FACADE EASEMENT
FACADE IMPROVEMENT PROGRAM

THIS FACADE EASEMENT made this _____ day of _____, 2006, by and between Redstone Design Development, LLC, hereinafter called Grantor and the City of Wichita, Kansas, hereinafter called Grantee:

WITNESSETH THAT,

WHEREAS, the grantee is a municipal corporation pursuant to state law; and

WHEREAS, the grantee is authorized pursuant to K.S.A. 12-6a01 et. seq. to make or cause to be made improvements which confer a special benefit upon a property within a definable area of the city; and,

WHEREAS, the grantee may levy and collect special assessments upon property deemed by the governing body to be benefited by such improvement; and ,

WHEREAS, the grantee may acquire an interest in property when necessary for any the purposes of the statute; and,

WHEREAS, the grantee is authorized to accept easements necessary for improvements to be financed through special assessment financing pursuant to K.S.A. 12-6a01; and,

WHEREAS, the grantor is the owner in fee simple of the improved real property consisting of a lot and building located at 1409 E. Douglas, Wichita, Kansas; and,

WHEREAS, the Grantor has submitted a Facade Improvement Petition for special assessment financing to improve, restore and enhance the facade of the premises; and,

WHEREAS, the grant of a facade easement by the grantor to the grantee will assist in the improvement of the property;

NOW, THEREFORE, in consideration of the sum of ONE and NO/100 DOLLARS ($1.00), and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the grantor does hereby grant, bargain, sell and convey to the grantee, its successors and assigns, a fifteen (15) year facade easement in and to the premises described herein.

The easement granted herein (which is more particularly described in Attachment "A" and which is incorporated herein by reference) shall constitute a binding servitude upon the premises and shall be deemed to run with the said premises for a period of fifteen (15) years, with said fifteen year period being contemporaneous with the period of time that the said premises are encumbered with special assessment payments related to improvements made to its facade. As a further condition of said easement, Grantor agrees to the following covenants, restrictions and obligations related to said facade:

1. Without the express written consent of the Grantee, signed by an authorized representative of the Grantee, no construction, alteration, remodeling or other action shall be undertaken or permitted to be undertaken which would affect the exterior facade improvements on the premises (including, without limitation the exterior walls, the roofs or chimneys) or which would adversely affect the structural soundness of improvements on the premises. In the event the Grantee does consent to construction, alteration, remodeling or other action which would affect the exterior facade of improvements on the premises, the Grantor agrees that such construction, alteration, remodeling or other action will conform with applicable local, state and federal standards for construction or restoration or rehabilitation of historic property. Grantee agrees at all times to maintain the premises in good and sound state of repair and to bear the cost of all maintenance and repair of the premises.

2. The premises shall not be divided, diminished or subdivided nor shall the premises ever be devised or conveyed except as a unit.

3. The premises shall only be used for a use consistent with the zoning ordinances of the City of Wichita.

4. No other structures may be constructed on the premises during the term of this facade easement without the express written permission of the Grantee, signed an authorized representative of the Grantee.

5. No utility transmission lines, except those required by the existing structures or by structures permitted by the Grantee, may be placed on or over the premises.

6. No topographical changes shall be made or allowed on the premises without the express written permission of the Grantee, signed by an authorized representative of the Grantee.

7. Grantor agrees that representatives of the Grantee, its successors or assigns, shall be permitted at all reasonable times to inspect the premises. Inspections will normally take place on the exterior of the structures on the premises; however, Grantor agrees that representatives of the Grantee, its successors and assigns, shall be permitted to enter and inspect the structures on the premises to insure maintenance of structural soundness. Inspection of the interior of the structures will not take place more often than annually, in the absence of deterioration. Inspection of the interior of the structures will be made at a time mutually agreed upon by the Grantor and Grantee, its successors or assigns, and Grantor will not unreasonably withhold their consent in determining a date and time for such inspections.

8. In the event of a violation of any covenant or restriction herein, the Grantee, its successors and assigns, following reasonable notice to Grantor of the violation, may institute suit to enjoin such violation and to require restoration of the premises in compliance with the covenants or restrictions herein. The Grantee, its successors or assigns, shall also have available all legal and equitable remedies to enforce Grantor's obligations hereunder, and in the event Grantor is found to have violated any of their obligations, Grantor shall reimburse Grantee, its successors and assigns, for any costs or expenses incurred in connection therewith, including court costs and attorney's fees.

9. Grantor agrees that these covenants and restrictions will be inserted by it in any subsequent deed or other legal instrument by which it divests itself of either the fee simple title or its possessory interest in the premises, or any part thereof during the term of this facade easement. Grantor agrees to give Grantee written notice of any sale or mortgage of the premises or any part thereof within a reasonable time after such sale or mortgage.

10. Grantor agrees to maintain the facades of the premises in its original condition and configuration or in a condition or configuration which is agreed to by the Grantee.

11. Nothing herein contained shall impose any obligation or liability on the Grantee for the restoration, renovation, preservation or maintenance of the facades of the premises or any part of the premises. The Grantor shall indemnify and hold harmless the Grantee from any liability for any and all claims, demands, damages, judgments, costs or expenses in connection with the restoration, renovation, preservation and maintenance of the facades of the premises or any part thereof or in connection with the failure to restore, renovate, preserve or maintain the facades of the premise or any part of the premises.

12. The Grantor shall maintain insurance on the premises in such amount and on such terms as will allow the Grantee to restore, repair or rebuild the facade of the premises in the event the facade is damaged or destroyed. In the event of damage to or destruction of the facades of the premises, the Grantor alone may determine that the facade of the premises cannot be reasonably restored, repaired or reconstructed. In such event, the Grantee shall be entitled to receive from the Grantor the greater of the following: the fair market value of the easement granted herein at the time the easement was granted or the fair market value of the easement granted herein immediately before the facade of the premises was damaged or destroyed. However, any payment to the Grantee under the terms of this paragraph shall not terminate the easement granted herein, and the terms of the easement which are still applicable to the premises shall remain in full force and effect. The provisions of this paragraph shall apply whether or not the Grantor maintains the insurance coverage required by this paragraph. In the event the Grantee

receives any payment under the terms of this paragraph, the Grantee shall use such payment in a manner consistent with the purpose of this easement.

13. Grantor acknowledges that the easement granted herein gives rise to a property right, vested immediately, with fair market value that is a minimum ascertainable portion of the fair market value of the premises. Thus, if a subsequent unexpected change in the conditions surrounding the premises makes it impossible or impracticable to preserve the premises for the purposes for which the easement was granted and restrictions imposed by the easement granted herein are terminated by judicial proceedings, the Grantee, on a subsequent sale, exchange or involuntary conversion of the premises, will be entitled to a portion of the proceeds determined in accordance with the ratio that the fair market value of the easement granted herein determined on the date of this Facade Easement is executed, unless state law determines that the Grantor is entitled to full proceeds from the conversion without regard to the terms of the prior restrictions imposed by the Facade Easement. In the event the Grantee receives such proceeds from the subsequent sale, exchange or involuntary conversion of the premises, the Grantee shall use such proceeds in a manner consistent with the terms conservation/enhancement purposes of the easement.

The covenants and restrictions imposed by the aforesaid, shall not only be binding upon the Grantor, but also upon their heirs, assigns, and all other successors in interest, and shall continue as a servitude running for the fifteen year term of the Facade Easement with the land and shall survive the Grantor and any termination of the Grantee's existence. All rights reserved herein to the Grantee shall run for the benefit of and be exercised by its successors, assigns, or by its designee duly authorized.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

GRANTOR: Redstone Design Development, LLC

_____ 1/3/06
(Date)

STATE OF KANSAS)
Sedgwick COUNTY) SS

Personally appeared before me a notary public in and for the County and State aforesaid Richard Vliet

_____ to me personally known to be the same person__ who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 3rd day of January, 2006.

Kathryn M Carr
Notary Public

(My Commission expires 6/11/06)

KATHRYN M. CARR
Notary Public - State of Kansas
My Appt. Expires

GRANTEE:
CITY OF WICHITA, KANSAS
By Direction of the City Council

Carlos Mayans,
Mayor

(Date)

ATTEST:

Karen Sublett,
City Clerk

(Date)

APPROVED AS TO FORM:

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

1/17/06
(Date)

ATTACHMENT A

Lots 167 and 169 on Douglas Avenue, Hyde's Addition to Wichita, Kansas