross 29th Street, it is recommended to install sidewalk along the school's drive from 29th Street to the existing school sidewalk immediately adjacent to the building. This is a top priority with the team and parents, and as mentioned before; this is the evacuation route to the Great Plains Nature Center.

To encourage walking from the adjacent neighborhood, a sidewalk is proposed from Pepperwood Circle (through an existing pedestrian easement) to the school. The construction of the sidewalk will include drainage structures to cross a small drainage swale. This is also a high priority with the school and team. The following map shows these proposed sidewalk locations.



Education:

As part of the engineering review, a preliminary school route plan has been created. The plan is intended to provide students a map with suggested routes to take to get to school if walking or biking. The plan directs students from streets within the neighborhood to signalized intersections/crosswalks on arterial streets. As part of Phase II, the school route plan (shown below) will be distributed to students and available at the school.



Within the education tool, Traffic Engineering staff will meet with school representatives to educate students about pedestrian safety at signalized intersections. It is important for students/parents to understand how pedestrian traffic signal indications are programmed - what the Walk cycle and Flashing Don't Walk cycles mean. The addition of pedestrian countdown modules will help with the education effort.

Later in the report you will see a graphic indicating Violence or Crime is one of the main issues parents consider to allow/not allow their students to walk/bike to school. The WPD keeps track of crime statistics for each beat. Presenting the crime statistics and understanding the types of crimes near the school may influence parent's decisions to allow their students to walk to school.

Although still in the planning stages, the Wichita Area Metropolitan Planning Area (WAMPO) has also teamed up with USD 259 and the local Safe-Kids Coalition to create a document to assist cities/school districts in the area to educate and encourage students to walk/bike to school. Once this plan has been completed, it will be utilized for Jackson Elementary.

Enforcement:

Traffic Engineering and USD 259 have a close working relationship with the Traffic Section of the Wichita Police Department (WPD). Each substation has a Patrol Sergeant assigned to the bureau to work on traffic related issues. In the past Traffic engineering staff has requested the portable speed trailers to be placed in locations where complaints have been received regarding speeding. We have also worked with School Resource Officers (WPD officers assigned to certain schools with salaries being paid by both City of Wichita and USD 259), regarding traffic congestion/circulation around schools.

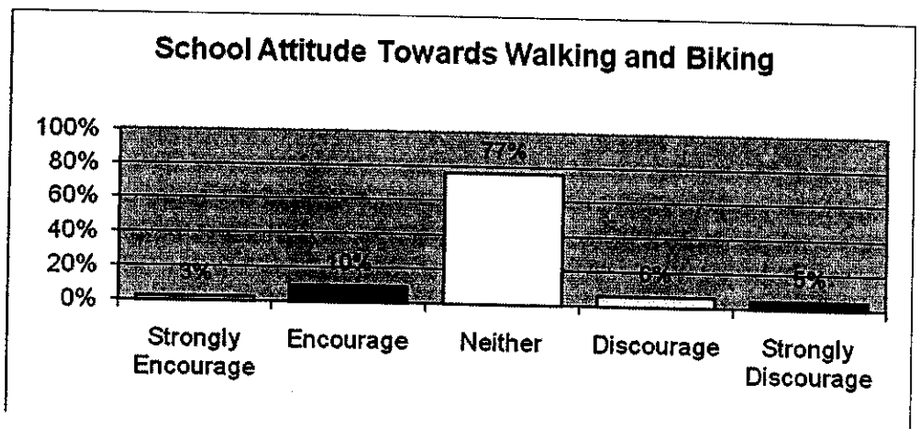
As part of Phase II, Traffic engineering staff will conduct radar studies in the school zones while the flashing beacons are operating to determine compliance with the 20 mph zone. If the study concludes motorists are not obeying the flashing beacons, a request will be sent to WPD to park the portable radar speed trailers within the school zone for a period of time. If motorists still don't comply, enforcement may be needed.

The layout of Jackson Elementary eliminates one of the largest problems we face in Wichita around the schools which is parents dropping-off/picking-up students on the wrong side of the street. However, students at Jackson Elementary still must cross traffic within the school parking lot to reach the school. USD 259 staff monitor students/vehicular traffic during the drop-off/pick-up times. The school has developed a circulation plan and there appears to be good compliance. This plan will be included with the School Route Plan to be distributed to parents.

Encouragement:

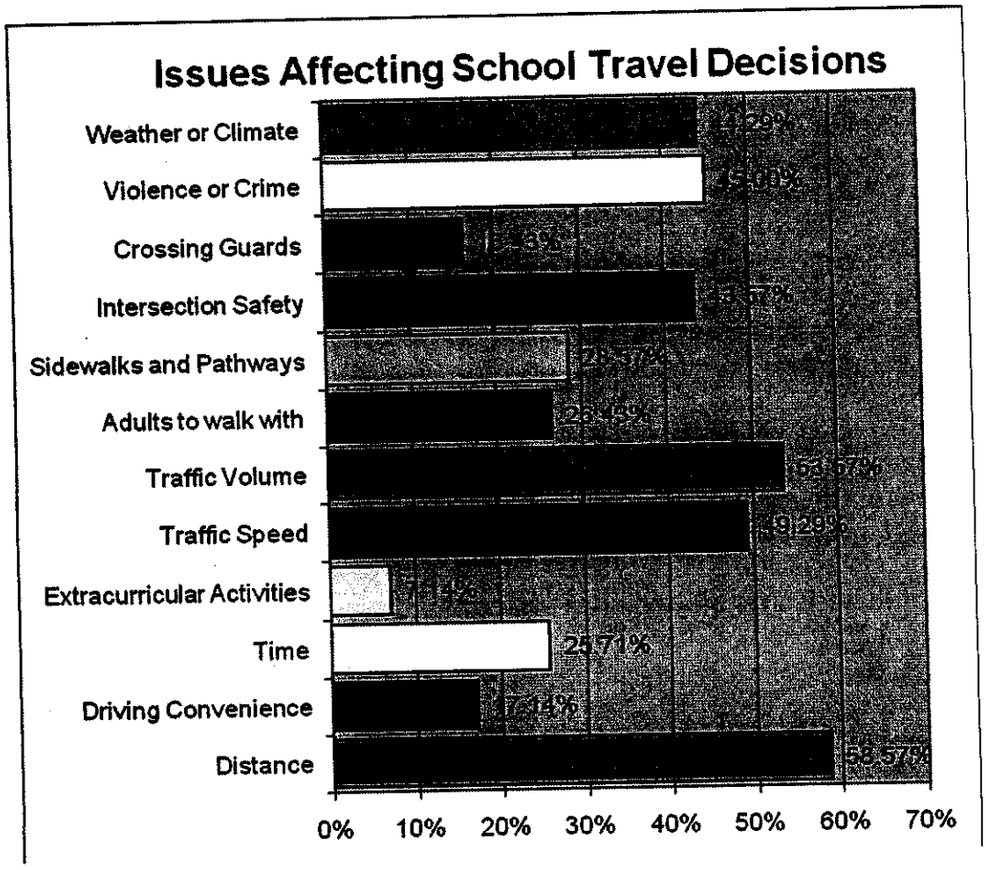
Jackson Elementary has plans to construct a track on their property to encourage physical fitness. Students have raise $1,000 towards the track. The PTO has raised $5,000 and the Latchkey program will contribute $6,000 toward the project. The school has been working with one of the local hospitals to receive a grant to complete the funding for the track. This is proof that there is a strong commitment from the school to teach students that exercise is an important factor of a healthy lifestyle.

This is contrary to what the survey concluded as the graphic shows below. Programs (Walk to School Day, Walking School Buses, etc) will be created with Phase II funding to encourage students to walk to school.



Evaluation:

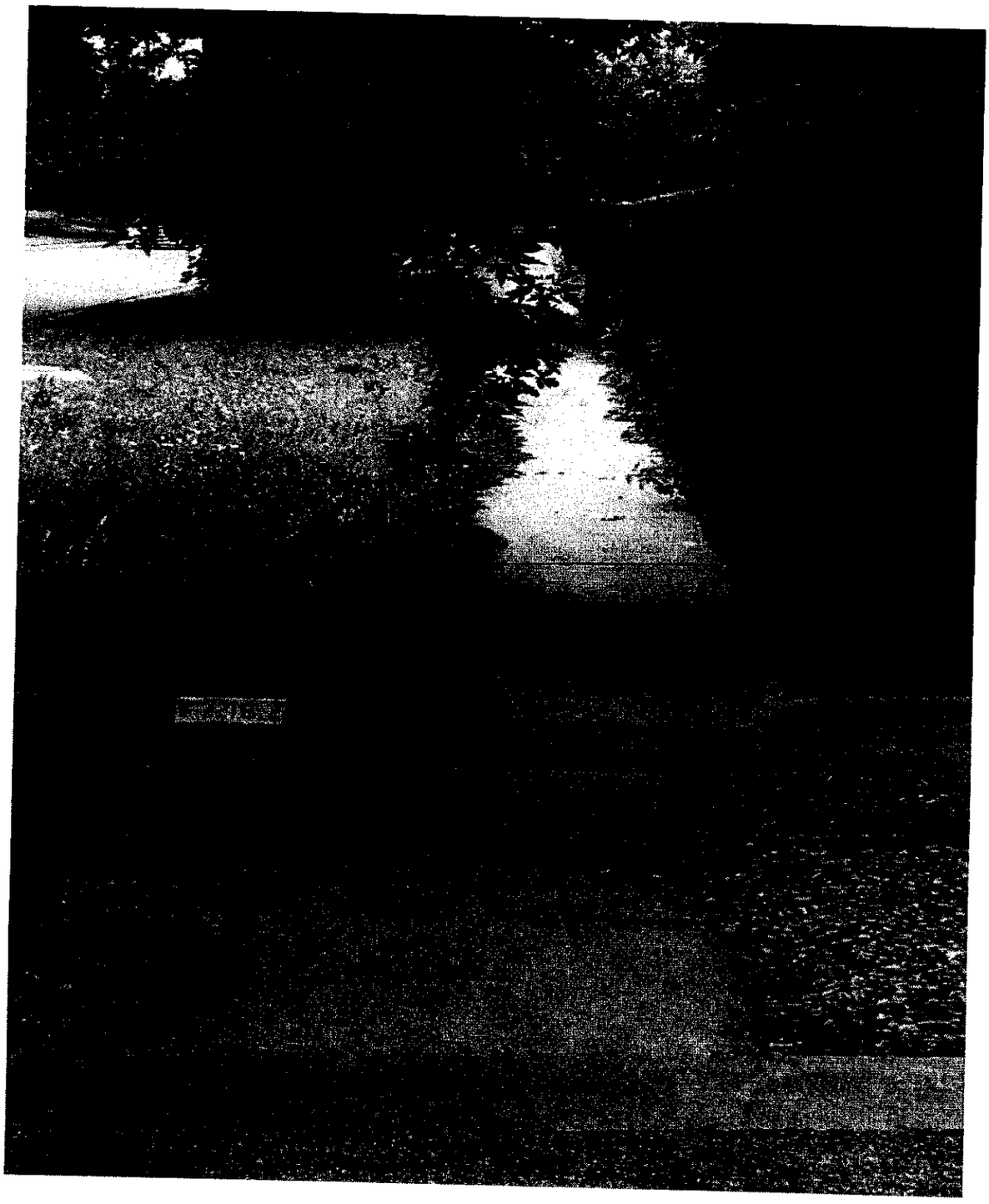
The graphic below shows weather, crime, intersection safety, traffic volumes, and traffic speeds are the biggest issues affecting parents' decisions to allow/not allow their students to walk/bike to school. While some of these we don't have control over (weather and traffic volumes), there are some we can address thru Phase II. Intersection safety will be improved with the addition of new pedestrian indications with the countdown modules, making sure the crosswalks are clearly marked, etc. Traffic speeds can be enforced if motorists are not obeying the school zones.



There are key issues we want to address with Phase II. First and foremost are the sidewalk connections to the school from 29th Street and the residential subdivision to the west. Secondly, the pedestrian indications with countdown modules, we feel these will improve compliance and safety for students crossing the busy arterial streets. Third on our priority list is a crosswalk across 29th Street to reach the Great Plains Nature Center. Fourth, we want to find parents that are willing to create Walking School buses.

The City of Wichita has worked with USD 259 on issues around schools for many years. This is another positive project we have teamed together to create a plan to provide safe routes for students to get to school.

APPENDIX



Jackson Elementary Phase II Costs

Project	Quanity	Unit	Unit Price	Total
Sidewalk - 29th Street to School	6000	sf	4.00	24,000.00
Sidewalk - Pepperwood Circle to School	2400	sf	4.00	9,600.00
Sidewalk - Woodlawn to School	6000	sf	4.00	24,000.00
Condemned Walk	1500	sf	5.00	7,500.00
Wheelchair ramps (new and repairs)	20	ea	600.00	12,000.00
Pedestrian Indications	100	ea	250.00	25,000.00
Crosswalk (29th Street)	1	LS	50000.00	50,000.00
Publications				
School route plan	1	LS	200.00	200.00
School circulation plan	1	LS	200.00	200.00
Walking School bus	1	LS	200.00	200.00
Estimated Total:				152,700.00

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Standby Power Facilities

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the initiation of a Capital Improvement Project for standby power generation and the transfer of expenditures from Water System Security Improvements.

Background: Reliable power is critical to providing uninterrupted water service to the City of Wichita and its customers. The Water Utilities' Vulnerability Assessment identified the lack of standby power generation as a reliability concern and recommended that it be installed.

Analysis: All water production, treatment and pumping facilities are operated by electrical power. Loss of power would result in a significant impact on the City's ability to provide water. A project was created in the Capital Improvement Plan to fund the installation of standby power generators and necessary appurtenances for the Water Treatment Plant, Hess Pump Station, Webb Road Pump Station, Cheney Pump Station and the Equus Beds Wellfield. Reliability concerns are borne out by the potential for natural disasters such as ice storms, tornadoes, etc. The standby generators will improve Wichita's ability to continue water service under adverse conditions.

Financial Consideration: The design and purchase of the generators and construction of the generator building for Hess Pump Station and the Water Treatment Plant were initially funded under Water System Security Improvements, CIP W-903. The proposed budget for Standby Power Facilities, CIP W-1397, is $22,130,000 with $12,425,000 allotted for 2008. It is requested that previous expenses related to the generator project that were paid from W-903 be transferred to W-1397.

Goal Impact: The project will ensure efficient infrastructure by providing standby power facilities when loss of power occurs.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) authorize Staff to proceed; 2) authorize the transfer of expenses from W-903 to W-1397; 3) adopt the Resolution; and 4) authorize the necessary signatures.

Attachments: Resolution

RESOLUTION NO. 08-432

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY, AND TO ISSUE REVENUE BONDS IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $22,130,000 EXCLUSIVE OF THE COST OF INTEREST ON BORROWED MONEY, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility"; and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 et seq., (the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

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

SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Standby Power Facilities (W-1397) (the "Project"). The total costs of the Project are estimated to be twenty-two million one hundred thirty thousand dollars ($22,130,000) in 2008 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.

SECTION 2. It is hereby found and determined that the construction of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed twenty-two million one hundred thirty thousand dollars ($22,130,000) in 2008, exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

SECTION 4. It is hereby found and determined to be necessary, before such revenue bonds can be issued, to publish one time in the City's official newspaper a Notice of the Governing Body's intention to initiate and complete the Project and to issue such revenue bonds, such Notice to be in the form which is attached hereto and made a part hereof by reference as though fully set forth herein. If, within Fifteen (15) days from and after the date of the publication of the Notice, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If a sufficient protest to the Project and the issuance of the revenue bonds is not filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the sale and issuance of the revenue bonds.

SECTION 5. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, not less than two-thirds of the members voting in favor thereof, on August 26, 2008.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

OCA: xxxxxx

(Published in the Wichita Eagle, on _____, 2008.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $22,130,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 08-_____, duly adopted _____, 2008, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Standby Power Facilities (W-1397) (called the "Project"). The total costs of the Project are estimated to be twenty-two million one hundred thirty thousand dollars ($22,130,000). The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $22,130,000 under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on _____, 2008.

/s/ CARL BREWER, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Access to Jobs Vendor Agreement with Breakthrough Club

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendation: Approve the Access to Jobs vendor agreement with the Breakthrough Club.

Background: The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October 2000, Access to Jobs has provided over 657,809 rides. By entering into a vendor agreement with the Breakthrough Club, the program can provide over 2,400 more rides a year to low-income clients in a very cost effective manner. This is a contract renewal.

Analysis: Part of the Access to Jobs grant is to provide half the cost of rides that non-profit agencies offer low-income clients when they are trying to enter, or re-enter the work force. The other half of those expenses are borne by the agency.

Financial Considerations: The Access to Jobs rides will be purchased with grants from FTA (50%) and the Breakthrough Club (50%). No city funds will be involved in the Access to Jobs ride to work program.

Goal Impact: To ensure an efficient infrastructure by maintaining and optimizing public facilities and assets.

Legal Consideration: Vendor agreement was approved as to form by the Legal Department.

Recommendations/Actions: It is recommended that the City Council approve the Access to Jobs vendor agreement and authorize the necessary signatures.

Attachment: vendor agreement

ACCESS TO JOBS
Vendor Agreement

This Agreement is entered into this 26th day of August, 2008 by and between the City of Wichita - Wichita Transit, hereinafter referred to as "City", and Breakthrough Club hereinafter referred to as "Vendor." Hereinafter both "City" and "Vendor" shall be jointly referred to as "parties."

WHEREAS, The purpose of the program is to provide transportation services for employment purposes under project number KS-37-X001-00, entitled Job Access and Reverse Commute grant program, and

WHEREAS, The Vendor guarantees the ability to provide transportation services in a safe and professional nature, as required by City, to qualified clientele within the geographic boundaries of the City of Wichita.

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

1. Term: This Agreement shall become a legal and binding contract upon signature of same by both parties, effective retroactively from September 1, 2008 until August 31, 2009. This contract can be renewed for 2 one year terms subject to the availability of grant funds.

2. Compensation: Parties expressly understand and agree that payments made to Vendor pursuant to the terms of this Agreement shall be on a fee-for-service basis according to the rates outlined in Appendix A and according to the method of billing and payment as set forth in Appendix A.

3. Termination: This Agreement may be terminated by either party, upon thirty (30) days written notice, stating the effective date of the termination. Whether this Agreement is cancelled by City or Vendor as provided herein, Vendor shall be paid for work satisfactorily completed to date of termination, as long as the provisions applicable to Billing and Payment have been met by Vendor.

4. Indemnification: Vendor shall indemnify, defend and hold harmless the City of Wichita and the City Council, directors, officers, employees, agents, legal representatives, heirs, successors and assigns (collectively referred to as "Indemnified Parties") from and against any and all losses, costs, injuries, claims, damages, expenses and liabilities, including attorneys' fees (without limitations), collectively referred to as "Liabilities," arising out of or resulting from, (i) the provision by Vendor of transportation services hereunder, or (ii) the failure of the Vendor to fulfill any of its obligations pursuant to this Agreement.

5. Duties: Vendor shall perform duties pursuant to this Agreement as listed in Appendix B. City shall perform duties pursuant to this Agreement as listed in Appendix B. All duties listed in the Appendix B are set forth in KS-37-X001-00.

6. Local and Federal Compliance: The parties shall comply with the requirements of all applicable federal, state, and local rules and regulations, standard assurances, and one time submissions, listed under Appendix A, B, and C.

7. Assignment: Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

8. Amendments: This Agreement may not be amended unless such amendment is in writing and signed by both parties.

9. Incorporation of Appendices: Appendix A, B, and C are attached hereto and made a part hereof.

IN WITNESS WHEREOF, City and Vendor have executed this Agreement as of the day and year first above written.

CITY COUNCIL –WICHITA, KS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett
City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf
City of Wichita, Department of Law

Breakthrough Club
Wichita, KS 67214

_____
Barb Andres
Executive Director, Breakthrough Club

Agenda Item No. XII-21

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Approval of Contract for Digital Security Camera System, Upgrade for Buses and Vans (All Districts)

INITIATED BY: Wichita Transit

AGENDA: Consent

- -

Recommendation: Approve contract.

Background: Wichita Transit requested proposals to purchase digital video and audio equipment for sixty (60) transit buses, paratransit vans and spare equipment. This item is part of the Program of Projects outlined in Wichita Transit's Federal Transit Administration's (FTA) operating grant for 2008 that was approved by City Council. This purchase is necessary to upgrade and retrofit 79% of our revenue vehicle fleet with equipment that will replace current VHS/analog equipment with new digital technology, add additional camera locations in some vehicles and install new equipment in vehicles that do not have systems presently. The base system includes multiple digital cameras located in each revenue vehicle, a microphone to capture audio data and a digital recorder and hard drive to store video and audio data for up to 20 days. The system includes the ability to download data using wireless technology from each vehicle directly to a dedicated PC workstation at the Transit Operations Center.

Analysis: This equipment is critical in providing a safe, secure operating environment for the riding public, transit employees, and the City of Wichita. The ability to have visual and auditory documentation of operating activity that helps transit operations staff respond to correct legitimate complaint(s) and or mitigate false claims which could equal or surpass the amount of this investment on just one event. This purchase process included the feedback of transit staff, IT/IS staff and the Procurement Selection Committee in the review of all proposals. Based on a through analysis of the components in this purchase, the Selection Committee's vendor recommendation is Verint Transit Solutions Inc..

Financial Considerations: The total cost of this purchase is $374,625.63. The funding for this purchase has been approved and included in the 2008 FTA Section 5307 Operating Grant (Federal Share is 80% and State of Kansas Transportation (KDOT) funding will provide the 20% match).

Goal Impact: The upgrade in this equipment conforms with several City Council goals and indicators that include: 1. Providing a safer and more secure community by allowing public transit riders the knowledge that concerns or problems that arise on transit vehicles can be reviewed and monitored by transit operation supervisors and law enforcement to allow for responsiveness to any situation that may occur in using this public service and 2. Ensures an efficient infrastructure by acquiring the most current and state of the art technology for monitoring revenue vehicle operations and that supports maintaining a safe and dependable transportation system.

Legal Considerations: Reviewed and approved as to form by City Attorney's Office.

Recommendations/Actions: It is recommended that the City Council approve the contract with Verint Transit Solutions Inc. and authorize the necessary signatures to execute the contract.

Attachments: Contract for Digital Security Cameras System Upgrade Project.

CONTRACT

Digital Security Cameras System
Upgrade Project

THIS CONTRACT entered into this 26th day of August, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY"**, and **VERINT VIDEO SOLUTIONS INC.,** (Vendor Code Number 68087), with offices at 6640 Eli Whitney Drive, Suite A, Columbia, MD 21046, Telephone Number
(443) 535-4258 hereinafter called **"VENDOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for Digital Security Cameras System Upgrade (Formal Proposal– FP700082) [Commodity Code Number 68087]; and

WHEREAS, VENDOR 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. VENDOR** shall provide to the **CITY** all those products and/or services specified in its response to Formal Proposal Number – FP700082 [Commodity Code Number 68087], which is incorporated herein by this reference the same as if it were fully set forth, including any subsequent updates thereto. 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 Number – FP700082, shall be considered a part of this contract and is incorporated by reference herein. Exceptions to the above include the following:

- "Speed" and "GPS location tracking" will not be included since the GPS receiver will not be included in this contract.
- "Throttle" will not be included unless easily accessible.

2. **Compensation. CITY** agrees to pay to **VENDOR** the following unit price for Digital Security Cameras System Upgrade the Formal Proposal – FP700082 [Commodity Code Number 68087], for Wichita Transit Department, Operations Division as shown below as compensation as per the proposal, plans, specifications, addenda, and **VENDOR's** proposal of December 19, 2007 and BAFO of March 12, 2008 as approved by the City Council on August 26, 2008.

5 ea - Optima Opus Bus @ $4,616.49 …….…. Total $ 23,082.45
25 ea - Gillig Phantom Bus @ $4,931.71…….....Total $123,292.75
9 ea - Gillig Low Floor Bus @ $4,810.44…….....Total $ 43,293.96
4 ea – Chance Trolley @ $4,871.08…….....Total $ 19,484.32
17 ea – El Dorado Vans @ $4,495.22……..Total $ 76,418.74
1 LS – Fixed End and Spares @ $13,709.70……Total $ 13,709.70
60 ea – Vehicle Side WLAN Option @ $486.27…… Total $ 29,176.20
1 LS – Fixed End Wireless Access Point Equipment @ $1,036.22…….. Total $ 1,036.22
1 LS – Fixed End Wireless Software (Op-Center) and Install Support @ $7,033.73 Total $ 7,033.73
1 ea – Year 2 Product Support…… Total $ 19,048.78
1 ea – Year 3 Product Support…… Total $ 19,048.78

With a not to exceed amount of $374,625.63

Option for additional purchases for up to TWENTY (20) vehicles during the three-year contract term in accordance with the pricing in the agreement subject to an annual CPI index increase agreed upon between both parties.

3. **Support Terms.** All products sold under this agreement shall include a one (1) year support term, plus two (2) one-year renewal periods. Verint support shall include break-fix support for the product as well as the additional support meeting the criteria listed under the "Platinum Plan" in accordance with the **VENDOR'S** Proposal submitted on December 17, 2007, Section 3.0 Technical Support and Training. The warranty period will commence on a vehicle by vehicle basis and will begin on the first day of the month following a successful Vehicle Acceptance Test for that vehicle (vehicles installed and pass Acceptance Testing will have a start date of the 1st day of the following month).

Quarterly on-site visits will be conducted for the above listed equipment by the VENDOR for a period of three (3) years from the installation completion date.

4. **Termination of Contract.** This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term upon ninety (90) days written notice to **VENDOR.**

5. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property to the extent caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract, provided, however, that **VENDOR'S** obligation to indemnify **CITY** shall be contingent upon: (i) **CITY** giving VENDOR prompt written notice after receiving notice of any claim for which **CITY** may be seeking indemnification, (ii) **VENDOR** having sole control of the defense of the claim and any negotiations for its settlement or compromise, and (iii) at **VENDOR'S** expense, **CITY** reasonably cooperating with **VENDOR** in the defense of any claim. **VENDOR** shall not be responsible to indemnify under this Section 5(a) in the event any suit or claim is due, in whole or part, to the negligence or willful misconduct of **CITY**.

b. **CONTRACTOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage,
and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	$100,000 each accident

6. Independent Contractor. The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

7. Compliance with Laws. VENDOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

8. No Assignment. The services and products to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

9. Non-Discrimination. VENDOR shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

10. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

11. No Arbitration. The **VENDOR** 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.

12. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

13. Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

14. Notices. All notices or other communications required hereunder shall be made in writing and shall be deemed to be effectively given: **(i)** if hand delivered, when received; **(ii)** if faxed, on the date of the

sending party's receipt of confirmation of transmission; or **(iii)** if mailed for overnight delivery, when delivery by the overnight carrier is made, in each instance at the address set forth below. Each party may change its notices address by giving notice in the manner set forth herein.

If to CITY:
Melinda Walker, Purchasing Manager
City of Wichita, 12th Floor
455 N. Main
Wichita, Kansas 76202

If to VENDOR:
Verint Video Solutions Inc.
330 South Service Road
Melville, NY 11747
Attn: VIS Contracts Manager

15. Additional Terms. The parties agree that Exhibit B contains additional terms and conditions that shall bind the parties and be deemed to be part of this Contract. For purposes of clarity, any references in Exhibit B to "this Agreement" shall be interpreted to be a reference to this Master Contract for the Digital Security Camera System Upgrade Project.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

_____
Janis Edwards
Deputy City Clerk

CITY OF WICHITA, KANSAS

_____
Carl G. Brewer
Mayor

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

VERINT VIDEO SOLUTIONS INC.

_____
Signature

_____
Print Name

_____
Title (President or Corporate Officer)

EXHIBIT A

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

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

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 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.

EXHIBIT B
VERINT VIDEO SOLUTIONS INC.
SALES AND LICENSE AGREEMENT ADDENDUM

This Exhibit B is made a part of the Master Contract for the Digital Security Cameras System Upgrade Project, signed by the parties on the Signature Page to which this Exhibit B is attached.

PART I - DEFINITIONS

All capitalized terms shall have the meaning ascribed to them, including the following:

1. Affiliate. Any Verint entity which now or in the future controls, is controlled by, or is under common control with Verint, with "control" defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract, or otherwise. As used herein, an Affiliate of Verint is solely limited to those Verint entities indicating assent to the terms and conditions of this Agreement by accepting an Order from Customer hereunder.

2. Confidential Information. Any non-public information, technical data, or know-how, including, without limitation, that which relates to: **(i)** research, product plans, products, pricing, services, customers, personnel, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances, which is designated in writing to be confidential or proprietary at the time of disclosure if provided in tangible form, or if provided in non-tangible form, shall be identified by the disclosing party at the time of disclosure as confidential or proprietary, **(ii)** any Product provided hereunder and/or materials resulting from Services, and any derivatives thereto, and **(iii)** the terms and conditions of this Agreement. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how that, without restriction on disclosure, is: **(a)** in the public domain or becomes available to the public and not as a result of the act or omission of the receiving party; **(b)** rightfully obtained by the receiving party from a third party; **(c)** is lawfully in the possession of the receiving party at the time of disclosure; or **(d)** is approved for release by written authorization of the disclosing party.

3. Customer Environment. The computing environment (excluding any software and/or hardware expressly provided by Verint on an Order) separately procured, prepared and maintained by Customer for the use and operation of a Product, where such computing environment meets Verint's then-current minimum Product requirements.

4. Documentation. Verint's documentation delivered with any Products describing the specifications and use of such Products in a Customer Environment.

5. Fees. Product Fees, Service Fees, Support Fees and/or other fees as specified in this Agreement.

6. Hardware. Verint's proprietary hardware and related equipment provided by Verint to Customer hereunder as specified on an Order.

7. Intellectual Property Rights. Any and all tangible and intangible rights, title and interest in and to: **(i)** works of authorship, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, **(ii)** trademarks and trade names, **(iii)** Confidential Information, trade secrets and know-how, **(iv)** patents, designs, algorithms and other industrial property, **(v)** all other intellectual and industrial property rights whether arising by operation of law, contract, license, or otherwise, and **(vi)** all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force.

8. Marks. Proprietary trademarks, service marks, trade names, logos, and symbols owned by Verint or its licensors.

9. Order. The details of an order by Customer for a Product, Support and/or Services provided by or through Verint **(i)** on an order form or schedule provided by Verint and signed by Customer, or **(ii)**

on Customer's purchase order provided to and accepted by Verint.

10. Product. Collectively, **(i)** Hardware that Verint sells to Customer and **(ii)** the Software and Documentation that Verint licenses to Customer from time to time, each as identified in an Order or Orders hereunder .

11. Product Fees. In U.S. Dollars, the net fees identified at the time of and on each Order as due to Verint for purchasing/licensing any Products.

12. Services. Product installation and/or other services provided to Customer.

13. Service Fee. In U.S. Dollars, the fees identified at the time of and on each Order for Services to be performed.

14. Site. The physical location of any Product, including, without limitation, each computer server or hardware platform on which any Product is installed.

15. Software. Computer application programs (including, if applicable, any updates and other developments) in object code form developed and owned by Verint or its licensor(s) and licensed hereunder.

16. Support. The maintenance and/or support provided for any applicable Product at the support level specified on an Order, as further described on Part III attached hereto and in the applicable Maintenance and Support Plan found at **www.Verint.com/misc/VISsupport-Americas.pdf**. For purposes of clarity, Support shall include break-fix support for the Products as well as the additional support meeting the criteria listed under Verint's "Platinum" Maintenance Plan.

17. Support Fee. In U.S. Dollars, the amount identified at the time of and on an Order to receive Support for a Product or Products.

18. Support Term. The initial one (1) year period commencing on the applicable "Start Date" described in Section 3 of the master contract and in accordance with the terms of Verint's Platinum Maintenance Plan, plus two (2) one year renewal periods thereafter.

19. Verint Intellectual Property. All Intellectual Property Rights in Products and all other Confidential Information provided by Verint hereunder.

20. Version. The Software configuration identified by a numeric representation, including, without limitation, all service packs and other updates (including error corrections and other changes to the Software provided as "Software Updates" under one of Verint's Maintenance Plans) that are applicable to the Software and provided under this Agreement.

PART II - GENERAL TERMS AND CONDITIONS

The following general terms and conditions shall apply to this Exhibit B:

1. LICENSE. Verint grants to Customer, and Customer accepts, a perpetual (subject to Section 9.2), nonexclusive, nonassignable (subject to Section 11.1), and nontransferable limited license to use at a Site, the number of Software licenses specified on an applicable Order or included as part of the Order documentation solely by Customer's personnel for Customer's internal business operations, and subject to the terms and conditions of this Agreement. Use of any Product by Customer shall at no time exceed the total use rights granted in applicable Orders. Customer may change the location of a designated Site; provided Customer complies with all applicable laws, and provides Verint with notice. Customer may make a reasonable number of copies of any Software solely as needed for back-up, archival and testing purposes, and of the Documentation solely as needed for Customer's internal business purposes as set forth herein

2.0 SERVICES, SUPPORT, and TRAINING.

2.1 Service Support. Any Services provided by Verint shall be in accordance with the criteria outlined in the Verint Project Proposal Section 3.0 Technical Support and Training and 4.0 Proposed Schedule submitted on December 17, 2007, in each case as modified by the Verint Best and Final Offer ("BAFO") letter submitted to Customer on March 12, 2008, and as listed in Item 3. Warranty/Support Terms of the Master Contract.

2.2 Product Support. Terms and conditions relating to Support for the Products shall be as provided as outlined in the Verint Project Proposal Section 3.0 Technical Support and Training and 4.0 Proposed Schedule submitted on December 17, 2007, , in each case as modified by the BAFO letter submitted to Customer on March 12, 2008 and as listed in Item 3. Warranty/Support Terms of the Master Contract.

2.3 Training. Verint shall make Product training available as outlined in the Verint Project Proposal Section 3.0 Technical Support and Training.

3. ORDERS, SCHEDULING AND SHIPMENTS.

3.1 Order Acceptance. All Orders are subject to Verint's acceptance, and to the terms and conditions of this Agreement. All Orders must be in writing, be signed by the Customer and include **(i)** the Software to be licensed and quantity and types of licenses (if applicable), **(ii)** the Hardware to be purchased from Verint, including quantities, **(iii)** any Services to be provided, **(iv)** the proposed Start Date and support level for the initial Support Term (if applicable), **(v)** the location of each Site (city/state), **(vi)** the delivery location, **(vii)** the billing address, **(viii)** Customer contact names and phone numbers for each Site, **(ix)** the Product Fees, Support Fees for the initial Support Term (if applicable), and Services Fees (if applicable), **(x)** the requested delivery date, and **(xi)** FOB Wichita. Verint shall acknowledge acceptance of each Order by issuing a sales order acknowledgement to Customer, invoice, or by shipping any of the Product(s) specified thereunder. Verint shall have no obligation to deliver any Product, additional licenses, Services or technical data **(i)** to the extent it has knowledge that any licenses, permissions, or other governmental approvals required under then-current applicable laws and/or regulations have not been properly obtained by the respective party(ies), or **(ii)** if Customer is in arrears on any payments rightfully due to Verint or is otherwise in breach of this Agreement.

3.2 Shipments. Shipment dates are subject to confirmation by Verint based upon its best judgment, and are subject to change due to production limitation and factory schedule. Verint will ship all Products FOB Wichita, specified by the Customer in the Order, at Verint's expense. Verint, unless otherwise instructed in writing, will select the carrier on behalf of Customer, but will not thereby assume any liability in connection with the shipment nor will the carrier be construed as Verint's agent. Claims for shortages or damage caused in transit must be made by Customer to the carrier. Other shortage or damage claims may be rejected by Verint unless such claims are received by Verint in writing and Verint is given a reasonable opportunity to inspect the shipment in question before use by the Customer.

3.2.1 Cancellation and Reschedule. Customer may reschedule an Order for Hardware only with the written consent of Verint. If Customer (i) cancels all or part of that Order, or (ii) fails to meet any obligation hereunder, causing cancellation or rescheduling of all or part of that Order or (iii) requests a rescheduling of any shipment hereunder and the request is accepted by Verint, Customer

shall pay to Verint, upon invoice, a cancellation/rescheduling charge as follows: 10% of total price of the Products if notice is received by Verint at least 31 days before scheduled shipment; 20%, if received 16-30 days before shipment; and 30%, if received 15 days or less before shipment.

3.3 Scheduling Services. Verint shall use reasonable efforts to meet the requested time schedule for Services provided under this Agreement; provided, all scheduling is dependent upon the allocation and availability of resources. If Customer notifies Verint to reschedule or cancel any Services within two (2) weeks prior to the scheduled start date, Customer shall pay Verint a fee equal to twenty-five percent (25%) of the fee that would have been imposed for such Services, plus all expenses Verint cannot reasonably recover. Verint shall waive such rescheduling or cancellation fee if Verint reschedules the resources for such Services to a comparable assignment during the period that Customer scheduled such Services.

3.4 Changes to Product. Verint reserves the right, in its sole discretion, with reasonable prior notice to Customer, to modify, discontinue, add, adapt or otherwise change any Product, design or specification of any Product, and/or Verint's policies, procedures and requirements related to this Agreement, provided, however, that in the event of any Product change, modification or discontinuance, Verint shall agree to provide to Customer replacement Products that are functionally equivalent or superior in form, fit and function.

3.5 Customer Environment. Prior the installation of a Product, Customer shall ensure the establishment of a Customer Environment at each Site for use and operation of the Product. Customer acknowledges that, except as otherwise expressly specified on an Order, Verint is not responsible for obtaining, licensing or selling any hardware, peripherals or third-party software or interfaces needed to prepare or maintain the Customer Environment.

4. FEES AND PAYMENTS.

4.1 Payment Schedule.

Customer will make payment in accordance with the following schedule:

Equipment

Eighty-five percent (85%) upon delivery per item of equipment.

Fifteen percent (15%) after successful installation and Vehicle Acceptance Test, payable pro rata on a monthly basis for the number of buses achieving vehicle acceptance during the preceding month.

All payments will be made net thirty (30) days upon invoice.

4.2 Accurate Records; Audit. Customer shall keep complete and accurate records of all its obligations hereunder. Customer shall allow Verint or its agent reasonable access to audit Customer's records solely to verify general compliance with the terms and conditions of this Agreement; provided Verint shall conduct such audits during Customer's normal business hours with reasonable notice, or as otherwise reasonably requested by Customer.

5. WARRANTIES; DISCLAIMER.

5.1 Limited Warranty/Support Terms.

Verint warrants the products and services as outlined in the Master Contract, Item 3. Warranty/Support Terms.

5.1.1 Performance Warranty. Subject to applicability of the greater warranty provisions under the "Platinum Plan" support plan during the Support Term, Verint warrants the Products and Services as follows: **(i)** the Software as shipped under an initial Order for a Site shall operate substantially in accordance with the Documentation for the period indicated in the applicable Verint Product Guide, **(ii)** the Hardware provided hereunder shall operate substantially in accordance with the Documentation for the period indicated in the applicable Verint Product Guide, and **(iii)** any Services provided by Verint hereunder were performed in a timely and professional manner by qualified personnel for a period of thirty (30) days after performance. Verint provides all third party Hardware on an "AS IS" basis without warranties of any kind, unless Verint specifies otherwise. In certain cases, such third party Hardware may be accompanied by the manufacturer's old warranty and warranty service must be obtained directly from the third party manufacturer.

5.1.2 Exclusions. Notwithstanding the preceding warranties, Verint shall have no responsibility or liability of any kind, whether for breach of warranty or otherwise, arising or resulting from:

a. Customer's failure to: **(i)** correctly install any updates or other modifications to the Products provided by Verint, **(ii)** prepare a technical environment that meets the specified Customer Environment prior to Product installation or to maintain such Customer Environment thereafter, **(iii)** grant access and security authorization, or **(iv)** provide necessary communications mechanisms;

b. Errors resulting from misuse, abuse, negligence, or improper use of all or any part of the Product; or problems to or caused by products or services not provided by Verint;

c. Product modification, amendment, revision, or change by any party other than Verint or Verint's representative expressly authorized to make such modification, amendment, revision, or change; or

d. Failures relating to the Customer Environment including, without limitation, electrical failure, Internet connection problems, or data or data input, output, integrity, storage, back-up, and other external and/or infrastructure problems, which shall be deemed under the Customer's exclusive control and sole responsibility.

5.2 Exclusive Remedy. Customer's exclusive remedy under Section 5.1 shall be for Verint, in its sole discretion during the applicable warranty period to: **(i)** for Software, use commercially reasonable efforts to either correct any verifiable material nonconformity or to replace the materially nonconforming Software; provided, however, if Verint cannot provide either remedy, upon receipt of the materially nonconforming Software, Verint shall refund Customer the license Fee paid to Verint for same; **(ii)** for Hardware, use commercially reasonable efforts either to correct any verifiable material nonconformity or to replace the materially nonconforming portion of the Hardware; and **(iii)** for Services, re-perform the affected Services, or waive or refund (as appropriate) the fee for such Services. In the event Hardware is to be returned to Verint for warranty repair, prior to such return Customer must obtain from Verint a return material authorization ("**RMA**"). Transportation charges for return of the Hardware **(a)** from Customer to Verint shall be paid by Customer, and **(b)** from Verint to Customer shall be paid by Verint. All replaced Hardware or parts become Verint's property, except for video or similar data files contained in the hard drive of any Product which shall be returned or destroyed at Customer's request. Notwithstanding any of the foregoing, Verint shall have no obligations under this Section 5.2 unless Verint receives Customer's notice during the applicable warranty period.

5.3 Product Replacements. If, at Verint's sole discretion, Verint agrees to the advance replacement of any Hardware, Customer will return the original Hardware to Verint within thirty (30) days of receipt of the replacement Hardware. In the event that the original Hardware is not returned to Verint within such thirty (30) day period, Customer will be liable for the cost of the replacement Hardware at Verint's then-current list price for such Hardware.

5.4 Disclaimer of Warranties. **THE LIMITED WARRANTY AND EXCLUSIVE REMEDY SET FORTH IN SECTIONS 5.1 AND 5.2 RESPECTIVELY ARE MADE FOR THE BENEFIT OF CUSTOMER ONLY, AND ARE EXPRESSLY SUBJECT TO CUSTOMER'S PAYMENT OBLIGATIONS TO VERINT. VERINT MAKES NO AND DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WRITTEN OR ORAL, OR EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, INTEROPERABILITY, DATA ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY PRODUCT, SERVICES, SUPPORT, OR ANY COMPONENTS THEREOF, AND ANY OTHER PRODUCTS OR SERVICES PROVIDED BY VERINT. WITHOUT LIMITING THE FOREGOING, VERINT DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF ANY PRODUCT SHALL BE UNINTERRUPTED OR ERROR-FREE.**

6. LIMITATION OF LIABILITY. **VERINT'S MAXIMUM LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL BE IN THE AGGREGATE AND LIMITED TO CUSTOMER'S DIRECT ACTUAL DAMAGES NOT TO EXCEED THE ACTUAL FEES PAID TO VERINT HEREUNDER FOR THE NONCONFORMING PRODUCT, REDUCED BY ANY AMOUNT DUE VERINT. IN NO EVENT SHALL VERINT, ANY PARENT, SUBSIDIARY, AFFILIATE OR LICENSOR, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, OR REPRESENTATIVES, BE LIABLE (I) TO ANY THIRD PARTY FOR DAMAGES OF ANY KIND OR NATURE OR IN ANY MANNER WHATSOEVER, OR (II) TO CUSTOMER FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, INCIDENTAL, OR SPECIAL DAMAGES OR COSTS (INCLUDING ATTORNEYS' FEES OR LOST PROFITS, TIME, SAVINGS, PROPERTY, DATA OR GOODWILL) REGARDING THIS AGREEMENT OR RESULTING FROM OR IN CONNECTION WITH THE USE, MISUSE, OR INABILITY TO USE ANY PRODUCT, SERVICES, SUPPORT, REGARDLESS OF THE CAUSE OF ACTION, EVEN IF VERINT HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL VERINT BE LIABLE FOR PROCUREMENT COSTS OF SUBSTITUTE PRODUCTS OR SERVICES.**

7. INDEMNIFICATION.

7.1 Proprietary Right Infringement. Verint, at its sole expense, shall defend Customer from any action based upon a claim that any Product used as licensed or sublicensed infringes any valid third-

party U.S. patent, copyright, trade secret, or other proprietary right, and shall reimburse Customer for all damages, costs, and expenses (including reasonable attorneys' fees) awarded against Customer pursuant to any such actions. Verint's obligations hereunder are contingent upon Customer's providing Verint prompt written notice of the claim; complete control of the defense of and the right to settle such claim; and all available information, assistance, authority, and cooperation to enable Verint to defend or settle such claim. If the Product becomes, or in Verint's opinion is likely to become, subject of such a claim of infringement, Verint shall be entitled, at Verint's sole option, to either procure the right for Customer to continue to use the Product, or replace or modify it so that it becomes noninfringing. If neither of the foregoing is commercially and reasonably available to Verint, Customer shall return all copies of the Product, Documentation and related materials to Verint, and Verint shall grant Customer an amortized credit for the Fees paid hereunder for the infringing Product based on a five (5) year straight-line depreciation. Verint shall have no obligation or liability hereunder for any claim resulting from: **(i)** modification of any Product by any party other than Verint, or by Verint in accordance with Customer's designs, specifications, or instructions; **(ii)** use other than as granted in this Agreement; **(iii)** use of the Product in conjunction with hardware, software, or other products not provided by Verint or necessary for the operation of the Product; or **(iv)** use of a Version other than the then-current Version. This Section 7.1 sets forth the exclusive remedy of Customer against Verint, and the complete liability of Verint to any party with respect to any action or claim of infringement.

8. INTELLECTUAL PROPERTY; CONFIDENTIALITY.

8.1 Ownership. Customer acknowledges that the Products contain proprietary software programs and proprietary hardware. Customer acknowledges that Verint owns or has the right to distribute and license the Products, and that all Intellectual Property Rights in and to the Verint Intellectual Property, and derivatives thereto are and shall remain vested in Verint or its licensor(s). Except for the limited licenses granted hereunder in any Product, or any transfer of title in any hardware, Customer shall not assert any right, title, or interest in or to the Products or other portion of the Verint Intellectual Property, or make any misrepresentations about the same.

8.2 Verint Intellectual Property Protection. Except as otherwise specified in this Agreement, expressly permitted in writing by Verint, or otherwise cannot be precluded under mandatory applicable law, Customer shall not, and shall not permit any other party **(i)** Disassemble, decompile, decrypt, or reverse engineer, or in any way attempt to discover or reproduce source code or schematics for, any part of any Product; adapt, modify, or prepare derivative works based on any of the Verint Intellectual Property; or use any of the Verint Intellectual Property to create any computer program or other material that performs, replicates, or utilizes the same or substantially similar functions as the Product; **(ii)** Alter, remove, or suppress any copyright, confidentiality, or other proprietary notices, marks or any legends placed on, embedded or otherwise appearing in or on any Product; or fail to ensure that all such notices and legends appear on all full or partial copies of Verint Intellectual Property or any related material; or **(iii)** Sell, sublicense, lease, assign, delegate, transfer, distribute, encumber or otherwise transform any Verint Intellectual Property or any of the rights or obligations granted to or imposed on Customer hereunder.

8.3 Confidentiality. The unauthorized disclosure or use of Confidential Information of a disclosing party or of a disclosing party's third party licensors, and all information and services related thereto, would cause great injury and harm to the owner thereof. Therefore, each party agrees to take all appropriate action to ensure the confidentiality and security of the other party's Confidential Information, but in any event no less than the same standard of care it uses to protect its own Confidential Information of like kind and value. Without limiting the generality of the foregoing, Customer and Verint each agree that it: **(i)** shall maintain the other's Confidential Information in the strictest confidence, including compliance with reasonable remote access security requirements; **(ii)** shall not disclose, display, publish, transmit, or otherwise make available such Confidential Information or take the benefit thereof, in whole or in part, except in confidence to its own employees (subject to obligations of nondisclosure) on a need-to-know basis; and **(iii)** except as expressly permitted hereunder, shall not copy, duplicate, replicate, transform, or reproduce such Confidential Information. Notwithstanding anything in this Section 8, neither party shall be liable to the other for damages resulting from disclosure of any Confidential Information required by law, regulation or valid court order; provided prior written notice is provided to the other party sufficiently in advance of such required disclosure to allow the other party to

respond and take reasonable and lawful action to avoid and/or minimize the degree of such disclosure or seek appropriate protective orders.

9. TERMINATION.

Termination of Agreement. This Agreement shall commence on the Effective Date and shall continue unless earlier terminated as provided in this Section 9. This Agreement may be terminated as follows: **(a)** by Verint immediately if Customer merges or sells all or substantially all of its assets; **(b)** by either party for material breach hereof which has not been cured within thirty (30) days after written notice of such breach; or **(c)** by either party at any time if the other party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy or insolvency.

9.2 Effects of Termination. Upon termination of this Agreement, , Customer's license rights granted in any Product licensed hereunder shall survive such termination; provided, **(i)** this Agreement has not terminated by Verint for Customer's breach, **(ii)** Customer continues to comply with all terms and conditions surviving termination of this Agreement, and **(iii)** Customer's use of the Product does not exceed the license rights granted hereunder. In the event of any failure of (i), (ii) or (iii) at the time of, or subsequent to termination of this Agreement, **(a)** all rights and licenses granted hereunder shall immediately terminate and any uses by or on behalf of Customer must immediately cease, and **(b)** Customer shall immediately delete all copies of any Product licensed hereunder, return to Verint all other Verint Intellectual Property, and provide to Verint certification of the foregoing.

9.3 Survival. Subject to the other provisions of this Section 9, provisions herein which by their context and content are intended to survive termination or expiration hereof shall so survive.

10. GOVERNING LAW; DISPUTE RESOLUTION.

10.1 Governing Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Kansas, without regard to its conflicts of law principles, and shall be subject to the exclusive jurisdiction of competent courts in Wichita, Kansas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties.

10.2 No Arbitration. Verint and the Customer 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.

10.3 Remedies. Customer acknowledges that each provision providing for ownership and/or protection of Verint Intellectual Property is material to this Agreement, and that any threatened or actual breach thereof shall constitute immediate, irreparable harm to Verint. If Customer breaches or threatens to breach any such provision and in addition to any other remedies it may have, Verint shall be entitled to seek injunctive, equitable, or other equivalent relief against such breach directly from any court of competent jurisdiction.

11. GENERAL PROVISIONS.

11.1 Assignment. Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned, or otherwise transferred, in whole or in part, by Customer without the advance written consent of Verint. The services and products to be provided by Verint under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the City of Wichita.

11.2 Counterparts, Fax Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed for all purposes to constitute one and the same instrument. The parties hereby agree that hardcopy signatures transmitted and received via facsimile or other electronic means shall be treated as original signatures for all purposes of this Agreement.

11.3 Force Majeure. Except for obligations of confidentiality and payment, neither party shall be liable for any delay or failure in performing hereunder if caused by any factor beyond the reasonable control of the party. Performance shall be deferred until such cause of delay is removed, provided that the delayed party shall promptly notify the other party of such occurrence.

11.4 Independent Contractors. Customer and Verint are independent contractors in all relationships and actions contemplated by this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, or agency relationship, or to authorize any party to enter into any commitment or agreement binding on the other party except as expressly stated herein.

11.5 Publicity. Each party may request from the other party permission to use information regarding this transaction for marketing purposes but must submit and receive approval of any content from the other party, and such approval shall not be unreasonably withheld.

11.6 Severability; Waiver. If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

11.7 Miscellaneous. The official language of this Agreement is, and all attachments or amendments to this Agreement, contract interpretations, notices and dispute resolutions shall be in English. Translations of this Agreement shall not be construed as official or original versions. Headings are for convenience only and do not define, interpret or limit the scope of any provision hereof.

PART III – ADDITIONAL TERMS RELATING TO PRODUCT SUPPORT

1. SUPPORT.

1.1 General. During any Support Term, Verint's Support includes the following:

a. Support Access. Customer shall have direct access via telephone to Verint's support center during hours specified in the applicable Maintenance and Support Plan.

b. Updates; Versions. Verint shall provide Customer with Updates and/or new Versions that Verint, in its sole discretion, generally offers to customers subscribing to the same Maintenance and Support Plan. All such Updates and new Versions become part of the Product for all purposes hereof. In the event an Order contains Hardware for delivery to Customer where such Hardware includes a right of warranty under Exhibit B to this Addendum, notwithstanding any other terms of the Agreement, the Support Term for that Order (including Support for any Hardware and/or Software provided thereunder) shall commence upon the conditions as outlined in Item 3. Warranty/Support Terms, of the Master Contract.

2. VERINT SUPPORT PLANS.

2.1 Additional Support Services. If Verint provides support services as a result of any conditions specified in Section 5.1.2 of Exhibit B, or otherwise provides support services to Customer outside the scope of services specified for Customer's applicable Maintenance and Support Plan to include items listed in the Master Contract, Item 3. Warranty/Support Terms, Verint may charge Customer for such services at Verint's then current Service Fee rate.

3. COVERAGE LAPSES; REINSTATEMENT.

3.1 Coverage Lapse. Verint recommends that maintenance coverage remains in place at all times. Verint will notify Customer at least sixty (60) days prior to the scheduled expiration date of any applicable Maintenance Plan. In the event maintenance coverage lapses, Verint shall have no obligation to provide telephone or other support (outside of warranty support) to Customer.

3.2 Reinstating Coverage. In the event that coverage lapses, Verint will reactivate maintenance coverage on the following conditions: **(i)** Verint will assess system performance, and Customer agrees to reimburse Verint for time (based on Verint's then-current Service Fee rate), materials and expenses (based on actual expenditures) required to restore the Customer's system to its normal operation; **(ii)** Customer will be required to prepay for a new one (1) year Maintenance Plan; and **(iii)** Customer will be required to pay a one-time reactivation charge based on how long support has lapsed. Any Support provided by Verint prior to the reinstatement of a current Maintenance Plan shall be at the rate of $400 per hour, and for a minimum of 5 hours per incident.

PURCHASED ADA PARATRANSIT RIDES
CONTRACTOR AGREEMENT

This Agreement is entered into this _____ day of _____, 2008 by and between the City of Wichita - Wichita Transit, hereinafter referred to as "City", and _____ hereinafter referred to as "Contractor." Hereinafter both "City" and "Contractor" shall be jointly referred to as "parties."

WHEREAS, The purpose of the program is to provide for purchased ADA paratransit rides, and

WHEREAS, The Contractor agrees to provide ADA paratransit rides in a safe and professional nature, in accordance with the terms and conditions set forth in Appendix A hereto, to eligible passengers within the service area defined in Section 4.2 of Appendix A.

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

1. Term: This Agreement shall become a legal and binding contract upon execution of same by both parties, effective retroactively from January 1, 2008, until terminated as provided in Article 13 of Appendix A.

2. Compensation: Parties expressly understand and agree that payments made to the Contractor pursuant to the terms of this Agreement shall be on a fee-for-service basis according to the rates outlined in Appendix A and according to the method of billing and payment as set forth in Appendix A.

3. Indemnification: The Contractor shall indemnify, defend and hold harmless the City and the City Council, directors, officers, employees, agents, legal representatives, heirs, successors and assigns (collectively referred to as "Indemnified Parties") from and against any and all losses, costs, injuries, claims, damages, expenses and liabilities, including attorneys' fees (without limitations), collectively referred to as "Liabilities," arising out of or resulting from, (i) the provision by the Contractor of transportation services hereunder, or (ii) the failure of the Contractor to fulfill any of its obligations pursuant to this Agreement; provided, however, that such duty to indemnify shall not include Liabilities arising from the acts or omissions of the Indemnified parties.

4. Duties: As listed in Appendix A, the Contractor and the City shall perform duties pursuant to this Agreement.

5. Local and Federal Compliance: The parties shall comply with the requirements of all applicable federal, state, and local rules and regulations, standard assurances, and one time submissions, listed in Appendixes A and B.

6. Assignment: Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

7. Amendments: This Agreement may not be amended unless such amendment is in writing and signed by both parties.

8. Incorporation of Appendices: Appendix A and B are attached hereto and made a part hereof.

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement as of the day and year first above written.

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
City Clerk
City of Wichita, Kansas

APPROVED AS TO FORM:

_____
City of Wichita, Department of Law

CONTRACTOR

_____
Authorized Contractor Representative

APPENDIX A
GENERAL CONTRACTUAL PROVISIONS FOR CONTRACTOR

ARTICLE 1: AUTHORITY TO CONTRACT.

1.1 AFFIRMATION OF LEGAL AUTHORITY. The Contractor assures it possesses legal authority to contract these services, that resolution, motion or similar action has been duly adopted or passed as an official act of the Contractor's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Contractor to act in connection with the application and to provide such additional information as may be required.

1.2 REQUIRED DOCUMENTATION. Corporations, limited liability companies, or other forms of business requiring statutory conformance shall furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. A corporation shall furnish a copy of its Corporate Resolution evidencing the authority to sign this Agreement, executed by the Corporation's Secretary or President.

ARTICLE 2: RELATIONSHIP OF PARTIES. It is agreed that the legal relationship between Contractor and City of Wichita (City) is of a contractual nature. Both parties assert and believe that the Contractor is acting as an independent contractor in providing the services and performing the duties provided for by this Agreement. The Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of the City. As an independent contractor, the Contractor, and employees of the Contractor will not be within the protection or coverage of City's worker's compensation insurance, subject to the provisions of K.S.A. 1997 Supp. 44-505, nor shall the Contractor, and employees of the Contractor,

be entitled to any current or future benefits provided to employees of the City. Further, the City shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by the City to the Contractor.

ARTICLE 3: SCOPE OF SERVICES.

3.1 PURPOSE. It is mutually agreed by and between City and Contractor that the purposes of this Agreement are for the Contractor to efficiently provide eligible passengers a level of curb-to-curb paratransit service which is substantially equivalent to the curb-to-curb paratransit service presently operated by Wichita Transit, all under the terms and conditions described in this Agreement, and to provide Wichita Transit those operating statistics required for Federal reporting. If the present volume of service provided by the Contractor pursuant to this Agreement substantially increases or decreases, the parties agree to negotiate reasonable modifications to this Agreement (which may include termination of this Agreement). The parties also agree that Contractor shall only provide service, which is compensable under this Agreement during Wichita Transit regular operating hours.

The parties agree that the terms of this Agreement apply only to purchased rides for eligible passengers, which are referred to Contractor by Wichita Transit for service during normal operating hours and conditions. To the extent that Contractor provides transportation services to persons who may otherwise be eligible passengers (whether as a part of Contractor's programs or otherwise) outside of such hours, Contractor may do so upon the terms and conditions acceptable to Contractor, and such services are outside the scope of this Agreement.

3.2 SPECIAL NEEDS OF ELIGIBLE PASSENGERS. All eligible passengers have one or more disabilities that preclude their use of regular fixed route transit. Many will require special assistance when boarding or leaving the paratransit vehicle. The Contractor shall be responsible for assuring that all drivers

are capable, competent, courteous and sensitive to these special needs.

ARTICLE 4: GENERAL PROVISIONS

4.1 DEFINITIONS.

(A) UNIT OF SERVICE – One, one-way trip equals one unit of service per eligible passenger. A round-trip taken by an eligible passenger equals two units of service. A unit of service is the basis for subsidy reimbursement.

(B) ELIGIBLE PASSENGER (or Passengers) – Individuals who are certified and approved as ADA paratransit eligible by Wichita Transit, both ambulatory and non-ambulatory.

(C) PERSONAL CARE ATTENDANT (PCA) – A person who has been approved to ride free of charge with an eligible passenger for the purpose of providing the passenger with mobility assistance. Qualified drivers employed by the Contractor may act as a PCA for eligible passengers who are also the clients of the Contractor (human service agency).

(D) EQUIVALENT LEVEL OF PARATRANSIT SERVICE – The following criteria are used to evaluate the Contractor's performance relative to the level of paratransit service operated by the Wichita Transit:

(1) On-time performance for pick-ups. Actual pick-up times shall be evaluated relative to a 30-minute pick-up window.

(2) Length of time an eligible passenger spends on the paratransit vehicle. Length of time shall be evaluated relative to a 90-minute maximum ride time.

(E) NO-SHOW – When an eligible passenger fails to board the vehicle when the vehicle arrives on time (within the 30-minute pick-up window). Pursuant to subsection 9.1(F) of this Agreement, subsidy reimbursement shall not be paid for "no-shows." Wichita Transit agrees to permit the Contractor to develop and enforce reasonable policies, which limit "no-shows."

(F) 30-MINUTE PICK-UP WINDOW – The 30-minute timeframe provided to the eligible passenger that indicates when the paratransit vehicle has been scheduled to arrive. Vehicles arriving within the 30-minute pick-up window are considered on time.

(G) MISSED TRIP – When the vehicle arrives for the pick-up, at a time after the end of the 30-minute pick-up window, and the client does not board the van. Pursuant to subsection 9.1(F) of this Agreement, subsidy reimbursement shall not be paid for "missed trips".

(H) PASSENGER FARE – For eligible passengers, the amount of money that the Contractor may collect from an eligible passenger with respect to a unit of service. Pursuant to subsection 9.4(D) of this Agreement, the appropriate passenger fare will be assumed by the parties to have been retained by the Contractor as partial payment. As required by The ADA, the passenger fare charged or collected from eligible passengers shall not be more that twice the price of regular bus fare.

(I) REFERRED ADA TRIP - A subscription service ride request referred to an agency by WT. Possible Contractor acceptance of a referred trip is provided for in subsection of 9.4(C) of this Agreement.

(J) SUBSCRIPTION SERVICE – A trip to the same place at the same time at least twice a week for a minimum period of 30 days.

(K) Unless otherwise indicated, all references to time periods, which are measured in “days”, shall be deemed to refer to a day of ordinary operation for Wichita Transit.

4.2 SERVICE AREA. All transportation service provided pursuant to this Agreement shall be limited to trips within the corporate limits of the City of Wichita, within the Oaklawn Improvement District, or within that portion of The City of Bel Aire that lies within 3/4-mile of a fixed bus route operated by Wichita Transit.

4.3 PASSENGER ELIGIBILITY. The City, acting through Wichita Transit, shall establish a procedure to determine eligible passengers. No person shall be transported under this Agreement who has not first been determined by the City as eligible for the service.

4.4 LAWS TO BE OBSERVED. [Reserved]

ARTICLE 5: PERSONNEL

5.1 QUALIFIED PERSONNEL. The Contractor represents that it has, or shall secure at its own expense, all personnel required to perform the transportation service provided under this Agreement. Except as provided in Section 6.3 below, such personnel shall not be employees of or have any other contractual relationship with the City. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this Agreement.

5.2 MINIMUM WAGES. [Reserved]

5.3 EMPLOYEE CONFLICT OF INTEREST. The Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

5.4 EMPLOYEE BACKGROUND CHECKS. The parties to this Agreement recognize that those entities or persons providing government funded services are subject to public scrutiny. Consequently, by entering into this Agreement the Contractor assumes an affirmative and ongoing duty during the term of this Agreement to guarantee and maintain compliance with requirements set forth in Subsection 5.5 below. Such compliance will require the use of Contractor customary criminal background checks, and such other background checks as may be reasonably requested by Wichita Transit from time to time, upon all personnel or agents providing services pursuant to this Agreement, or administering the funds conveyed under this Agreement.

5.5 PARTICIPANT SAFEGUARD. The Contractor certifies that none of its employees are:

(A) Persons convicted of any felony, drug or drug related offense, crime of falsehood or dishonesty, or a crime against another person during the ten-year period concluding on the date of execution of this Agreement, and during the term of this Agreement, Contractor shall not permit any such employee to provide services, administer this Agreement, or handle the funds conveyed under this Agreement;

(B) Persons convicted of any sex offenses, crimes against children, or crimes of violence toward persons during the ten-year period concluding on the date of execution of this Agreement, and during the term of this Agreement, Contractor shall not permit any such employee to interact in any way with persons served pursuant to this Agreement; and

(C) Persons convicted of a serious driving offense, including but not limited to driving under the influence of alcohol or a controlled substance, during the ten-year period concluding on the date of execution of this Agreement, and during the term of this Agreement, Contractor shall not permit any such employee to operate a vehicle in

which an eligible passenger is provided transportation pursuant to this Agreement. For purposes of this section, "serious traffic offense: shall not include any offense deemed a "traffic infraction" under K.S.A. 8-2116 and 8-2118.

(D) Any questions concerning the interpretation of this subsection and/or its application to an individual shall be referred to the City of Wichita Law Department. The Department of Law's decision shall be final for purposes of compliance with this Agreement. The term "conviction" shall include convictions from any Federal, State, Local, Military, or other court of competent jurisdiction, and diversions appearing on the driving records maintained by the Kansas Department of Revenue.

ARTICLE 6: PROHIBITION OF CONFLICT OF INTEREST.

6.1 INTEREST OF PUBLIC OFFICIALS AND OTHERS. No officer or employee of the City, no member of its Governing Body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested. Nor shall any officer or employee of the City or any member of its Governing Body or other public official have any interest, direct or indirect, in this Agreement or the proceeds thereof.

6.2 INTEREST OF CONTRACTOR. [Reserved]

6.3 EMPLOYEE CONFLICTS. If either party becomes aware of situations in which a) an employee of the City shall also be an employee of the Contractor at the time of the Agreement, b) an employee of the Contractor seeks additional / alternative employment with the City during term of the Agreement, or c) an employee of the City seeks additional / alternative

employment with the Contractor during term of the Agreement, such party shall immediately provide written notice of such situations to the other party. The City shall make every effort to assure that such employees do not have any authority to approve a) grant funds, b) agreements, or c) affiliate status to the Contractor or Contractor's competitors.

ARTICLE 7: FUNDING / CASH BASIS AND BUDGET LAWS. The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

ARTICLE 8: REPORTS, RECORDS AND INSPECTION.

8.1 DOCUMENTATION OF COSTS. Proper invoices, vouchers, or other documentation evidencing in proper detail the nature and propriety of charges shall support all costs incurred by the Contractor for which the Contractor purports to be entitled to reimbursement. All checks, invoices, vouchers, payrolls, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to both parties to this Agreement.

8.2 MAINTENANCE OF RECORDS. Except as otherwise authorized by the City, the Contractor shall retain such documentation as listed in subsections 8.1 and 8.3 for a period of not less than three (3) years after the close of the calendar year which contains the time period to which a monthly billing relates. This is the case unless City notifies Contractor in writing of an action, including but not limited to litigation or audit resolution proceedings, which necessitates maintenance of records beyond the minimum three (3) year period.

8.3 REPORTS. During the term of this Agreement, the Contractor shall furnish reports and information to the City substantially in the form attached hereto as Exhibit 1. If the Contractor fails to provide all required reports in a timely, complete and accurate manner, the City may withhold payments to the Contractor until such time as all reports are furnished. Exhibit 1 is deemed to satisfactorily address the reporting requirements for subsections (A) through (K) below. Contractor will be paid based upon the status of the eligible passenger as either ambulatory or nonambulatory (as determined in the certification issued by Wichita Transit). However, Contractor shall report all applicable types of rides provided to such passenger (i.e., If one or more of the categories set forth in subsections G, H, I, and J below applies to a passenger, then Contractor shall report the ride under each applicable category).

(A) COMPLAINT RECORDS. The Contractor agrees to maintain complete records of all complaints received regarding service provided under this Agreement. The Contractor agrees to submit a service complaint report each time a request for reimbursement is submitted. Such report shall identify the general nature of complaints received during the billing period along with any actions taken by the Contractor. The Contractor agrees that complaint records used to prepare complaint reports are subject to review by the City to ensure the accuracy and validity of information reported.

(B) FINANCIAL AND OPERATING DATA. The Contractor shall be responsible for providing financial and operating data as may be required by the City and/or necessary to comply with the requirements of the National Transit Database of the Urban Mass Transportation Act of 1964, as amended.

(C) ON-TIME PERFORMANCE AND TRIP LENGTH RECORDS. For the purpose of determining if the Contractor is providing a level of paratransit service

equivalent to that provided by Wichita Transit, the Contractor agrees to maintain records of on-time performance and trip length for all eligible passengers provided paratransit service under this Agreement. The Contractor agrees to submit an on-time performance and trip length report each time a request for billing is submitted. For the billing period, the report shall identify the percentage of pick ups occurring before, during and after the 30-minute pick-up window and the number of trips involving an eligible passenger ride of 90 minutes or greater. The Contractor agrees that on-time performance and trip length records used to prepare the report are subject to review by the City to ensure the accuracy and validity of information reported.

(D) ALCOHOL AND DRUG TEST REPORTS. The Contractor agrees to submit to the City an annual report that identifies the Contractor's efforts to comply with FTA and U.S. DOT requirements for pre-employment, post-accident and random alcohol and drug testing of safety sensitive employees. The annual alcohol and drug testing report shall be submitted by January 30th following the close of the year to which it relates.

(E) NO-SHOW RECORDS. For the purpose of eliminating trips referrals involving a passenger who demonstrates a pattern of "no-showing" for trips, the Contractor agrees to maintain records of no-shows recorded by passengers provided paratransit service under this Agreement. The Contractor agrees to submit a no-show report each time a request for billing is submitted. For the billing period, the report shall identify the number of no-shows per eligible passenger and the dates on which no-shows were recorded. The Contractor agrees that no-show records used to prepare the report are subject to review by the City to ensure the accuracy and validity of information reported.

(F) MISSED TRIPS. For the purpose of reporting "missed trips", the Contractor agrees to maintain records

of missed trips affecting passengers who are provided paratransit service under this Agreement. The Contractor agrees to submit a missed trip report each time a request for billing is submitted. For the billing period, the report shall identify the number of missed trips affecting eligible passengers and the dates on which missed trips were experienced. The Contractor agrees that missed trip records used to prepare the report are subject to review by the City to ensure the accuracy and validity of information reported.

(G) ADA RIDES. In order to assure that rides provided pursuant to this Agreement are provided to eligible passengers and that operating statistics needed for Federal reporting are provided, the following is required:

(1) Pursuant to subsection 9.1(B) of this Agreement, each month, the Contractor shall submit an alphabetical listing of those persons who have been provided service during the month who the Contractor has reported as being an eligible passenger (approved by WT as ADA paratransit eligible).

(2) WT will check the names on the list against the database of persons who have been granted ADA paratransit eligibility. WT will provide the Contractor with the names of those individuals who have not been determined as ADA paratransit eligible.

(3) After receipt of the names of non-ADA eligible persons, the Contractor may assist the subject individuals with completion of an ADA Paratransit Eligibility Application OR, shall in the future, discontinue reporting them as eligible passengers on monthly billing.

(H) ACCESS TO JOBS TRIPS. In order to report the number of rides funded through The Access to Jobs Program, and pursuant to 9.1(B) of this Agreement, the

Contractor's monthly billing shall identify the number of rides funded by way of that Program.

(I) PEAK HOUR RIDES. As required by subsection 9.1(B) of this Agreement, the Contractor shall provide as part of monthly billing the number of rides provided to eligible passengers between 6:00 AM and 10:00 AM and between 2:00 PM and 6:00 PM.

(J) AMBULATORY / WHEELCHAIR RIDES. As required by subsection 9.1(B) of this Agreement, the Contractor shall provide as part of monthly billing the number rides provided to ambulatory persons and the number or rides provided to persons using a wheelchair or similar mobility device.

(K) NEW FREEDOM TRIPS. In order to report the number of rides funded through The New Freedom Program, and pursuant to subsection 9.1(B) of this Agreement, the Contractor's monthly billing shall identify the number of rides funded by way of that Program. The parties acknowledge that the federal record keeping and reporting requirements under the New Freedom Program have not yet been developed. City agrees to inform Contractor of such requirements when City becomes aware of them. The parties agree to develop reasonable procedures under this Agreement to satisfy such requirements.

8.4 AVAILABILITY OF RECORDS. During the time period set forth in Section 8.2 above, the Contractor agrees to make any and all of its records, books, papers, documents, and data, which are directly related to this Agreement, available to City, or to the authorized representative of the Federal, State or local agency with statutory oversight authority, for the purposes of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies, and transcriptions.

8.5 RIGHT TO INSPECT ALL WORK, EQUIPMENT AND MATERIALS. The Contractor shall permit the City or any

authorized representative of the City's General Manager of Wichita Transit to inspect all work, equipment and materials with regard to the provision of service under this Agreement during Contractor's normal business hours, upon reasonable advance notice.

8.6 RIGHT TO OBSERVE OPERATIONS. The City reserves the right to observe operations by the Contractor pursuant to this Agreement at any reasonable time, i.e., maintenance, sensitivity training, loading and unloading eligible passengers, etc.

(A) If any observed operations are deemed defective by the City, the City shall notify the Contractor in writing of such defect.

(B) Upon receipt of a written notice of defect, the Contractor has 10 days to investigate the defect and provide reports to the City.

(C) The response shall include a copy of the City's notice of defect together with a written statement of any corrective action taken, and shall be subject to the City's reasonable approval.

(D) If corrective actions are reasonably satisfactory, the City will advise the Contractor within 10 days. Otherwise, the City will notify the Contractor of the continuing defect within such 10-day period, and the City has an additional five (5) days to remedy the defect and failure to do so may be considered as a breach of this Agreement.

8.7 CONFIDENTIALITY. Both parties will comply with the provisions of State and Federal regulations in regard to confidentiality of eligible passenger records.

ARTICLE 9: METHOD OF BILLING AND PAYMENT

9.1 BILLING PROCEDURES. Vendor agrees that billings and payments made under this Agreement shall be processed in accordance with established budgeting, purchasing and accounting procedures of the City. After receipt of billing, payment shall be made as soon as procedures allow.

(A) MONTHLY BILLING. A monthly billing system will be used and all billing, statements, and other necessary supporting documentation must be submitted by the 15th day of the month following the billing period.

(B) BILLING CONTENT. All billings shall be substantially in the form of Exhibit 1. In addition, WT may require copies of daily vehicle manifests to be submitted with monthly billing that indicate passenger pick up windows for eligible passengers and the actual time of vehicle arrival for passenger boarding. If WT requires the submitting of daily vehicle manifests, trips provided to eligible passengers shall be highlighted on the manifests to make them easily differentiated from trips provided to persons who have not been granted ADA paratransit eligibility. If the Contractor is providing rides under the Access to Jobs Program, those rides shall be totaled on monthly billing.

(C) BILLING PROCEDURE. [Reserved]

(D) RATE OF REIMBURSEMENT. Transportation reimbursements will be made on a unit of service basis pursuant to this Agreement. The reimbursement per unit of service for trips provided pursuant to this Agreement shall be $4.00 per ambulatory person and $5.00 per person who use a wheelchair or similar mobility device. Contractor will be paid based upon the status of the eligible passenger as either ambulatory or nonambulatory (as determined in the certification issued by Wichita Transit).

(E) REVIEW OF REIMBURSEMENT RATES. The amount of reimbursement per unit of service will be reviewed during the last 6 months of 2008, and may be subject to revision starting January 1, 2009. Any change in the reimbursement rate must be agreed to in writing by all parties prior to implementation.

(F) NO SHOW TRIPS AND MISSED TRIPS. [Reserved]

9.2 SUPPORT DOCUMENTATION. Billing shall be supported with the documentation described above in Section 9.1.

9.3 REIMBURSEMENT RESTRICTIONS. Payments shall be made to the Contractor only for items and services authorized by this Agreement. The City reserves the right to disallow reimbursement for any item or service, which is not authorized by this Agreement.

9.4 SERVICE BY CONTRACTOR.

(A) GENERAL. Service is to be provided by the Contractor in a prompt and courteous manner. Passengers must be determined ADA paratransit eligible before the Contractor provides paratransit rides pursuant to this Agreement. Passengers are to be picked up within a 30-minute pick-up window and the unit of service or one-way trip shall not last longer than 90 minutes. If circumstances dictate that the afore-mentioned conditions cannot reasonably be met, the Contractor shall make note of the incident and reference it as part of the on-time performance or trip length reports discussed in subsection 8.3(C). As discussed in subsection 8.3(A) of this Agreement, the Contractor is to provide the City a Complaints Report.

(B) BACK-UP SYSTEM. The Contractor must have a reasonable back-up system in place to ensure that eligible passengers are not stranded.

(C) ACCEPTANCE OF RIDES REFERRED BY THE CITY. When referred by the City, and upon reasonable notice, the Contractor agrees to accept subscription service ride requests by persons who are not already persons served by the Contractor. This is provided that acceptance of the referral will not negatively impact the Contractor's ability to meet on-time performance or trip length standards for existing eligible passengers or Contractor's other persons served.

(D) COLLECTION OF FARE FROM ELIGIBLE PASSENGERS. To the extent required in Section 4.1(H), the Contractor shall collect and retain the standard ADA paratransit fare from eligible passengers.

(E) ALCOHOL AND DRUG TESTING. The Contractor shall comply with the Federal Drug and Alcohol Regulations, as set forth in Appendix B of this Agreement. Pre-employment, post accident, and random tests shall be conducted for any and all safety sensitive Contractor positions that perform duties under the terms of this Agreement.

(F) VEHICLE SPECIFICATIONS. All vehicles used in service pursuant to this Agreement shall be equipped with a two way radio or other acceptable telecommunications device (including but not limited to cell phones) and shall at all times be maintained in a reasonable operating condition and shall be kept in clean and comfortable condition for the transportation of eligible passengers. Vehicles used to transport eligible passengers who use a wheelchair shall be equipped with an operable wheelchair lift or ramp. Regardless of the manner in which a vehicle is equipped, all rides will be compensated at the applicable ambulatory or nonambulatory rate under Section 9.1.D, as the case may be. Compliance with vehicle specifications shall be subject to regular monitoring by the City or the designated representative of Wichita Transit.

(G) ADA COMPLIANCE. The Contractor must be in compliance with the Federal Americans with Disabilities Act (ADA) requirements.

ARTICLE 10: LICENSES AND PERMITS.

(A) The Contractor shall procure and maintain all permits, licenses, certifications, bonds and insurance required by federal, state or local authority for carrying out this Agreement.

(B) The Contractor shall maintain Workers Compensation Insurance in amounts not less than minimum statutory requirements.

(C) The Contractor shall notify the City immediately if any required license, permit, bond or insurance is cancelled, suspended, or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may be the basis for immediate termination of this Agreement by the City.

ARTICLE 11: INSURANCE. The Contractor shall provide to the City a Certificate of Insurance evidencing Comprehensive General Liability, Professional Liability, and Comprehensive Automobile Liability coverage in the following minimum amounts:

(A)	Bodily Injury:	$500,000	Each Occurrence
(B)	Property Damage:	$500,000	Each Occurrence
(C)	Bodily Injury:	$500,000	Each Person
(D)	Bodily Injury: (owned, not owned, hired, renter or otherwise):		
	(1) Bodily Injury	$500,000	Each Accident
	(2) Property Damage	$500,000	Each Accident

(E) Workers Compensation: As statutorily required.

ARTICLE 12: SUBCONTRACTING.

(A) None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City.

(B) All approved subcontracts must conform to applicable requirements set forth in this Agreement.

(C) If the City consents to the use of subcontractors, the Contractor shall remain fully responsible for all obligations of this Agreement, including indemnification of the City for all actions by subcontractors.

ARTICLE 13: TERMINATION OF AGREEMENT.

13.1 TERMINATION FOR CAUSE. If the either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of the terms, covenants, conditions or stipulations of this Agreement, the non-breaching party may terminate this Agreement by giving at least 10 days written termination notice to the breaching party. Such notice of termination shall specify the specific breach(s) and the date of the termination.

In the event of termination, such information prepared by the Contractor to carry out this Agreement, including data, studies, surveys, records, drawings, maps, and reports shall, continue to be made available to the City in accordance with Article 8 above. The Contractor shall be entitled to just and equitable compensation for any satisfactory work completed on such documents and other materials.

In spite of the above, the Contractor shall not be relieved of liability to the City by virtue of any breach of this Agreement by the Contractor and the City may withhold any payments to the

Contractor for the purpose of set off until such time as the exact amount of damages due the City from the Contractor are determined.

13.2 TERMINATION OF AGREEMENT ON OTHER GROUNDS. Either party, upon 30 days written notice, may terminate this Agreement for any reason whatsoever. Written notice must state the effective date of the termination.

13.3 EXPIRATION OF CONTRACT TERM. Subject to earlier termination as provided in Sections 13.1 and 13.2 above, This Agreement shall extend until December 31, 2008. If the parties do not have a negotiated renewal Agreement completed on or before that date, this Agreement shall continue under the last agreed terms on a month-to-month basis.

ARTICLE 14: NOTIFICATION. Any formal notice required or permitted under this Agreement shall be deemed sufficiently given if in writing and delivered by public or private carrier, personal delivery, registered or certified mail (return receipt requested) or by means of telefacsimile or telecopier. Notices delivered in person or sent via telefacsimile or telecopier shall be effective as of the date the notice is delivered or sent. Notices sent by registered or certified mail (return receipt requested) shall be deemed to be effective forty-eight hours after the date said notice is postmarked to the addressee.

Contractor: City of Wichita – Wichita Transit
Attn: General Manager
Address: 777 E. Waterman
Phone: (316) 352-4802
Fax: (316) 337-9287

Vendor: Contractor Name:
Attn:
Address:
Phone:
Fax:

ARTICLE 15: MISCELLANEOUS.

15.1 The failure of either party to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any option, right or remedy provide by this Agreement, shall not be construed as a future waiver or relinquishment of such term, provision, option, right or remedy. A waiver by either party of any term or provision of this Agreement shall not be deemed to have been made unless submitted in writing and signed by the waiving party.

15.2 This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and to their permitted successors and assigns.

15.3 In the event that any provision in this Agreement shall be adjudicated invalid under applicable laws, the invalid provision shall automatically be considered amended so as to conform to all applicable legal requirements. If the invalidity cannot be cured by amendment, the invalid provision shall be considered stricken and deleted. In either case, the validity or enforceability of the remaining provision of this Agreement shall remain intact.

15.4 Both parties to this Agreement represent and agree that: (i) they have reviewed all aspects of this Agreement; (ii) they have been given the opportunity to review this Agreement with counsel; and (iii) they have carefully read and fully understand all provisions of this Agreement.

15.5 The Contractor and the City shall not be obligated to resolve any claim or dispute related to this Agreement by arbitration. Any reference to arbitration in the Agreement or its attached appendices is deemed void. The Parties are free to negotiate, mediate, or litigate any dispute between them.

MONTHLY REPORTING FORM

Reporting Period: _____

ON-TIME PERFORMANCE AND TRIP LENGTH COMPLIANCE:

What was your on-time performance for the reporting period?

Early Arrival %	On Time %	Late Arrival %

What % of trips provided involved a client being on the van for more than 90 minutes? _____

PEAK HOUR RIDES:

How many rides were provided to eligible passengers during the following times?

6:00 AM and 10:00 AM	2:00 PM and 6:00 PM

WHEELCHAIR / AMBULATORY RIDES:

How many rides were provided to eligible passengers who use a wheelchair or similar mobility device and how may rides where provided to eligible passengers who are ambulatory.

TOTAL RIDES PROVIDED	NUMBER OF AMBULATORY RIDES	NUMBER OF WHEELCHAIR RIDES

ACCESS TO JOBS RIDES:

How many rides were provided to eligible passengers under the Access to Jobs Program? _____

NEW FREEDOM RIDES:

How many rides were provided to eligible passengers under the New Freedom Program? _____

PASSENGER FARES COLLECTED AND DUE:

What is the dollar value of passenger fares collected or due during the reporting period? (# of eligible trips TIMES $2.50) _____

MISSED TRIP INFORMATION:

NAME OF PERSON	# OF MISSED TRIPS	MISSED TRIP DATES

NO SHOW INFORMATION:

NAME OF PERSON	# OF NO-SHOWS	NO-SHOW DATES

COMPLAINT REPORTING:

REASON FOR COMPLAINT	NUMBER OF INCIDENTS DURING REPORTING PERIOD
Late Arrival	
Early Arrival	
Length of time on van	
Driver rudeness	
Other	

Any Actions Taken on Complaints:

NAME OF CLIENT: _____

Nature of Complaint: _____

_____

Actions taken: _____

_____

_____

_____

NAME OF CLIENT: _____

Nature of Complaint: _____

_____

Actions taken: _____

_____

_____

_____

NAME OF CLIENT: _____

Nature of Complaint: _____

_____

Actions taken: _____

_____

_____

_____

NAME OF CLIENT: _____

Nature of Complaint: _____

_____

Actions taken: _____

_____

_____

_____

NAME OF CLIENT: _____

Nature of Complaint: _____

_____

Actions taken: _____

_____

_____

APPENDIX B
FEDERAL AND STATE REGULATIONS

The following additional provisions apply to this Agreement only to the extent that the subject matter of any given provision is relevant to the purposes of the Agreement. The parties agree that the provisions found in subsections 1, 2, 3, 4, 6, 9, and 10 of Section 9 do not apply to this Agreement. Any inconsistency between the provisions of Appendices A and B shall be resolved in favor of Appendix A. With respect to Section 10 below, the parties agree that this is a "fee for service" contract and that no bids or proposals are being submitted in connection herewith. With respect to Section 12 below, the parties agree that the dispute resolution provisions of Section 15.5 of Appendix A shall control. With respect to Section 13 below, no Disadvantaged Business Goal is applicable to this Agreement. With respect to Section 15 below, the parties agree that this Agreement does not involve international air transportation.

U. S. FEDERAL

1. ENERGY CONSERVATION REQUIREMENTS

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

2. CLEAN WATER REQUIREMENTS

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2. The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

3. LOBBYING

Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the (Purchaser).

4. ACCESS TO RECORDS

Contracts exceeding $100,000.

1. The Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser enters into a negotiated contract for other than a small purchase or under a simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

3. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

4. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

5. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

6. FTA does not require the inclusion of these requirements in subcontracts.

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (2) dated October, 1995) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

6. CLEAN AIR REQUIREMENTS

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2. The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

7. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

1. The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the

penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

9. TERMINATION

Contracts with non-profit organizations and institutions of higher education in excess of $100,000 and all other contracts in excess of $10,000.

1. Termination for Convenience (General Provision) The (Purchaser) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Purchaser) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Purchaser), the Contractor will account for the same, and dispose of it in the manner the (Purchaser) directs.

2. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Purchaser) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

   If it is later determined by the (Purchaser) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Purchaser), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

3. Opportunity to Cure (General Provision) The (Purchaser) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

   If Contractor fails to remedy to (Purchaser)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Purchaser) setting forth the nature of said breach or default, (Purchaser) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Purchaser) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

4. Waiver of Remedies for any Breach In the event that (Purchaser) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Purchaser) shall not limit (Purchaser)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

5. Termination for Convenience (Professional or Transit Service Contracts) The (Purchaser), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

6. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Purchaser) may terminate this contract for default. The (Purchaser) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

   If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Purchaser).

7. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Purchaser) may terminate this contract for default. The (Purchaser) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

   If this contract is terminated while the Contractor has possession of (Purchaser)'s goods, the Contractor shall, upon direction of the (Purchaser), protect and preserve the goods until surrendered to the (Purchaser) or its agent. The Contractor and (Purchaser) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

   If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Purchaser).

8. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Purchaser) may terminate this contract for default. The (Purchaser) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the (Purchaser) may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the (Purchaser) resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the (Purchaser) in completing the work.

   The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

A. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the (Purchaser), acts of another Contractor in the performance of a contract with the (Purchaser), epidemics, quarantine restrictions, strikes, freight embargoes; and

B. The contractor, within [10] days from the beginning of any delay, notifies the (Purchaser) in writing of the causes of delay. If in the judgment of the (Purchaser), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Purchaser) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the (Purchaser).

9. Termination for Convenience or Default (Architect and Engineering)

The (Purchaser) may terminate this contract in whole or in part, for the (Purchaser)'s convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Purchaser) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the (Purchaser), the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the (Purchaser) may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the (Purchaser).

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Purchaser).

10. Termination for Convenience of Default (Cost-Type Contracts) The (Purchaser) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Purchaser) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Purchaser), or property supplied to the Contractor by the (Purchaser). If the termination is for default, the (Purchaser) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Purchaser) and the parties shall negotiate the termination settlement to be paid the Contractor.

    If the termination is for the convenience of the (Purchaser), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

    If, after serving a notice of termination for default, the (Purchaser) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Purchaser), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination of convenience.

10. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

Certification Regarding Debarment, Suspension, and Other Responsibilities Matters Lower Tier Covered Transactions (Third Party Contracts over $100,000).

Instructions for Certification

By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, (Purchaser) may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to (Purchaser) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact (Purchaser) for assistance in obtaining a copy of those regulations.

4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by (Purchaser).

5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

   A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

6. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

7. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Purchaser) may pursue available remedies including suspension and/or debarment.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"

1. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

11. CIVIL RIGHTS REQUIREMENTS

The following requirements apply to the underlying contract:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

a. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

12. BREACHES AND DISPUTE RESOLUTION

Contracts exceeding $100,000.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Purchaser)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance During Dispute - Unless otherwise directed by (Purchaser), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Purchaser) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Purchaser) is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Purchaser), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or

acquiescence in any breach thereunder, except as may be specifically agreed in writing.

13. DISADVANTAGES BUSINESS ENTERPRISES (DBE)

1. The Federal Fiscal Year goal has been set by the (Purchaser) in an attempt to match projected procurements with available qualified disadvantaged businesses. The (Purchaser)'s goals for budgeted service contracts, bus parts, and other materials and supplies for Disadvantaged Business Enterprises have been established by the (Purchaser) as set forth by the Department of Transportation Regulations 49 C.F.R. Part 23, March 31, 1980, and amended by Section 106(c) of the Surface Transportation Assistance Act of 1987, and is considered pertinent to any contract resulting from this Request for Proposal.

   If a specified DBE goal is assigned to this contract, it will be clearly stated in the Special Specifications, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE's in the work provided, the (Purchaser) may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the Special Specifications, it will be understood that no specific goal is assigned to this contract.

   This section is being developed to reflect the new rule in 49 CFR Part 26.

   a. Policy - It is the policy of the Department of Transportation and the City of Wichita / Wichita Transit that Disadvantaged Business Enterprises, as defined in 49 CFR Part 23, and as amended in Section 106c of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURRA), shall have the maximum opportunity to participate in the performance of Contract financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 and Section 106c of the STURAA of 1987, apply to this contract.

      The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 23 and Section 106c of the STURRA of 1987, have the maximum opportunity to participate in the whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall

not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts.

It is further the policy of the (Purchaser) to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of the (Purchaser)'s procurement activities are encouraged.

b. DBE Obligation – The Contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 as amended, to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

c. Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, the (Purchaser) may declare the contractor noncompliance and in breach of contract.

d. The contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with the (Purchaser)'s DBE program. These records and documents will be made available at reasonable times and places for inspection by an authorized representative of the (Purchaser) and will be submitted to the state upon request.

e. The (Purchaser) will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBE
- Available listing of Minority Assistance Agencies
- Holding bid conferences to emphasize requirements

iv. DBE Program Definitions, as used in the contract:

v. Disadvantage business "means a small business concern":

vi. Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

vii. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

viii. Which is at least 51 percent owned by one or more women individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more women individuals; and

j ix. Whose management and daily business operations are controlled by one or more women individuals who own it.

x. "Small business concern" means a small business as defined by Section 3 of the Small Business Act and Appendix B – (Section 106(c)) Determinations of Business Size.

xi. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and States (or lawfully admitted permanent residents) and who are black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or women, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

xii. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;

xiii. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuba, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

xiv. "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

xv. "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos,

Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of Pacific, and the Northern Marianas;

xvi. "Asian-Indian Americans", which includes persons whose origins are from India, Pakistan, and Bangladesh.

14. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (Purchaser) requests which would cause the (Purchaser) to be in violation of the FTA terms and conditions.

15. FLY AMERICA

Applies ONLY to contracts involving international air transportation of persons or material.

The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag carriers to extend services by U.S. flag carriers is available, consistent with the requirements of the International Air Transportation Fair Competitive Practices Act of 1974f. as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations "Use of United States Flag Air Carriers." 41 C.F.R. §§ 301.131 through 301.143.

16. ENVIRONMENTAL PROTECTION

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq*. consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq*.; And joint FHWA/FTA regulations, "Environmental

Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

17. ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES (ADA)

The Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq*., which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:

1. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

2. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Assistance," 49 C.F.R. Part 27;

3. Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

4. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

5. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

6. U.S. GSA regulations, "Accommodations for the Physically Handicapped'" 41 C.F.R. Subpart 101-19;

7. U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

8. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

9. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

10. Any implementing requirements FTA may issue.

18. NOTIFICATION OF FEDERAL PARTICIPATION

Applies ONLY to contracts for goods and services, including construction, valued at over $500,000.

In the announcement of any third party contract award for goods or services (including construction services) having aggregate value of $500,000 or more, the Contractor agrees to specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to the expressed amount of that Federal assistance as a percentage of that total cost of that third party contract.

STATE OF KANSAS

A. AGREEMENT WITH KANSAS LAW.

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

B. DISCLAIMER OF LIABILITY.

Neither the State of Kansas nor any agency thereof, nor the City, shall hold harmless or indemnify any Contractor beyond that for any liability or damage except for those occasioned by the acts or omissions of its own employees, and then only up to the limits of liability designated under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.). However, City agrees to indemnify and hold harmless Contractor to the maximum extent permitted by law.

C. RESPONSIBILITY FOR TAXES.

Neither the State of Kansas, nor the City, shall be responsible for, nor indemnify a Contractor for, any federal, state or local taxes that may be imposed or levied upon the subject matter of this contract.

REVISED 08-25-2008
(Financial Considerations)

Agenda Report No. XII-22.

City of Wichita
City Council Meeting
August 26, 2008

TO: Mayor and City Council

SUBJECT: Approval of Contracts with Human Service Agencies for Purchasing of ADA Paratransit Rides (All Districts)

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendation: Approve and execute the contracts with KETCH, Starkey, ResCare, Catholic Charities, Envision and CPRFK.

Background: The purpose of the Purchased Ride Agreement is to allow Wichita Transit to purchase paratransit rides from human service agencies. For 2007, Wichita Transit's in-house paratransit service provided approximately 25% of all ADA rides. The remaining 75% were provided by the six human service agencies. Rides provided by the agencies, are typically limited to providing transportation to ADA eligible persons who are part of each agency's individual programs and/or residential living arrangements.

The previous Agreement expired on December 31, 2006. Since that time Wichita Transit has continued to purchase rides as provided for in the expired contract. However, during a recent Federal Financial Management Oversight (FMO) audit, Wichita Transit was advised that new signed agreements were required if Federal funds are to be spent.

The six agencies have elected to execute Agreements that provide for a contract termination date of December 31, 2008, including automatic month-to-month renewal if a new renewal agreement has not been negotiated. Reimbursement rate adjustments can be accommodated by contract amendment as additional funds become available.

The agencies have requested an increase in reimbursement rates beginning in 2009, i.e., ambulatory client from $4.00 to $ $6.70 and wheelchair client from $5.00 to $10.50. For 2007, Wichita Transit provided human service agencies a $983,261 reimbursement. This was for 239,659 rides. The terms of the Agreement also provide for agencies to collect and retain a $2.50 fare. For 2007, fare collection increases the agency reimbursement by $599,148, or a total yearly reimbursement of $1,582,409. Over the last two months, human service agencies have meet with the staff and proposed plans are to increase the amount of money budgeted to pay for purchased rides. For 2009, the amount of additional money needed has been identified as $760,000.

Analysis: If Wichita Transit is to continue purchasing rides with Federal funds, execution of the Agreements are needed. FTA requires that the purchased ride agreements be in writing for specific terms.

Financial Considerations: Funding for the agreements uniformly raising the purchased ride rates to the $4 and $5 dollar level will be covered 50 percent by FTA Job Access and Reverse Commute (JARC) and 50 percent local (KDOT). Funding for the proposed increase to $6.70 for ambulatory and $10.50 per ride for non-ambulatory uniformly would need to be covered by City general funds ~~(transferred to the local Transit Fund)~~ to match FTA grant funds available ~~for this purpose~~. The 2009 total additional funding requirements would be **$780,000.00.** ~~$760,000.00 of which $380,000 or 50% will be from the local Transit Fund~~.

Goal Impact: Execution of the Purchased Ride Agreements will provide for continued use of Federal funds to support the provision of ADA paratransit rides, hereby providing for an efficient and effective infrastructure.

Legal Considerations: The Law Department has reviewed and approved the form of the proposed Agreements.

Recommendations / Actions: It is recommended that the City Council approve the Mayor to execute the Agreements with all six agencies as presented at a uniform rate.

Agenda Item No. XII-23

CITY OF WICHITA
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Acquisition of Permanent and Temporary Easements at 2301 East Douglas (East High School) for Water and Sewer lines (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the Easement Agreement

Background: The City of Wichita has a project to construct a new 48-inch water line to serve southeast Wichita. There is also a project to replace the existing interceptor sanitary sewer line along I-135 from Douglas to Pawnee. Both of these projects will require easements across East high school.

Analysis: The waterline project requires a 20-foot wide easement. The sewer project will require a 30-foot wide easement where the line is independent. Where it parallels the water line, the easement is reduced to 20 feet. Due to the schedules of athletic events at the school, the project must be constructed between the end of May 2009 and early August 2009. The easements will impact soccer fields, practice football fields and baseball fields. The impacted areas will be resodded as part of the project. Where sprinkler systems or fences are impacted, the City will cap or remove the improvements. After construction, USD 259 shall replace the improvements and the City shall pay for the replacements.

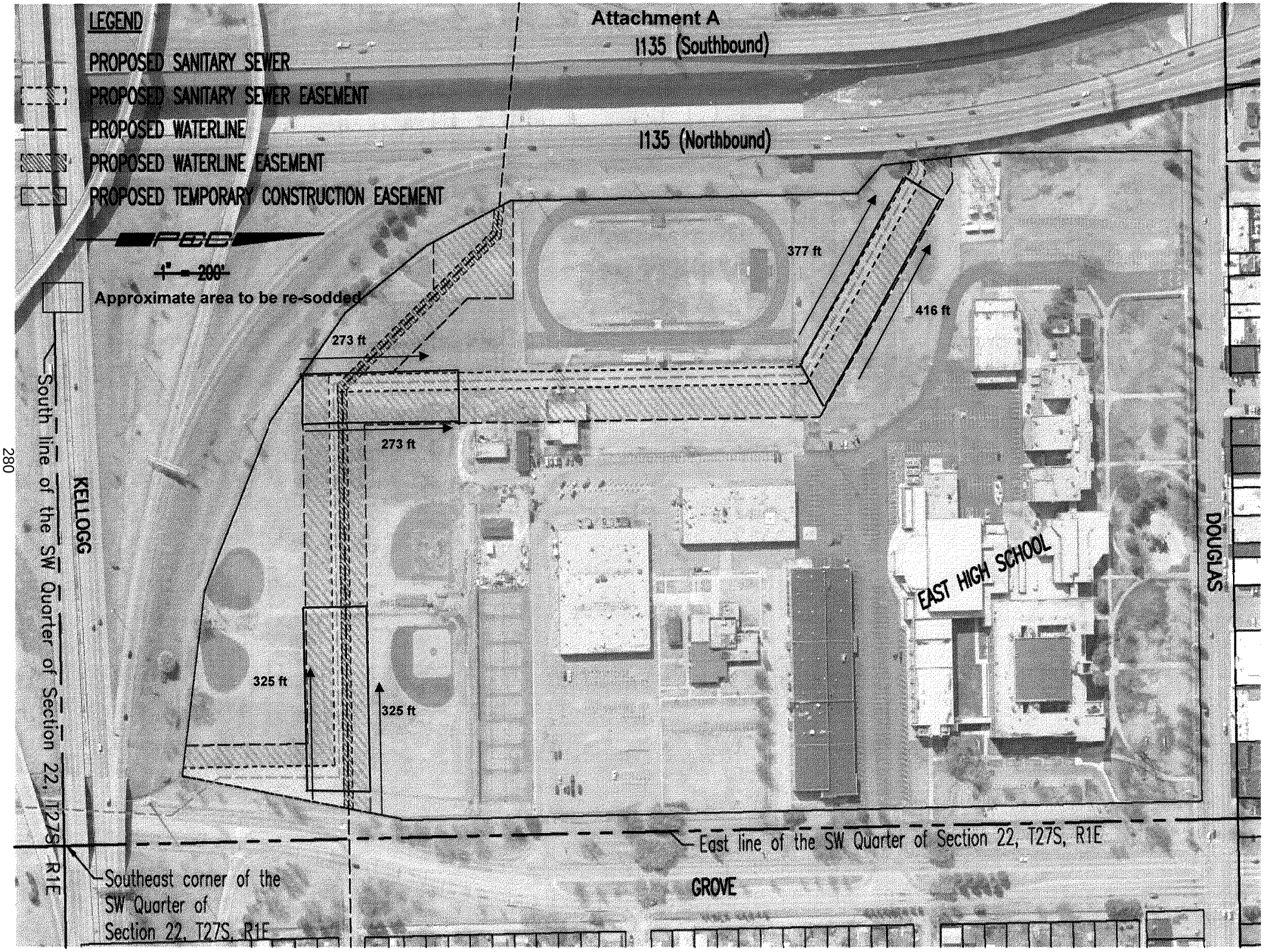
Financial Considerations: USD 259 has agreed to dedicate the easement to the City. All costs associated with remediation will be included in the respective project budgets.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure and provide reliable, compliant and secure utilities.

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

Recommendation/Action: It is recommended that the City Council; 1) Approve Easement Agreement and 2) Authorize the necessary signatures.

Attachments: Easement Agreement and aerial map.


Attachment A
LEGEND
PROPOSED SANITARY SEWER
PROPOSED SANITARY SEWER EASEMENT
PROPOSED WATERLINE
PROPOSED WATERLINE EASEMENT
PROPOSED TEMPORARY CONSTRUCTION EASEMENT
PEC
1" = 200'
Approximate area to be re-sodded
I135 (Southbound)
I135 (Northbound)
377 ft
416 ft
273 ft
273 ft
325 ft
325 ft
EAST HIGH SCHOOL
KELLOGG
DOUGLAS
GROVE
South line of the SW Quarter of Section 22, T27S, R1E
East line of the SW Quarter of Section 22, T27S, R1E
Southeast corner of the SW Quarter of Section 22, T27S, R1E

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into on this 11th day of August, 2008, by and between Unified School District No. 259, Sedgwick County, Kansas (the "District"), and the City of Wichita, Kansas (the "City").

RECITAL

WHEREAS, the District is the owner of three (3) tracts of real property located in the City of Wichita, Kansas, each tract being more particularly described on Attachment "A" attached hereto and made a part hereof by reference (hereafter each tract is separately referred to as "Tract 1," "Tract 2," and "Tract 3," and the three tracts are jointly referred to as the "District's Property;" and,

WHEREAS, District athletic fields and tracks that are used by students and others that are a part of the District's East High School facility are located adjacent to and on the District's Property; and,

WHEREAS, the City desires to use the District's Property for the following purposes: (a) to construct and thereafter maintain a public sewer line on Tract 1, (b) to construct and thereafter maintain a public water line on Tract 2, and (c) as a temporary easement, for the purpose of constructing the sewer line and water line, on Tract 3; and,

WHEREAS, the District is willing to grant easements on the District's Property to the City for the purpose herein stated, upon the terms and conditions hereafter set forth;

NOW, THEREFORE, for and in consideration of the premises, the sum of Ten Dollars ($10.00), in-hand paid, and in consideration of the terms and conditions hereafter set forth, the District and the City hereby agree as follows:

1. GRANT OF EASEMENTS.

a. The District does hereby grant and convey to the City, its successors and assigns, a perpetual public easement over, under, through and across Tract 1 for the purpose of performing all construction activities necessary and appropriate in connection with installing a sewer line thereon, and for the purpose of thereafter maintaining and repairing the public sewer line.

b. The District does hereby grant and convey to the City, its successors and assigns, a perpetual pubic easement over, under, through and across Tract 2 for the purpose of performing all construction activities necessary and appropriate in connection with installing a water line thereon, and for the purpose of thereafter maintaining and repairing the public water line.

c. The District does hereby grant and convey to the City, its successors and assigns, a temporary construction easement over, under, through and across Tract 3 for the purpose of performing all construction activities necessary and appropriate in connection with the construction of the sewer line on Tract 1 and the water line on Tract 2.

2. COMMENCEMENT OF CONSTRUCTION. Construction of the sewer line and the water line shall not commence before May 29, 2009, unless authorization to start on an early date is granted in writing by the District.

3. TEMPORARY EASEMENT EXPIRATION. The rights and easements granted herein with respect to Tract 3 shall terminate without any further action by the District or City upon the earlier of (i) completion of construction activities for the sewer line and the water line, or (ii) August 15, 2009.

4. CONCLUSION OF INITIAL CONSTRUCTION. At the conclusion of the construction of the sewer line and the water line, Tract 1, Tract 2, and Tract 3 shall all be returned to the same grade as existed before construction commenced. The area shown as area to be resodded in Attachment "A" hereto that is adopted by reference herein, shall be resodded with the same type of grass that existed before commencement of construction. Such resodding shall be completed by August 15, 2009. The remainder of the easement areas shall be reseeded with the same type of grass that existed at the commencement of construction. The grass, upon being resodded, shall be in the same condition or better condition than existed at the commencement of construction. Reseeding shall be done at an appropriate time in relation to the Wichita, Kansas growing season for new grasses.

5. ACCESS TO TRACTS. The City agrees that at all times during the construction of the sewer line and the water line it will maintain access across the District's Property to the athletic fields and track facility located adjacent to the District's Property in order

that East High students and others, during construction activities, will have access to the adjacent athletic fields and track facility.

6. IRRIGATION SYSTEM AND FENCING. The City agrees to cap the District's irrigation system that is located in the District's Property prior to commencing construction. The City shall also, prior to construction, remove any fencing located on the District's Property. The City shall, within thirty (30) days of receiving an invoice from the District, pay the District the cost the District incurs in repairing or replacing the irrigation system and/or fencing that was impacted by construction. The District shall not commence such repairs or replacement until the Tract 3 has been released back to the District by the City or August 15, 2009, whichever date comes first.

7. MAINTENANCE OF TRACTS 1 AND 2. Any maintenance of the sewer and water lines that occurs after initial construction shall be done in a manner that allows the District to continue to use the adjacent athletic and track facilities that are not within the District's Property. At the conclusion of any maintenance, the land shall be returned to the same grade that existed before maintenance commenced and shall be resodded with the same type of grass that existed at the commencement of the maintenance. The grass, upon being resodded, shall be in the same condition or better condition than existed at the commencement of maintenance. The area to be resodded is depicted in Attachment "A" hereto that is adopted by reference herein.

8. LIQUIDATED DAMAGES. The City specifications for construction of the sewer line and the water line on the District's Property shall contain a liquidated damages clause that specifies that the contractor shall pay both to the District and to the City each a specified sum of liquidated damages per day, and the amount payable to each shall be equal to the amount set in the City of Wichita Standard Specifications for the Construction of City Projects manual starting August 16, 2009 and continuing until the project of constructing the sewer and water lines is completed. The City shall use its best efforts, to the extent allowed by law, to collect such liquidated damages on behalf of the District. Any liquidated damages collected by the City, up to the amount specified in the contract for the District, shall first be paid to the District. The City shall have no obligation to make up any shortfall of such liquidated damages not actually collected beyond using its best efforts to do so, to the extent allowed by law.

9. EASEMENTS AND RESTRICTIONS OF RECORD. The District's conveyance of the Tract 1 and Tract 2 permanent easements and the Tract 3 temporary easement is subject to existing easements and restrictions of record, if any.

10. REGISTER OF DEEDS. The City shall cause this Easement Agreement to be filed of record with the Sedgwick County Register of Deeds office.

11. NOTICES. All notices required or desired to be given hereunder shall be in writing and shall be delivered in person or mailed by registered or certified mail to the following persons:

IF TO THE CITY:
City Clerk
City Hall
455 North Main Street
Wichita, Kansas 67202

IF TO THE DISTRICT:
Clerk of the Board
Unified School District No. 259
201 North Water
Wichita, Kansas 67202-1292

All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed.

11. INVALIDITY OF ANY PROVISION. If any clause, sentence or section of this Easement Agreement shall be held to be invalid, it shall not affect the remaining provisions of this Easement Agreement.

12. AGREEMENT SUBJECT TO KANSAS LAW. This Easement Agreement shall be construed and enforced pursuant to the laws of the State of Kansas.

13. AMENDMENTS. This Easement Agreement may only be amended by the parties hereto by written agreement approved by both of the governing bodies.

14. COVENANTS BINDING ON SUCCESSORS AND ASSIGNS. The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. SECTION HEADINGS. The section headings hereof are for the convenience of reference only and shall not be treated as part of this Agreement or as affecting the true meaning of the provisions hereto.

16. EFFECTIVE DATE. The effective date of this Agreement shall be the date first above written.

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

UNIFIED SCHOOL DISTRICT NO. 259,
SEDGWICK COUNTY, KANSAS

By _____
Lynn W. Rogers, Board President

ATTEST:

_____
Mike Willome, Clerk of the Board

THE CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO LEGAL FORM:

_____
Gary E. Rebenstorf, Director of Law for
City of Wichita

ATTACHMENT "A"
Legal Descriptions of Tracts

TRACT 1

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along the east line of said Southwest Quarter, a distance of 269.69 feet; Thence Bearing S88°56'28"W, a distance of 119.91 feet to a P.I. in the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds, said point also being the **POINT OF BEGINNING**; Thence Bearing N08°47'47"E, along said boundary, a distance of 371.11 feet; Thence Bearing S88°56'28"W, a distance of 744.43 feet; Thence Bearing N00°46'17"W, a distance of 1,059.76 feet; Thence Bearing N54°26'06"W, a distance of 462.14 feet; Thence Bearing S84°37'43"W, a distance of 23.57 feet to a point on the boundary of said Controlled Access Highway Right of Way; Thence Bearing S05°19'30"E, along said boundary, a distance of 30.00 feet; Thence Bearing N84°37'43"E, a distance of 12.39 feet; Thence Bearing S54°26'06"E, a distance of 435.77 feet; Thence Bearing S00°46'17"E, a distance of 1,064.74 feet; Thence Bearing N88°56'28"E, a distance of 698.78 feet; Thence Bearing S00°37'57"E, a distance of 343.11 feet to a point on the boundary of said Controlled Access Highway Right of Way; Thence Bearing S81°18'42"E, along said boundary, a distance of 15.00 feet to the **POINT OF BEGINNING**.

TRACT 2

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along the east line of said Southwest Quarter, a distance of 635.33 feet; Thence Bearing S88°56'28"W, a distance of 56.39 feet to a point on the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds, said point also being the **POINT OF BEGINNING**; Thence Bearing N08°47'47"E, along said boundary, a distance of 20.30 feet; Thence Bearing S88°56'28"W, a distance of 751.31 feet; Thence Bearing N37°56'16"W, a distance of 442.23 feet; Thence Bearing N82°56'16"W, a distance of 59.81 feet to a point on the boundary of said Controlled Access Highway Right of Way; Thence Bearing S22°55'19"E, along said boundary, a distance of 23.09 feet; Thence Bearing S82°56'16"E, a distance of 39.99 feet; Thence Bearing S37°56'16"E, a distance of 443.94 feet; Thence Bearing N88°56'28"E, a distance of 757.83 feet to the **POINT OF BEGINNING**.

TRACT 3

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along

the east line of said Southwest Quarter, a distance of 655.33 feet; Thence Bearing S88°56'28"W, a distance of 52.91 feet to a point on the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds, said point also being the **POINT OF BEGINNING**; Thence Bearing N08°47'47"E, along said boundary, a distance of 40.60 feet; Thence Bearing S88°56'28"W, a distance of 694.55 feet; Thence Bearing N00°46'17"W, a distance of 1,029.81 feet; Thence Bearing N54°26'06"W, a distance of 514.88 feet; Thence Bearing S84°37'43"W, a distance of 45.91 feet to a point on the boundary of said Controlled Access Highway Right of Way; Thence Bearing S05°19'30"E, along said boundary, a distance of 60.00 feet; Thence Bearing N84°37'43"E, a distance of 23.57 feet; Thence Bearing S54°26'06"E, a distance of 462.14 feet; Thence Bearing S00°46'17"E, a distance of 1,039.76 feet; Thence Bearing N88°56'28"E, a distance of 747.81 feet to the **POINT OF BEGINNING**.

together with

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along the east line of said Southwest Quarter, a distance of 655.33 feet; Thence Bearing S88°56'28"W, a distance of 804.22 feet; Thence Bearing N37°56'16"W, a distance of 43.86 feet to the **POINT OF BEGINNING**; Thence continuing Bearing N37°56'16"W, a distance of 398.37 feet; Thence Bearing N82°56'16"W, a distance of 59.81 feet to a point on the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds; Thence Bearing N22°55'19"W, along said boundary, a distance of 17.00 feet to a P.I. in said boundary; Thence Bearing N00°57'12"W, continuing along said boundary, a distance of 4.75 feet; Thence Bearing N90°00'00"E, a distance of 174.96 feet; Thence Bearing S00°00'00"W, a distance of 102.41 feet; Thence Bearing S37°56'16"E, a distance of 219.78 feet; Thence Bearing S00°46'17"E, a distance of 66.21 feet to the **POINT OF BEGINNING**.

together with

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along the east line of said Southwest Quarter, a distance of 269.69 feet; Thence Bearing S88°56'28"W, a distance of 119.91 feet to a P.I. in the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds; Thence Bearing N81°18'42"W, along said boundary, a distance of 15.00 feet to the **POINT OF BEGINNING**; Thence continuing Bearing N81°18'42"W, along said boundary, a distance of 40.54 feet; Thence Bearing N00°37'57"W, a distance of 276.24 feet; Thence Bearing S88°56'28"W, a distance of 658.64 feet; Thence Bearing N00°46'17"W, a distance of 60.00 feet; Thence Bearing

N88°56'28"E, a distance of 698.78 feet; Thence Bearing S00°37'57"E, a distance of 343.11 feet to the **POINT OF BEGINNING**.

together with

COMMENCING at the southeast corner of the Southwest Quarter of Section 22, Township 27 South, Range 1 East of the 6th P.M.; Thence Bearing N01°03'32"W, along the east line of said Southwest Quarter, a distance of 635.33 feet; Thence Bearing S88°56'28"W, a distance of 814.22 feet; Thence Bearing N37°56'16"W, a distance of 274.80 feet to the **POINT OF BEGINNING**; Thence continuing Bearing N37°56'16"W, a distance of 169.14 feet; Thence Bearing N82°56'16"W, a distance of 39.99 feet to a point on the boundary of the Controlled Access Highway Right of Way as recorded at Book 60, Page 946 at the office of the Sedgwick County Register of Deeds; Thence Bearing S22°55'19"E, along said boundary, a distance of 150.17 feet; Thence Bearing N90°00'00"E, a distance of 85.18 feet to the **POINT OF BEGINNING**.

Agenda Item No. XII-24

CITY OF WICHITA
City Council Meeting
August 26, 2008

TO: Mayor and City Council Members

SUBJECT: Acquisition of Temporary Construction Easement at 15720 East Kellogg for the Crestview Country Club Interceptor, Phase II (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 18, 2004, City Council approved the resolution authorizing construction of the Crestview Country Club Sanitary Sewer Interceptor. The second phase of the sanitary sewer project will run parallel with the existing service line. This second line will provide capacity relief due to the rapid growth in northeast Wichita. In some areas, the additional sewer line will co-locate within the existing easement however due to space limitations, it is necessary to acquire six new permanent easements. Eighteen temporary construction easements are also required. This particular site consists of vacant, unimproved land. Only a temporary construction easement is needed. This easement totals 46,049 square feet.

Analysis: The owner has agreed to accept the appraised offer of $2,900, or $0.07 per square foot.

Financial Considerations: A budget of $2,950 is requested. This includes $2,900 for the easement and $50 for closing and recording costs.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

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

Recommendation/Action: It is recommended that the City Council accept the easement and authorize payment.

Attachments: Tract maps, aerial map and temporary construction easement.

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 7 day of August, 2008 by RAKAN LLC, herein referred to as "Grantor(s)", and the City of Wichita, KS, a Municipal Corporation, herein referred to as "Grantee(s)".

WITNESSETH: That the said Grantor, in consideration of the sum of Two Thousand Nine Hundred Dollars ($2,900.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said Grantee a temporary right-of-way easement for the purpose of constructing utility improvements and associated site work over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A tract of land described as follows:
Commencing at the southwest corner of Lot 2, Block 2, Belle Terre South, an Addition to Sedgwick County, Kansas; thence N00°56'38"E, a distance of 40.00 feet to the north right-of-way line of US-54 (Kellogg); thence N89°56'39"E along said line, a distance of 154.71 feet for a point of beginning; thence N89°56'39"E, a distance of 40.03; thence N02°18'34"W, a distance of 152.33 feet; thence N23°57'39"W, a distance of 344.32 feet; thence N55°44'55"W, a distance of 110.42 feet to the south right-of-way line of Kellogg Drive; thence S41°01'38"W along said south right-of-way line a distance of 40.27 feet; thence S55°44'37"E, s distance of 103.78 feet; thence S23°57'29"E, a distance of 325.29 feet; thence S02°18'34"E, a distance of 143.11 feet to the point of beginning; containing 23,585 square feet, more or less.

And
A tract of land described as follows:
Commencing at the southeast corner of Lot 2, Block 2, Belle Terre South, an Addition to Sedgwick County, Kansas; thence N00°08'23"E, a distance of 40.00 feet; thence S89°56'39"W, a distance of 96.65 feet for a point of beginning, being on the north right-of-way line of US-54 (Kellogg); thence S89°56'39"W, along said north right-of-way line a distance of 572.92 feet; thence N02°18'34"W, a distance of 40.03 feet; thence N89°56'39"E, a distance of 550.26 feet; thence S31°16'10"E, a distance of 46.77 feet to the point beginning; containing 22,464 square feet, more or less.

The Grantee hereby covenants and agrees to indemnify, protect, and save harmless the Grantor, its successors and assigns, of, from, against and in respect of all liabilities, losses, claims, damages, punitive damages, causes of action, lawsuits, demands, judgments, settlement payments and costs and expenses (including without limitation reasonable attorney's fees and disbursements of every kind, nature and description) caused by or arising out of the use of the premises by the Grantee, its employees, agents or contractors.

The Grantee is hereby granted the right to enter upon said premises at any time for the purpose of constructing utility improvements and associated site work for a period not to exceed one year from the date above written or three months of the completion of the project, whichever is sooner.

IN WITNESS WHEREOF: Grantor(s) have signed these presents the day and year first written.

RAKAN LLC:

Waleed H Shisha, President

STATE OF KANSAS)
) ss:
Sedgwick COUNTY)

On 7 day of August, 2008, this easement was acknowledged before me by WALEED H SHISHA, PRESIDENT of RAKAN LLC.

SEAL: EMAD IBRAHIM NOTARY PUBLIC STATE OF KANSAS My Appt. Exp. _____

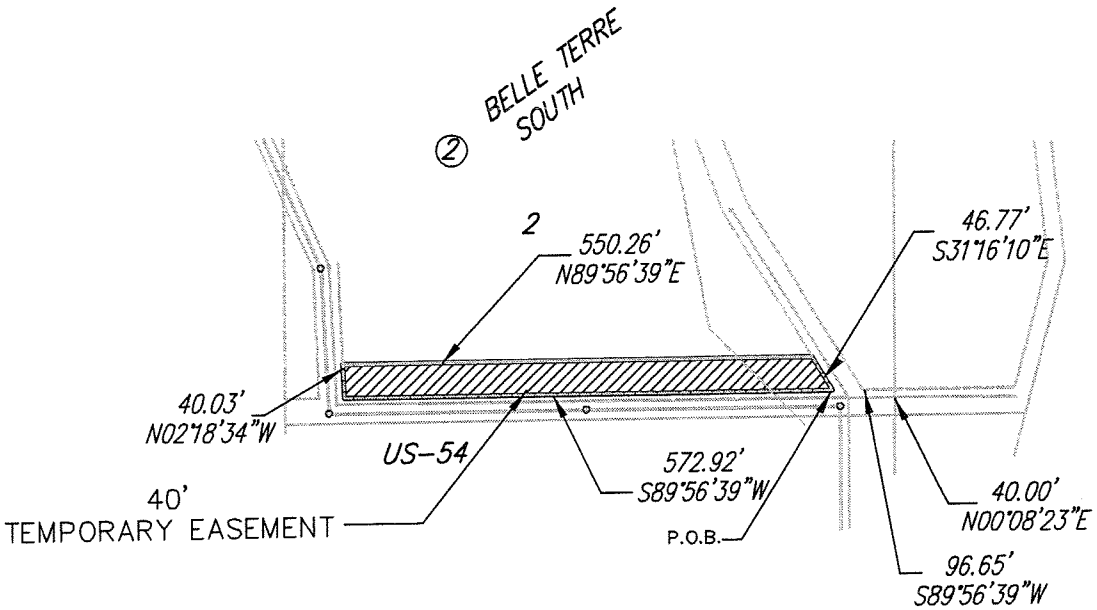
My commission expires: 11-21-09

Notary Public

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Scale: None



Rev. 5/29/08

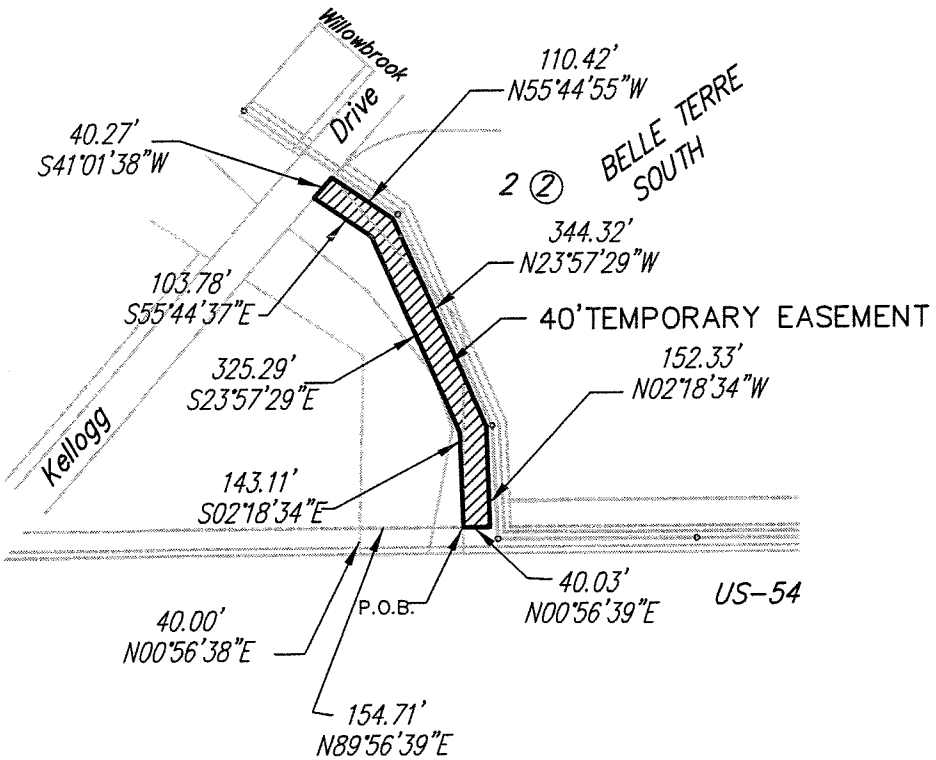
Ruggles & Bohm, P.A.
Engineering, Surveying, Land Planning
924 North Main
Wichita, Kansas 67203
www.rbkansas.com
(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com

RB JOB	DRAWN
2270X	PDC
SHEET 1 OF 2	DATE 1/22/06

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Scale: None

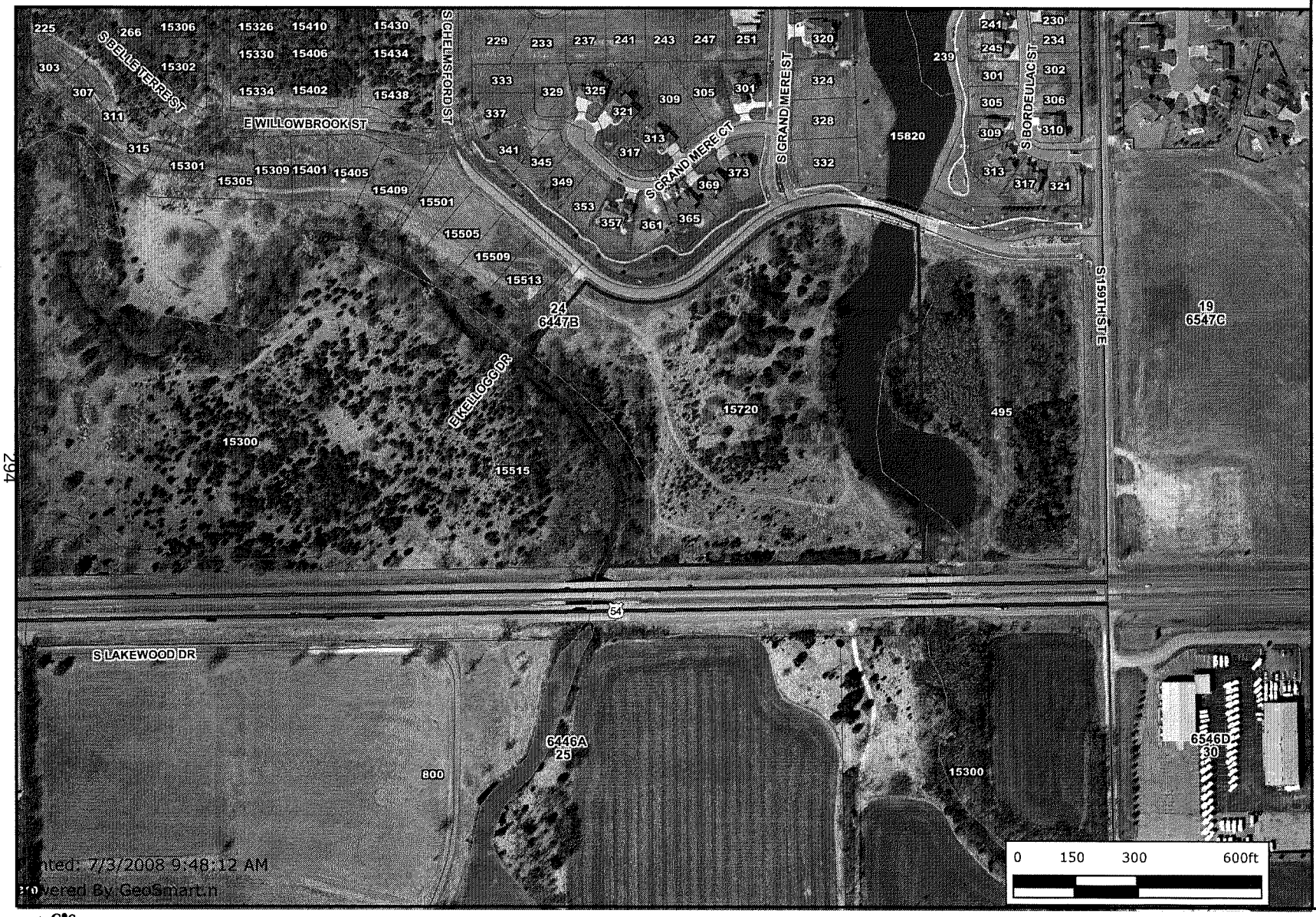


Rev. 5/29/08

Ruggles & Bohm, P.A.
Engineering, Surveying, Land Planning
924 North Main
Wichita, Kansas 67203
www.rbkansas.com
(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com

RB JOB	DRAWN
2270X	PDC
SHEET 1 OF 2	DATE 1/22/06

Kellogg and 159th



- Identified Features
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Township and Range
- Section
- Quarter Section
- Waterways
- Streams
- Historic Sites
- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O
- City Limits

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.

Second Reading Ordinances for August 26, 2008: (First Read August 19, 2008)

Wichita Employees' Retirement System Proposed revisions of City Code Sections 2.28.230 and 2.28.240.

ORDINANCE NO. 47-965

An Ordinance amending Sections 2.28.230 and 2.28.240 of the code of the City of Wichita, Kansas, pertaining to administration of the Wichita Employees' Retirement System, and repealing the originals of said sections.

2008 Capital Improvement Program Budget Modification.

ORDINANCE NO. 47-966

An Ordinance declaring Oliver, between Harry and Kellogg (472-84749) 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.

ORDINANCE NO. 47-967

An Ordinance amending Ordinance No. 46-850 of the city of Wichita, Kansas declaring Meridian, between Pawnee and orient (472-84309) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

ORDINANCE NO. 47-968

An Ordinance amending Ordinance No. 47-578 of the city of Wichita, Kansas declaring the 25th street bridge at the little Arkansas river (472-84595) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

ORDINANCE NO. 47-969

An Ordinance amending Ordinance No. 47-704 of the city of Wichita, Kansas declaring 21st Street, between the K-96 Freeway and 159th Street East (472-84636) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

ORDINANCE NO. 47-970

An Ordinance amending Ordinance No. 47-099 of the city of Wichita, Kansas declaring 37th St. North, between Tyler and Ridge (472-84186) to be a main trafficway within the city of Wchita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

ORDINANCE NO. 47-971

An Ordinance amending Ordinance No. 47-729 of the city of Wichita, Kansas declaring central avenue, between 135th St. West and 119th St. West (472-84017) to be a main trafficway within the city of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

ORDINANCE NO. 47-972

An Ordinance declaring 119th St. West, between Pawnee and Kellogg (472-84694) 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.

ORDINANCE NO. 47-973

An Ordinance declaring 29th St. north, between Ridge and Hoover (472-84691) 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.

ORDINANCE NO. 47-974

An Ordinance declaring Maple, between 135th St West and 151st St. West (472-84698) 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.

ORDINANCE NO. 47-975

An ordinance declaring Tyler, between 29th St. North and 37th St. North (472-84700) 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.

ORDINANCE NO. 47-976

An Ordinance declaring 37th St. north, between Broadway and Hydraulic (472-84692) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

ORDINANCE NO. 47-977

An Ordinance declaring Mt. Vernon, between Broadway and Southeast Boulevard (472-84699) 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.

ORDINANCE NO. 47-978

A ordinance declaring Harry, between Greenwich and 127th St. East (472-84696) 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.

ORDINANCE NO. 47-979

An ordinance declaring Greenwich, between Pawnee and Harry (472-84695) 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.

ORDINANCE NO. 47-980

An ordinance declaring the intersections of Woodlawn at 17th St. North and Woodlawn at Farmview (472-84701) 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.

21st St. Bridge Rehabilitation over the Little Arkansas River. (District VI)

ORDINANCE NO. 47-981

An ordinance declaring the 21st Street bridge at the little Arkansas river (472-84748) 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.

SUB 2008-35-Plat of Rishel Addition located on the east side of Ridge Road and north of Kellogg. (District V)

ORDINANCE NO. 47-982

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.