

## **NOVEMBER 15, 2005 AGENDA REPORTS**

### **Agenda Item No. 8a**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1036

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Staking in Southern Ridge 3rd Addition  
(south of Pawnee, west of Maize) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: The City Council approved the storm drainage improvements in Southern Ridge 3rd Addition on March 22, 2005. On August 9, 2005 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

Analysis: The proposed Supplemental Agreement between the City and Baughman 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 Baughman will be on a lump sum basis of \$9,470 and will be paid by special assessments.

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.

SUPPLEMENTAL AGREEMENT TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED AUGUST 9, 2005  
BETWEEN

THE CITY OF WICHITA, KANSAS PARTY OF THE FIRST PART, HEREINAFTER CALLED THE "CITY"

AND

BAUGHMAN COMPANY, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE  
"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated August 9, 2005) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in SOUTHERN RIDGE 3RD ADDITION (south of Pawnee, west of Maize).

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 AND AS-BUILT

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

STORM WATER DRAIN 253 serving Lots 1 through 33, Block A; Lots 1 through 21, Block B; Lots 1 through 73, Block C; Lots 1 through 14, Block D; Lots 1 through 47, Block E, Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (Project No. 468 83968).

As-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER and shall be submitted and sealed by a licensed land surveyor or registered professional engineer. Final elevations for all areas to be graded per plans, provisions or otherwise, including street right-of-way, lots, easements, ponds and reserve areas, shall be within +/- 0.2' of plan call-outs, unless otherwise stated in plans or provisions. ENGINEER will be responsible to coordinate any rework with the

contractor, regardless of the number of times necessary to achieve allowable tolerance, and will ensure that a minimum slope is maintained in all drainage easements, especially in such cases where the +/- tolerance could result in a less than desirable percent of grade. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the project engineer as soon as possible after completion of final grading, will show original plan and final as-built elevations at all original call-out locations.

**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 83968                      \$9,470.00

**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 \_\_\_\_\_, 2005.

**BY ACTION OF THE CITY COUNCIL**

\_\_\_\_\_  
Carlos Mayans, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

**BAUGHMAN COMPANY, P.A.**

\_\_\_\_\_  
(Name & Title)

ATTEST:

## **Agenda Item No. 8b**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1037

TO: Mayor and City Council Members

SUBJECT: Central Maintenance Facility (CMF) Expansion (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Contract.

Background: The Central Maintenance Facility (CMF), located at 1801 S. McLean Blvd., includes buildings housing the shops and offices for Fleet Maintenance, Central Stores, Water and Sewer Operations, Storm Water, Flood Control, Park Arborist, Street Maintenance, Street Cleaning, Traffic Maintenance and Field Engineering for the Engineering Division of Public Works. The entire facility is overcrowded, with significant shortages in both interior space and exterior space. At the present time, the shortage of office space in the building occupied by the various Public Works field maintenance operations and by Field Engineering is critical. Lack of space is limiting their productivity.

Funds were included in the 2004 CIP for CMF Expansion, but this was based on a concept of expansion through land acquisition. Environmental issues and land availability issues became such that the funds were not initiated and that concept was not pursued. The current concern is how to provide adequate office facilities within the existing site limitations.

On June 7, 2005, City Council approved the project, adopted the Resolution and authorized staff to select a consultant to study and recommend solutions to these problems.

Analysis: The first phase of this project will be a Concept Study and Preliminary Design for an amount not to exceed \$35,000.00. Once the concept study is completed and viable options are determined, staff will have the information necessary to develop recommendations for Council's consideration. Then with Council approval, a final design can be developed and implemented.

A Request for Proposals (FP500052) was issued and proposal received on July 29, 2005. Several responded. The Staff Screening and Selection Committee short-listed and interviewed the firms of Hanney & Assoc., Law/Kingdon, Inc. and Schaffer Johnson Cox

Frey. The committee selected SJCF and has negotiated a Contract with SJCF for a lump sum fee of twenty four thousand dollars (\$24,000.00).

Financial Considerations: The approved 2005-2014 Capital Improvement Program (CIP) includes \$150,000 for CMF Expansion design in 2005 (PB-350404) (Project No. 435405, OCA 792455) and \$1.250 million for construction in 2006 - 2007 for a total of \$2.650 million. Authorization of \$35,000 for the concept study and design was approved by City Council on June 7, 2005.

Legal Considerations: The Law Department has approved the Contract as to Form.

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

### CONTRACT FOR ARCHITECTURAL SERVICES

THIS AGREEMENT, Made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2005,

BY AND BETWEEN

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

"OWNER"

AND SCHAEFER JOHNSON COX FREY ARCHITECTURE, hereinafter referred to as

"ARCHITECT"

WHEREAS, The CITY is authorized by law to employ consulting architects and engineers to assist in the plans, supplemental specifications (if required) and the estimates of costs of work for the PROJECT; and

WHEREAS, the OWNER desires to have a Concept Study and Conceptual Design prepared to study the overcrowding within the Central Maintenance Facility (CMF) hereinafter referred to as the "PROJECT"; and

WHEREAS, ARCHITECT wishes to provide professional services to the OWNER to do such evaluation and related services therefore:

NOW, THEREFORE, in consideration of the promises and covenants herein contained and to be performed, the parties hereto agree as follows:

#### I. PURPOSE:

The OWNER employs the ARCHITECT and he agrees to perform all necessary professional services hereinafter set forth in connection with the "PROJECT" of the City

of Wichita, CMF Concept Study, located generally at 1801 South McLean Blvd., Wichita, Sedgwick County, Kansas.

## II. BASIC SERVICES:

The ARCHITECT shall render all architectural services necessary as set out in EXHIBIT "A" a copy of which is attached hereto and which is incorporated herein by reference.

## III. THE ARCHITECT AGREES

- A. To provide the various technical and professional services and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit "A").
- B. To attend meetings with the OWNER and other local, State and Federal agencies as necessitated by the SCOPE OF SERVICES (Exhibit "A").
- C. To make available during regular office hours, all calculations, sketches and drawings such as the OWNER may wish to examine periodically during performance of this Agreement.
- D. To save and hold OWNER 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 ARCHITECT, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ARCHITECT and, where relevant to method of payment, to make such material available to the OWNER.
- F. To comply with Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the OWNER'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article V and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with the tasks as outlined in the SCOPE OF SERVICES (Exhibit "A").
- H. To complete the services to be performed by ARCHITECT within the time allotted for the PROJECT in accordance with Paragraph VI, Time of Completion; EXCEPT that the ARCHITECT shall not be responsible or held liable for delays occasioned by the actions or inactions of the OWNER or other agencies, or for other unavoidable delays beyond the control of the ARCHITECT.

- I. Covenants and represents to be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ARCHITECT under this Agreement. ARCHITECT further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ARCHITECT, its agents, employees and subcontractors, under this Agreement, including any addition, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ARCHITECT shall procure and maintain such insurance as will protect the ARCHITECT from damages resulting from the negligent acts of the ARCHITECT, its officers, and employees in the performance of the professional services rendered under this Agreement. Such policy of insurance shall be in an amount not less than \$100,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation    Statutory Employer's Liability  
\$500,000 each occurrence

Further, a comprehensive general liability policy shall be procured and maintained by the ARCHITECT that shall be written in a comprehensive form and shall protect ARCHITECT against all claims arising from injuries to persons (other than ARCHITECT'S employees) or damage to property of the OWNER or others arising out of any negligent act or omission of ARCHITECT, its agents, officers, employees or subcontractors in the performance of the professional services under this Agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the OWNER before the time ARCHITECT starts any work under this Agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the OWNER shall be given thirty (30) days written notice by the insurance company before such policy is canceled.

- K. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The ARCHITECT agrees to advise the OWNER, in writing, of the person designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this Agreement. The ARCHITECT shall also advise the OWNER of any changes in the person designated Project Manager. Written notification shall be provided to the OWNER for any changes exceeding one week in length of time.

The designated Project Manager SHALL coordinate ALL aspects of this Project through the OWNER'S Project Manager. Any requests from any other staff agency, which would

affect the ARCHITECTS time or expense relative to this Project, MUST be approved by the OWNER'S Project Manager.

IV. THE OWNER AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the OWNER'S files at no cost to the ARCHITECT. Confidential material so furnished will be kept confidential by the ARCHITECT.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ARCHITECT, except as specified in EXHIBIT "A".
- C. To pay the ARCHITECT for his services in accordance with the requirements of this Agreement.
- D. To provide the right of entry for ARCHITECT'S personnel in performing field surveys and observations.
- E. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The OWNER agrees to advise, the ARCHITECT, in writing, of the person designated as Project Manager with the issuance of the notice to proceed on the work required by this Agreement. The OWNER shall also advise the ARCHITECT of any changes in the person designated Project Manager. Written notification shall be provided to the ARCHITECT for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ARCHITECT in a timely fashion.
- G. To save and hold ARCHITECT harmless against all suits, claims, damages and losses for injuries to persons or property arising from or cause by errors, omissions, or negligent acts of OWNER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.

V. PAYMENT PROVISIONS:

The OWNER agrees to pay the ARCHITECT for services rendered under this Agreement and as specifically detailed in EXHIBIT "A", a total fee established as follows:

- A. For the complete architectural services and other related items including those items identified in SCOPE OF SERVICES, EXHIBIT "A" a single stipulated lump sum fee of twenty four thousand dollars (\$24,000.00) which shall constitute complete compensation for the services. This is an inclusive fee and all reimbursable expenses are included. The fees do not include the professional services for geotechnical report, topographic survey, boundary survey, environmental survey's and/or reports, and tenant improvement documents.
- B. Payments are payable to the ARCHITECT within thirty (30) working days from the date of receipt of invoice. If any invoice is outstanding for more than thirty (30) working days

from the date due, the ARCHITECT shall have the right, in addition to any and all other rights provided, to refuse to render further services to the OWNER and such act or acts shall not be deemed a breach of this agreement. Continued performance and/or completion of work by the ARCHITECT under this agreement are contingent upon payment of fees by the OWNER. The OWNER shall reimburse the ARCHITECT for all costs incurred in collection of unpaid accounts, including, without limitation, all reasonable attorney and legal expenses.

- C. When requested by the OWNER, the ARCHITECT will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. ARCHITECT or witness for the OWNER in any litigation, administrative hearing, and other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this Agreement.
  - 3. Construction staking, material testing, observation and administration related to the PROJECT.
  - 4. A major change in the SCOPE OF SERVICES for the PROJECT.
- D. If additional work should be necessary, the ARCHITECT will be given written notice by the OWNER along with a request for an estimate of the increase necessary in the not to exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except based on a Supplemental Agreement duly entered into by the parties.
- E. If services are rendered by the ARCHITECT for the PROJECT(s) or portions of the PROJECT(s), but the OWNER elects to cancel the PROJECT(s) or portions thereof the ARCHITECT shall be compensated at an amount in proportion to the services rendered as stated in Paragraph A above, multiplied by the percentage completed.
- F. This fee shall be payable in monthly installments, and in proportion to the services performed, payable upon the satisfactory performance of the service.

#### VI. TIME OF COMPLETION:

The ARCHITECT agrees to complete all Planning Phases of this PROJECT as follows:

- A. Sixty (60) calendar days from the date of approval of the Contract pending availability of OWNER and staff.
- B. The OWNER agrees to cooperate with the ARCHITECT in considering drawings and data submitted and to make necessary decisions promptly to facilitate completion in the

stipulated time, and the OWNER agrees to furnish promptly to the ARCHITECT upon written request any approvals and instructions required to be given by the OWNER to the ARCHITECT under the terms of the Contract.

#### VII. REVISIONS OF PLANS:

Unless the OWNER officially in written form has authorized an increase in funds established for the construction estimates of cost, the ARCHITECT agrees to make any such revisions in plans and specifications as are necessary and as are satisfactory to the OWNER, to bring the PROJECT within the approved estimated cost, such revisions to be made at his own expense without cost to the OWNER, whether or not said plans and specifications have theretofore been approved by the OWNER; PROVIDED, that if said plans and specifications have been approved by the OWNER, should the OWNER desire any material changes in the type of construction or other changes not necessary to be made for the purpose of bringing the cost of the PROJECT within the estimate, the OWNER shall pay the ARCHITECT the cost of making such revisions.

#### VIII. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the OWNER to terminate this Agreement, upon fourteen days prior written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ARCHITECT'S inability to proceed with the work, or because the services of the ARCHITECT are unsatisfactory; PROVIDED, however, that in any case the ARCHITECT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this Agreement, in no case shall payment be more than the ARCHITECT'S actual costs plus a fee for profit based upon a fixed percentage of the ARCHITECT'S actual costs. The ARCHITECT may terminate this Agreement upon giving the OWNER 30 days prior written notice for breach by the OWNER of any material term, including but not limited to payment terms.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the OWNER upon completion or termination of the ARCHITECT'S services and payment in full of monies due the ARCHITECT, in accordance with this Agreement. The OWNER shall not re-use or make any modification of the plans and specifications without the prior written authorization of the ARCHITECT. The OWNER agrees to hold the ARCHITECT harmless from all claims, liability or cost, including reasonable attorney fees and defense costs, which arise out of such further use without the participation of the ARCHITECT.
- C. That the services to be performed by the ARCHITECT under the terms of this Agreement are personal and cannot be assigned sublet or transferred without specific consent of the OWNER. The OWNER shall not assign or transfer rights or interest in this Agreement without specific consent of the ARCHITECT.
- D. In the event of unavoidable delays in the progress of the work contemplated by this Agreement, reasonable extensions in the time allotted for the work will be granted by the

OWNER, provided, however, that the ARCHITECT shall request extensions, in writing, giving the reasons therefore.

- E. It is further agreed that this Agreement and all Contracts entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ARCHITECT under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.
- G. The rights and remedies of the OWNER and the ARCHITECT provided for under this Agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this Contract, that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.
- I. Unless otherwise stipulated in this Agreement, all subcontractors retained to assist ARCHITECT in performing his duties will be paid by the ARCHITECT.
- J. The ARCHITECT agrees to employ mechanical and electrical engineers, if necessary, as determined by the ARCHITECT and OWNER jointly, for design and analysis and to pay the fees as contracted for with the individual engineers for such services. These fees are not reimbursable expenses.
- K. Special Consultants or Subcontractors are those who provide services other than those provided by the ARCHITECT. If it is requested that any Special Consultants or Subcontractors be retained on the OWNER'S behalf, their charges will be paid separately and directly by the OWNER. Invoicing and payment shall be arranged separately between the OWNER and the Special Consultants or Subcontractors.
- L. If a firm or firms are separately engaged by the OWNER to work under the general direction of the ARCHITECT, the ARCHITECT shall have no responsibility or technical sufficiency of the services of such separately engaged firms.
- M. It is further agreed that this Agreement and all Contracts entered into under the provisions of this Agreement shall be governed by the laws of the State of Kansas.
- N. Unless otherwise provided in this Agreement, the ARCHITECT and employees, or subcontractors shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project

site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

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

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carlos Mayans, Mayor

ATTEST:

SCHAEFER JOHNSON COX FREY  
ARCHITECTURE

by \_\_\_\_\_  
Joseph A. Johnson, AIA  
Senior Vice President

\_\_\_\_\_  
Karen Sublett  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

EXHIBIT "A"

SCOPE OF SERVICES

CENTRAL MAINTENANCE FACILITY (CMF) CONCEPT STUDY AND  
CONCEPTUAL DESIGN

- I. Introduction: The CMF facility includes buildings housing the shops and offices for Fleet Maintenance, Central Stores, Water and Sewer Operations, Storm Water, Flood Control, Park Arborist, Street Maintenance, Street Cleaning, Traffic Maintenance and Field Engineering of the Public Works Engineering Division. The entire complex is overcrowded, with significant shortages in both interior and exterior space. At the present time, the shortage of office space in the building occupied by the various Public Works and engineering field operations is critical. Lack of space is limiting their productivity.
- II. Objective: To review with specific evaluation made of the existing operations and programs to provide adequate office facilities within the existing site limitations. These evaluations will form the basis of the revised Maintenance Master Plan.
- III. Scope of Services: In 1995, a Maintenance Master Plan was completed for the CMF. However, operations have changed since the study was conducted and some operations have been relocated to other City maintenance facilities. The original Master Plan needs

to be revisited to study the feasibility of expanding the campus and/or relocating some operations into other City-owned facilities such as the Rounds and Porter building at 430 North Waco.

The first phase of this project, to be completed by the ARCHITECT, will be a Concept Study and Conceptual Design. Once the Concept Study is completed and viable options are determined, City staff will have the information necessary to develop recommendations for Council's consideration. Then with Council approval, a final design can be developed and implemented.

ARCHITECT will be required to provide as a minimum the following deliverables:

Written Concept Study and Conceptual Design to include but not limited to the following information:

1. Review comments of original Master Plan Study.
2. Comments of observations and findings regarding the CMF or other City-owned facilities as they may relate to the elimination of overcrowding.
3. Recommendations of viable options.
4. Estimated costs of recommended options.

NOTE: ONCE THE PROJECT SCOPE IS DEFINED BY, THE SERVICES AS DESCRIBED ABOVE THE OWNER WILL NEGOTIATE A CONTRACT AMENDMENT WITH THE ARCHITECT FOR THE SCHEMATIC DESIGN, DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTS, BIDDING, AND CONSTRUCTION ADMINISTRATION PHASES. THESE PHASES WILL BE BASED ON AVAILABLE PROJECT FUNDS AND IN ACCORDANCE WITH COST ESTIMATES AND RECOMMENDATIONS BY THE CONCEPT STUDY AND CONCEPTUAL DESIGN.

EXHIBIT B

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

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

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or

subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty five (45) day period from the Federal agency involved.

### **Agenda Item No. 8c**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1038

TO: Mayor and City Council

SUBJECT: Mid-Continent Sewage Treatment Facilities (District IV)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Contract with Camp Dresser & McKee Inc. (CDM) for permitting, design and construction management for the Mid-Continent Sewage Treatment Facility.

Background: The 2000 Sewer Master Plan Update identified the need for a sewage treatment plant in southwest Wichita. Staff believes the plant will be required by 2008 to provide continued options for area growth, take pressure off of aging infrastructure, and for the Department to provide wholesale sewage treatment options to other local communities.

The City conducted a siting study to identify acceptable locations for the plant. Primary and secondary sites were selected through a technical review process and community participation. A final decision was made by City Council on April 19, 2005. Following the site selection, the City sent a Request for Qualifications for professional services to permit, design and provide construction management services to consulting engineers registered with Purchasing. Three proposals were received.

The Staff Screening and Selection Committee conducted interviews on July 8, 2005, with the three responding firms. Staff recommended the professional services team lead by CDM because of the thoroughness of their proposal, the innovative ideas presented for the wholesale service opportunity, water reuse considerations and their focus on the City's minority business initiative. Staff believes the ideas presented by the CDM team will result in an outstanding project for the City.

Analysis: CDM assembled a professional services team including personnel from their local office and CDM's national expertise. The team includes Poe & Associates, Schaeffer, Johnson, Cox & Frey and Dubois Engineering, a minority business from the Kansas City area seeking to establish a Wichita office.

The negotiated Contract includes:

- Design and permits for the Mid-Continent Sewage Treatment Facility
- An optional treatment facility for the City of Goddard with water reuse for Auburn Hills Golf Course
- Updating the City's biosolids treatment and disposal plan

Financial Considerations: The Contract will not exceed \$6,172,900. Funds are available in CIP S-546, Mid-Continent Sewage Treatment Plant, with a budget of \$23,500,000. Attached is the breakdown of the financial details for this project.

Legal Considerations: The Contract has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Contract with CDM and authorize the necessary signatures.

### **Agenda Item No. 8d**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1039

TO: Mayor and City Council

SUBJECT: Janitorial Services Contract- All Four Wichita Police Substations

INITIATED BY: Police Department

AGENDA: Consent

Recommendation: Approve the Contract

Background: The Wichita Police Substations are 24 hour a day operations utilized daily by police personnel. These facilities are also used for Environmental Court and Community Meetings on a regular basis. Due to the needs to keep these facilities clean, it has been advantageous to contract with an outside firm to provide the custodial services. Responses to a Request for Proposal were accepted by the City's Purchasing Manager on October 4, 2005. Approximately eight contractors attended a pre-proposal conference and ten proposals were submitted for this work.

Analysis: A selection committee composed of seven individuals from different city departments reviewed the proposals. Each proposal was evaluated on the basis of qualifications, experience, available equipment, personnel, cost and references. The selection committee conducted interviews with five contractors. Based on this criteria, Mid-America Building Service, Inc., is recommended to provide these services.

Financial Considerations: The annual cost to provide custodial services to all four Police Substations is \$35,964.00. The proposed agreement is for one year beginning November 15, 2005, with the option to extend for two additional years.

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

Recommendations/Actions: Approve the contract and authorize the necessary signatures.

**Agenda Item No. 9a**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1040

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for Design Services for Equestrian Estates Addition (south of Harry, east of 127<sup>th</sup> Street East)(District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Agreement.

**Background:** The City Council approved the water distribution system, sanitary sewer, storm drainage and street paving improvements in Equestrian Estates Addition on October 15, 2005.

**Analysis:** The proposed Agreement between the City and Poe & Associates, Inc. provides for the design of bond financed improvements consisting of water, sanitary sewer, storm drainage and paving in Equestrian Estates Addition. Per Administrative Regulation 7a, staff recommends that Poe be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

**Financial Considerations:** Payment to Poe will be on a lump sum basis of \$72,600 and will be paid by special assessments.

**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.

AGREEMENT

For

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

POE & ASSOCIATES, INC

for

EQUESTRIAN ESTATES ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and POE & ASSOCIATES, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

**WATER DISTRIBUTION SYSTEM NO. 448 89614** serving Lots 24 through 54 inclusive, Block 2; Lots 13 through 30 inclusive, Block 6, Equestrian Estates Addition (south of Harry, east of 127<sup>th</sup> Street East) (Project No. 448 89614).

**LATERAL 314, FOUR MILE CREEK SEWER** serving Lots 24 through 53 inclusive, Block 2; Lots 13 through 20 inclusive, Block 6; Lot 23, Block 6, Equestrian Estates Addition (south of Harry, east of 127<sup>th</sup> Street East) (Project No. 468 83318).

**STORM WATER DRAIN NO. 179** serving Lots 24 through 54 inclusive, Block 2; Lots 13 through 30 inclusive, Block 6, Equestrian Estates Addition (south of Harry, east of 127<sup>th</sup> Street East) (Project No. 468 83319).

**TRIPLE CROWN** from the east line of Lot 12, Block 6, to the south line of Equestrian Estates Addition; **MUSTANG STREET, MUSTANG COURT and MUSTANG CIRCLE** adjacent to Lots 24 through 44, Block 2; **EQUESTRIAN CIRCLE** adjacent to Lots 45 through 54, Block 2; **EQUESTRIAN COURT, EQUESTRIAN STREET and EQUESTRIAN CIRCLE** adjacent to Lots 16 through 30, Block 6, all in Equestrian Estates Addition (south of Harry, east of 127<sup>th</sup> Street East) (Project No. 472 83430)

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

I. **SCOPE OF SERVICES**

The ENGINEER shall furnish professional services as required for designing improvements in Equestrian Estates Addition and to perform the PROJECT tasks outlined in Exhibit A.

## **II. IN ADDITION, THE ENGINEER AGREES**

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES
- B. (Exhibit A).
- C. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- D. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- E. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- F. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- G. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- H. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- I. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- J. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- K. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the

provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- L. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### **III. THE CITY AGREES:**

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

### **IV. PAYMENT PROVISIONS**

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89614	<u>\$ 9,400.00</u>
Project No. 468 83318	<u>\$14,800.00</u>
Project No. 468 83319	<u>\$ 8,200.00</u>
Project No. 472 83430	<u>\$40,200.00</u>
<b>TOTAL</b>	<u>\$72,600.00</u>

**B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:**

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

**V. THE PARTIES HERETO MUTUALLY AGREE:**

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

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Carlos Mayans, Mayor

SEAL:

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, Director of Law

POE & ASSOCIATES, INC.

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(Name & Title)

ATTEST:

**Agenda Item No. 9b**

City of Wichita

City Council Meeting  
November 15, 2005

Agenda Report No. 05-1041

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Prairie Pointe & Prairie Pointe 2nd Additions (north of 37th Street North, west of Maize) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and street paving improvements in Prairie Pointe & Prairie Pointe 2nd Additions on July 12, 2005.

Analysis: The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water, sanitary sewer and paving in Prairie Pointe & Prairie Pointe 2nd Additions. Per Administrative Regulation 7a, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to PEC will be on a lump sum basis of \$42,300, and will be paid by special assessments.

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.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

for

PRAIRIE POINTE & PRAIRIE POINTE 2ND ADDITIONS

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PROFESSIONAL ENGINEERING CONSULTANTS, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89951 serving Lots 4 through 10, Block 3; Lots 21 through 32, Block 4, Prairie Pointe Addition; Lots 2 through 11, Block 2, Prairie Pointe 2nd (north of 37th Street North, west of Maize) (Project No. 448 89951).

LATERAL 2, MAIN 7, NORTHWEST INTERCEPTOR SEWER serving Lots 4 through 10, Block 3; Lots 21 through 32, Block 4, Prairie Pointe Addition; Lots 1 through 11, Block 2, Prairie Pointe 2nd (north of 37th Street North, west of Maize) (Project No. 468 83808).

MANCHESTER from the north line of Lot 3, Block 3, to the north line of Lot 10, Block 3; HAVENHURST from the west line of Manchester to the west line of Lot 21, Block 4, Prairie Pointe Addition and a sidewalk to be installed along the west side of Manchester from the south line of Lot 32, Block 4 to the north line of Lot 30, Block 4, and the south side of Havenhurst from east line of Lot 29, Block 4, to the west line of Lot 21, Block 4 (north of 37th Street North, west of Maize) (Project No. 472 84042).

37th STREET NORTH from Maize Road to a point 1300 feet west of Maize Road (north of 37th Street North, west of Maize) (Project No. 472 84044).

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Prairie Pointe & Prairie Pointe 2nd Additions and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89951	\$ 4,200.00
Project No. 468 83808	\$10,400.00
Project No. 472 84042	\$21,500.00
Project No. 472 84044	\$ 6,200.00

TOTAL \$42,300.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  2. Additional design services not covered by the scope of this agreement.
  3. Construction staking, material testing, inspection and administration related to the PROJECT.
  4. A major change in the scope of services for the PROJECT.  
If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.
- V. THE PARTIES HERETO MUTUALLY AGREE:
- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.
  - B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
  - C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
  - D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
  - E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
  - F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carlos Mayans, City Manager

SEAL  
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANT, P.A.

\_\_\_\_\_  
(Name & Title)

ATTEST:

\_\_\_\_\_  
"EXHIBIT "A

**SCOPE OF SERVICES**

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility

conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by October 21, 2005. (Project No. 448 89951).
  - b. Plan Development for the sewer improvements by October 21, 2005. (Project No. 468 83808).
  - c. Plan Development for the paving improvements by October 21, 2005. (Project No. 472 84042).
  - d. Plan Development for the paving improvements by October 21, 2005. (Project No. 472 84044).

### **Agenda Item No. 9c**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1042

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Hawthorne 2nd and 3rd Additions  
(north of 21st, east of 127th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and street paving improvements in Hawthorne 2nd & 3rd Additions on March 1, 2005.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water, sanitary sewer and paving in Hawthorne 2nd & 3rd Additions. Per

Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$31,000, and will be paid by special assessments.

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.

## AGREEMENT

for

## PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

HAWTHORNE 2ND & 3RD ADDITIONS

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89994 serving Lots 29 through 31, Block 1, Hawthorne 2nd; Lots 1 through 6, Block 4; Lots 43 through 48, Block 4; Lots 1 through 11, Block 5; Lots 1 through 3, Block 6, Hawthorne 3rd Addition (north of 21st, east of 127th Street East) (Project No. 448 89994).

LATERAL 7, MAIN 13, FOUR MILE CREEK serving Lots 29 through 31, Block 1, Hawthorne 2nd Addition; Lots 1 through 8, Block 5; Lots 1 through 3, Block 6, Hawthorne 3rd Addition (north of 21st, east of 127th Street East) (Project No. 468 83872).

MAINSGATE/LOCH LOCHMOND from the north line of Mainsgate Circle to the north line of Lot 42, Block 4; and WILLIAMSGATE from the north line of Mainsgate to the north line of Lot 3, Block 6, (north of 21st, east of 127th Street East) (Project No. 472 84082).

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Hawthorne 2nd and 3rd Additions and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the

work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89994	\$ 4,600.00
Project No. 468 83872	\$ 5,600.00
Project No. 472 84082	\$20,800.00
TOTAL	\$31,000.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.  
If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

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Carlos Mayans, Mayor

SEAL:

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

---

(Name & Title)

ATTEST:

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EXHIBIT "A"  
SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing

- files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
  6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
  7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
  8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
  9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
    - a. Plan Development for the water improvements by 120 days from notice to proceed. (Project No. 448 89994).
    - b. Plan Development for the sewer improvements by 120 days from notice to proceed. (Project No. 468 83872).
    - c. Plan Development for the paving improvements by 120 days from notice to proceed. (Project No. 472 84082).

### **Agenda Item No. 9d**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1043

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Southern Ridge 2nd & 3rd Additions (south of Pawnee, west of Maize) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and street paving improvements in Southern Ridge 2nd & 3rd Additions on March 22, 2005.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sanitary sewer and paving in Southern Ridge 2nd & 3rd Additions. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$60,600 and will be paid by special assessments.

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.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

SOUTHERN RIDGE 3RD ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90055 serving Lots 1 through 22, Block A; Lots 1 through 11, Block E, Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (Project No. 448 90055).

GREENFIELD from the south line of Dallas, south and east to the east line of the plat; DALLAS from the east line of Lot 23, Block A, to the east line of Lot 22, Block A; DALLAS CIRCLE from the east line of Lot 22, Block A, east to and including the cul-de-sac and that a sidewalk be constructed on Greenfield and Dallas (south of Pawnee, west of Maize) (Project No. 472 84191).

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

**I. SCOPE OF SERVICES**

The ENGINEER shall furnish professional services as required for designing improvements in Southern Ridge 3rd Addition and to perform the PROJECT tasks outlined in Exhibit A.

**II. IN ADDITION, THE ENGINEER AGREES**

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written

notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90055	\$ 5,300.00
Project No. 472 84191	\$12,900.00
TOTAL	\$18,200.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

---

Carlos Mayans, Mayor

SEAL:

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

---

(Name & Title)

ATTEST:

---

“EXHIBIT “A  
SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

- A. PHASE I - PLAN DEVELOPMENT
- When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.
1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
  2. Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by December 5, 2005.  
(Project No. 448 90055).
  - b. Plan Development for the paving improvements by December 5, 2005.  
(Project No. 472 84191).

## AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

SOUTHERN RIDGE 2ND & 3RD ADDITIONS

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90009 serving Lots 22 through 57, Block A; Lots 1 through 20, Block C, Southern Ridge 2nd Addition (south of Pawnee, west of Maize) (Project No. 448 90009).

LATERAL 46, COWSKIN INTERCEPTOR SEWER serving Lots 1 through 22, Block A; Lots 11 through 16, Block B; Lots 1 through 14, Block D, Lots 1 through 11 and Lots 37 through 47, Block E, Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (Project No. 468 83966).

FIELDCREST STREET from the west line of Lot 21, Block A, west and north to the south line of Maxwell, MAXWELL from the east line of Fieldcrest Street, west to the west line of Prescott; PRESCOTT from the north line of Maxwell, south to the south line of Savannah; SAVANNAH from the east line of Prescott, west to the west line of the plat. On FIELDCREST CIRCLE from the north line of Fieldcrest Street, north to and including the cul-de-sac; MAXWELL CIRCLE from the east line of Maxwell, east to and including the cul-de-sac; PRESCOTT CIRCLE (Lots 43 through 53, Block A), from the north line of Prescott, north to and including the cul-de-sac, and on PRESCOTT CIRCLE (Lots 1 through 10, Block C) from the south line of Prescott, south to and including the cul-de-sac. Sidewalk be constructed on Fieldcrest Street, Maxwell, Prescott, and Savannah (south of Pawnee, west of Maize) (Project No. 472 84098).

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

II. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Southern Ridge 2nd & 3rd Additions and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- L. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- M. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- N. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- O. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- P. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- Q. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- R. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- S. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- T. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- U. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This

policy shall include an “all state” endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman’s Compensation Law. The liability limit shall be not less than:

Workman’s Compensation – Statutory  
Employer’s Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER’S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- V. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- G. To furnish all available data pertaining to the PROJECT now in the CITY’S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- H. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- I. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- J. To provide the right-of-entry for ENGINEER’S personnel in performing field surveys and inspections.
- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- L. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

VI. PAYMENT PROVISIONS

C. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90009	\$ 8,900.00
Project No. 468 83966	\$13,100.00
Project No. 472 84098	\$20,400.00
TOTAL	\$42,400.00

D. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

5. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.

6. Additional design services not covered by the scope of this agreement.

7. Construction staking, material testing, inspection and administration related to the PROJECT.

8. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

VII. THE PARTIES HERETO MUTUALLY AGREE:

I. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

J. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

K. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

L. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

M. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

N. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be

construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

- O. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- P. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

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Carlos Mayans, Mayor

SEAL:

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

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(Name & Title)

ATTEST:

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“EXHIBIT “A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the

PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

B. PHASE I - PLAN DEVELOPMENT

- When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.
6. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
  7. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
  8. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
  9. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
  10. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
  6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company

representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

10. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
11. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
12. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - c. Plan Development for the water improvements by December 5, 2005. (Project No. 448 90009).
  - d. Plan Development for the sewer improvements by December 5, 2005. (Project No. 468 83966).
  - e. Plan Development for the paving improvements by December 5, 2005. (Project No. 472 84098).

### **Agenda Item No. 9e**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1004

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Falcon Falls 2nd Addition (north of 45th Street North, west of Hillside) (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the sanitary sewer improvements in Falcon Falls 2nd Addition on August 16, 2005.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of sanitary sewer in Falcon Falls 2nd Addition. Per Administrative Regulation 7a, staff recommends that

Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$46,100 and will be paid by special assessments.

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.

## AGREEMENT

for

## PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

FALCON FALLS 2ND ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

LATERAL 6, MAIN 13, SANITARY SEWER NO. 23 serving Lots 1 through 55, Block A; Lots 1 through 18, Block B; Lots 1 through 43, Block C; Lots 1 through 23, Block D; Lots 1 through 49, Block E, Falcons Falls 2nd Addition (north of 45th Street North, west of Hillside) (Project No. 468 84065).

LATERAL 7, MAIN 13, SANITARY SEWER NO. 23 serving Lots 1 through 55, Block A; Lots 1 through 18, Block B; Lots 1 through 43, Block C; Lots 1 through 23, Block D; Lots 1 through 49, Block E, Falcons Falls 2nd Addition and

Unplatted Tract "A" (north of 45th Street North, west of Hillside) (Project No. 468 84066).

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Falcon Falls 2nd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any

additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 468 84065	\$38,200.00
Project No. 468 84066	\$ 7,900.00
TOTAL	\$46,100.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.  
If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims,

damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITYCOUNCIL

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Carlos Mayans, Mayor  
SEAL:

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

---

(Name & Title)

ATTEST:

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“EXHIBIT “A

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22” x 36” mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

### A.PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1.Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2.Soils and Foundation Investigations. The CITY’S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER’S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.

3.Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.

4.Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT’s plans and proposed special provisions shall address the requirements included in the City’s Administrative Regulations 78, “Cleanup, Restoration or Replacement Following Construction.” Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½”), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be

reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.

a. Plan Development for the sewer improvements by December 5, 2005. (Project No. 468 84065).

b. Plan Development for the sewer improvements by December 5, 2005. (Project No. 468 84066).

### **Agenda Item No. 10**

CITY OF WICHITA  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1045

TO: Mayor and City Council Members

SUBJECT: Acquisition of Land and Easements by Eminent Domain for the North Area Sewer Sanitary Line Near Meridian and 53rd Street North (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Adopt resolution and approve and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property.

Background: On October 21, 2003, the City Council approved the construction and extension of a sanitary sewer line and pump lift station to provide service to newly developing areas in north Wichita. This project requires the acquisition of utility easements on ten tracts of land for sewer lines and the acquisition of an eleventh parcel for the sanitary sewer lift station. Temporary construction easements along the easements and around the lift station are also required.

One landowner holds title to five of the ten tracts and the lift station site. Agreement has not been reached on the lift station site. In addition, while the landowner accepted the City offer of \$51,215 for the easements and the City Council approved the acquisition on September 13, 2005, the landowner has yet to sign and return the easements.

Analysis: City staff have been attempting to negotiate a purchase of the lift station site but have been unable to reach an agreement with the owner. The acquisition was valued at \$125,325. This amount includes payment for the land and acquisition of an access easement and temporary construction easement. The owner has not accepted or rejected the cash offer. He has, however, proposed numerous conditions and terms, some not even related to the acquisition. Staff has attempted to resolve as many of these as they can without impacting the best interests of the City. Staff will continue to negotiate with the owner, but due to the lack of a firm counter offer and the continued addition of conditions, it is necessary to initiate eminent domain. This action will include both the lift station site and the easements that the owner contractually agreed to sell to the City but which he has not yet executed and returned..

Financial Considerations: The cost of this acquisition will be paid for by the City at large.

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

Recommendation/Action: Adopt the resolution and approve and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition.

PUBLISHED IN THE WICHITA EAGLE ON

RESOLUTION NO.

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH PLANNED SANITARY SEWER IMPROVMENTS TO SERVE AN AREA



SUBJECT: Sale of 1847 Wellington Place (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the sale.

Background: The City owns the L. W. Clapp house at 1847 North Wellington Place. property The 7,738 square foot house has 18 rooms with 7 bedrooms and 6 bathrooms on a 55,575 square foot lot. The property is zoned two-family and is subject to the Midtown Neighborhood Plan zoning overlay. The property is listed as a historic structure on the Federal, state and local registers. The property was placed on the open market in September 2005.

Analysis: The property has been appraised at \$375,000 and \$470,000. A broker estimated value at between \$375,000 and \$525,000 but recommended listing the property at \$495,000. Information on the property with a list price of \$495,000 was posted to the Internet and sent to over 1,200 real estate professionals and investors. A contingency free offer of \$415,000 was received from a buyer in Florida. They intend to relocate to Kansas and utilize the house as their personal residence. They plan to spend approximately \$200,000 restoring the property to a fully Victorian architectural style.

Financial Considerations: The City will receive cash consideration for the sale of the property. The property will return to the tax rolls and the City will no longer be responsible for maintenance.

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

Recommendation/Action: It is recommended that the City Council approve the Real Estate Purchase Contracts and authorize all necessary signatures.

### **Agenda Item No. 12**

CITY OF WICHITA  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1047

TO: Mayor and City Council Members

SUBJECT: Sale of Surplus Parcel Near Sewer Plant 2 (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve sale of surplus parcel.

Background: The City owns a 12.43 acre parcel located west of Sewer Plant 2. The parcel is located along the river levee in the 5500 block of South Spruce. It was dedicated to the City January 25, 1994. On October 31, 1995, Council declared the parcel as surplus and available for sale.

Analysis: City staff has openly marketed the tract and tract has received little interest. The tract has been a continuing source of complaints concerning illegal dumping and fires. These complaints require City resources to address. An offer to purchase the 12.43 acre tract was made at \$400 per acre.

Financial Considerations: The City will receive \$4,972.00 for the sale of the property, less an estimated \$200 for the City's portion of closing costs. Upon sale, the property will return to the tax rolls.

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

Recommendation/Action: It is recommended that the City Council accept the proposal to purchase the surplus property and authorize necessary signatures.

Agenda Item No. 13

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1048

TO: Mayor and City Council Members

SUBJECT: Kellogg Frontage Road, between 135th St. West and 119th St. West  
(District V)

INITIATED BY: Department of Public Works  
AGENDA: Consent

Recommendation: Approve the Project and City/County Agreement

Background: The Kansas Department of Transportation (KDOT) has agreed to participate in the funding of a new frontage road on the south side of Kellogg, between 135th St. West and 119th St. West. Sedgwick County has also agreed to participate in the

project funding because the west ½ mile of the project is not within the Wichita City limits. Sedgwick County has entered into an agreement with KDOT concerning their participation, and a City/County agreement has been prepared that outlines the responsibilities of Sedgwick County and the City.

Analysis: The project consists of a two lane roadway on the south side of Kellogg that will connect to 135th St. West and 119th St. West. It will reduce the need to connect future development directly to the thru lanes of Kellogg. The completed project will be incorporated into the Kellogg freeway when it is built in this area.

Financial Considerations: The estimated project cost is \$2,900,000, with \$2,010,000 paid by KDOT, \$445,000 paid by the County and \$445,000 paid by the City of Wichita. Previous right-of-way purchase will apply to the amount. Funding for the City share is available from under expenditures in the West Kellogg Freeway Program. The funding source for the City share is the local sales tax.

Legal Considerations: The Law Department has approved the City/County agreement as to legal form.

Recommendation/Action: It is recommended that the City Council approve the project, approve the City/County Agreement, authorize the necessary signatures and authorize the signing of State/Federal agreements as required.

### **Agenda Item No. 14**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1049

TO: Mayor and City Council

SUBJECT: Purchase of Truck Scales for Brooks C&D Landfill (District 6)

INITIATED BY: Public Works Department

AGENDA: Consent Agenda

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Recommendation: Approve the purchase and installation of landfill truck scales.

Background: The existing truck scales have exceeded their useful life.

Analysis: A request for proposals was sent to six vendors on August 15, 2005. Two vendors responded. The Staff Screening and Selection Committee interviewed both vendors that submitted proposal on September 23, 2005, and unanimously selected Hammel Scale to finish the scales.

Financial Considerations: The not to exceed total cost for the installation of the truck scales is \$150,000. There are sufficient funds available for the purchase of this equipment in the 2005 landfill budget.

Legal Consideration: All purchases in excess of \$25,000 require City Council approval.

Recommendations/Actions: It is recommended that the City Council approve the selection of Hammel Scale for the purchase and installation of the landfill truck scales, and authorize the Purchasing Manager to issue a purchase order of a not to exceed amount of \$150,000.

### **Agenda Item No. 15**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1050

TO: Mayor and City Council Members

SUBJECT: Wichita Art Museum Improvements (WAM) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Project.

Background: The Wichita Art Museum (WAM) is a facility that has been constructed over the years through a series of additions to the small building that originally occupied the site

The original 1935 building design included the rotunda area. When the addition designed by Edward Larabee Barnes was added in the 1970's, the rotunda was retained. The addition was built around and over the rotunda, making it an integral part of the expanded museum facility.

A mechanical penthouse was constructed on the roof of the Barnes addition directly above the rotunda. The asphalt roof surface was used as the floor of the penthouse. Two large multi-zone air-handling units (AHUs) were installed in the penthouse, and a single

humidifier dispersion tube extending continuously through eight side-by-side multi-zone ducts provided steam humidification. Building Maintenance has wanted for some time to replace the old steam humidification system with a modern system having individual controls for each zone. \$165,000 has been included in the CIP for 2006 and 2007 for that purpose. Future plans have also called for the replacement of the two 30+ year old air handlers due to their age and condition, but funding has not been designated.

Recent stains on the ceiling and upper walls of the rotunda below the penthouse indicate water leaks which constitute a threat to the safety of the art work displayed in that area. Preliminary investigations by City staff and a professional engineer (who volunteered his services without charge) have determined that water leaking from the old steam humidification system in the ducts in the penthouse above may be finding its way through defects in the old asphalt floor under the air handlers and may be the primary source of these leaks. However, several other potential sources of water have been found that may be contributing factors.

Analysis: A Request for Proposals (RFP) has been issued and the Staff Screening and Selection Committee has selected an architectural and engineering team headed by Schaefer Johnson Cox Frey (SJCF) to conduct a thorough investigation of all the potential sources of the leaks and to arrive at a schematic plan and budget for resolving the problems. The fee for this work is \$18,600. The results of the SJCF study will be used to determine the full extent of the repair/replacement work that is needed. This will form the basis for programming the engineering design and construction to be included in the next phase of the project.

It is anticipated that the total scope of work required to resolve the cause of the leaks, or potential future leaks, will involve a significant replacement and/or updating of major mechanical/structural components with a total cost exceeding the \$165,000 currently budgeted in the CIP. On October 18, Council approved the allocation of \$2.25 million in CIP funds to the CIP Planned Savings Project for use in making capital repairs to City facilities. Repair to the air handling system at the Art Museum was listed as a potential example of projects to be funded from this money. A portion of those Planned Savings will be designated as the funding source for any required work that exceeds the \$165,000 originally programmed in the CIP, and these later contracts will be brought back to Council for approval.

Financial Considerations: The approved 2005-2014 Capital Improvement Program (CIP) includes \$15,000 in 2006 and \$150,000 in 2007 for a total of \$165,000 for the WAM project (Project No. 435416, OCA 792484). The funding source is General Obligation Bonds.

Legal Considerations: The Law Department has approved the Resolution as to Form. Recommendation/Action: It is recommended that the City Council approve the Project, adopt the Resolution, and authorize the necessary signatures.

(Published in The Wichita Eagle \_\_\_\_\_)

RESOLUTION NO. 05

A RESOLUTION DETERMINING THE ADVISABILITY OF MAKING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; SETTING FORTH THE GENERAL NATURE AND THE ESTIMATED COST OF SUCH IMPROVEMENTS; AND AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS, TO PAY ALL OR A PORTION OF THE COST THEREOF.

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

SECTION 1: That the City of Wichita finds it necessary to design and construct certain improvements as follows:

Remodel the Wichita Art Museum (WAM) located at 1400 West Museum Blvd.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds of the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost of said improvements is estimated not to exceed \$165,000, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

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Carlos Mayans, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law

**Agenda Item 15a**

City of Wichita  
City Council Meeting

\_\_\_\_\_, November 15, 2005

Agenda Report No. 05-1065

TO: Mayor and City Council Members

SUBJECT: Extend the Moratorium on the Acceptance and Approval of Applications for and Issuance of Land Use, Building and Development Permits and Business Licenses for Adult Entertainment Establishments to Coincide with the End of the Amortization Period to be established in the Uniform Zoning Code for Sexually Oriented Businesses in the City.

INITIATED BY: Department of Law

AGENDA: Consent Agenda

Recommendation: Approve extension of the moratorium.

Background: The regulation, permitting and licensing of Adult Entertainment Establishments are currently governed by Chapter 3.05 of the City Code. Neither Adult Entertainment Establishments nor Sexually Oriented Businesses in the City are currently defined or regulated through the Wichita-Sedgwick County Unified Zoning Code (UZO) within the City of Wichita. The City Council has approved passed, on first reading, of new zoning regulations that restrict the zoning districts available for location of such businesses, and amortize the existing businesses in districts and locations rendered nonconforming.

Following enactment of the current moratorium on February 8, 2005 on the issuance of permits and licenses for new Adult Entertainment Establishments, staff has been studying the regulation of such businesses, including proposed comprehensive zoning regulations that would address the negative effects of Adult Entertainment Establishments upon neighboring properties and the community as a whole. On August 2, 2005, the Council extended the moratorium until November 15, 2005 to allow staff time to (1) draft more specific UZO and licensing ordinance amendment language, (2) present the proposed UZO changes to District Advisory Boards for review and comment; and (3) present final proposed UZO amendments to MAPC in October. Staff prepared proposed UZO amendments for Council, and has now modified that proposal that conforms to Council discussion. The proposed UZO amendments are on the Council's agenda today for consideration on second reading,

Extension of the moratorium to coincide with the proposed UZO amendments will prevent the creation of new, nonconforming uses within the amortization period, and will allow the due process court proceedings to be completed before existing Adult Entertainment Establishment licensees are affected by the zoning regulation amortization requirements.

Recommended Action: Pass Approve an extension of the current Moratorium on the Issuance of new Adult Entertainment Establishment licenses and land use permits, to be effective until

December 31, 2007.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS APPROVING AN EXTENSION OF ADMINISTRATIVE DELAY FOR CONSIDERING AND APPROVING NEW REQUESTS FOR THE LICENSING AND LOCATING OF ADULT ENTERTAINMENT ESTABLISHMENTS.

WHEREAS, The City of Wichita, Kansas has previously recognized it has an important governmental interest in combating the secondary effects associated with nudity in public places and the sexually oriented businesses which public nudity can encourage; and

WHEREAS, the City desires to combat and control these societal evils, and thereby protect the health, safety, welfare and morals of the citizenry, and has the constitutional power to combat these societal evils; and

WHEREAS, Whereas, it is not the intent of the City to suppress any free expression protected by the First Amendment to the United States Constitution, but to enact a content neutral ordinance which addresses the societal evils of public nudity, sexually oriented businesses and their related secondary effects, with only incidental restrictions upon protected expression; and

WHEREAS, many of the ordinances of the City of Wichita relating to the licensure and regulation of sexually oriented businesses were last modified approximately 15 years ago, and there has been significant development in the applicable law during that time and the City wishes to conform to the dictates of that body of law; and

WHEREAS, The City desires to maintain the status quo while it affords due process to sexually oriented business affected by the City's modified zoning regulations, and

WHEREAS, the City wishes to give notice of its intention to consider applicable licenses and permits under the revised comprehensive ordinances and related zoning regulation revisions,

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

That the governing body of the City of Wichita, Kansas hereby directs that the City Manager and the Task Team actively pursue development of comprehensive ordinances for the licensure and regulation of adult entertainment establishments, to

coincide with revised land use, building and development regulations. The development of these ordinances is to be accomplished as soon as practicable, but no later than December 31, 2007 returned to the governing body for consideration, and during the period of administrative delay from November 15, 2005 through December 31, 2007, there shall be a moratorium on approval of any new licenses under section 3.05.040 of the Code of the City of Wichita. City staff will also refrain from issuance of land use permits/recommendations or building and development permits that would conflict with this intended comprehensive plan.

Adopted by the governing body of the City of Wichita, Kansas this 15th day of November 2005.

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Carlos Mayans, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to form:

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Gary E. Rebenstorf, City Attorney

**Agenda Item No. 16**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1051

TO: Mayor and City Council

SUBJECT: Grants Review Committee Appointments  
INITIATED BY: Housing and Community Services Department  
AGENDA: Consent

Recommendation: Approve appointments to the 2006 Grants Review Committee.

Background: In order to receive certain federal funds, the City is required to have a citizen participation plan. The City of Wichita has designated the GRC as the means of achieving the federal requirement for citizen participation, and it is so noted in the Consolidated Plan.

The Grants Review Committee is a 12-member citizen group appointed by the Council to review applications and proposals for Community Development Block Grant (CDBG), HOME Investment Partnership (HOME) and Emergency Shelter Grant (ESG) funding. The committee's composition was designated by the City Council in 2000, as follows: District Advisory Board (4); United Way (1); Sedgwick County (1); USD #259 (1); Wichita Independent Neighborhood Association (2); Wichita State University (1); large business (1) and small business (1).

Analysis: The Grants Review Committee will review proposals received for Women's Services, Summer Youth Employment, Youth Recreation & Enrichment as well as the funding applications received for HOME projects and Emergency Shelter Grant programs. The Grants Review Committee will hold at least one public hearing to allow for oral presentations and will make funding recommendations to the City Manager for presentation to the City Council.

Nominations for the 2006 Grants Review Committee have been received from each agency in accordance with the composition listed above. A list of nominees for the 2006 Grants Review Committee is attached.

Financial Considerations: None.

Legal Considerations: None.

Recommendation/Action: It is recommended that the City Council approve appointments to the 2006 Grants Review Committee. It is further recommended that the City Council authorize the City Manager to appoint a replacement(s), in the event that an appointee is unable to serve.

2006 GRANTS REVIEW COMMITTEE

NOMINEE LIST

Small Business (1)  
Marilyn Wells, Catholic Family Credit Union (New)

Large Business (1)  
Janean Smalley, INTRUST Bank (Carryover)

District Advisory Boards (4)  
I. Debbie Moore (Carryover)  
III. Gerry Myers (New)  
IV. Jim Benton (Carryover)  
VI. Marsha L. Nelson Carr (New)

USD #259 (1)  
Dr. Terry Behrendt (Carryover)

Sedgwick County (1)  
Irene Hart (Carryover)

United Way (1)  
Patrick Hanrahan (Carryover)

Wichita State University (1)  
Dr. Eric L. Sexton (Carryover)

Wichita Independent Neighborhoods (2)  
James Thompson (Carryover)  
David Pendergraft (Carryover)

**Agenda Item No.17**

CITY OF WICHITA  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1052

TO: Mayor and City Council Members

SUBJECT: Lease for Space at Evergreen Park Health Station, 2700 Woodland  
(District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the lease.

Background: Sedgwick County currently leases space from the City of Wichita at the Evergreen Park Health Station at 2700 Woodland. The County provides medical services to the public at this location. Upon expiration of their lease at the end of December, the County wishes to consolidate services at their new location on West Central. GraceMed Health Clinic has proposed to continue to utilize the space for personal health and dental programs.

Analysis: The County was paying \$30,666 per year for their portion of the operating costs of the Evergreen facility. GraceMed has proposed to enter into a year-to-year lease at this same rate. The first year will be rent-free unless GraceMed does not renew the lease, in which case they will be responsible for payment of the full year's rent. GraceMed is also responsible for janitorial costs associated with their space, liability insurance and any taxes associated with their occupancy. The lease will continue on a year-to-year basis unless canceled by one of the parties.

Financial Considerations: The City will receive revenue to offset operating costs for facility. .

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

Recommendation/Action: It is recommended that the City Council; Approve the Lease Agreement and authorize all necessary signatures.

### **Agenda Item No. 19**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-0980A

TO: Mayor and City Council

SUBJECT: DR2005-00030 Amendment to the April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code to amend definitions and use regulations for uses including night club in the City, personal care service, personal improvement service, sexually oriented business, the OT-O use regulations, and taverns and drinking establishments, and to nonconformities.

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Unfinished Business

MAPC Recommendation: Approve (7-3)  
Staff Recommendation: Approve

DAB Recommendations: DAB I - provided input and comments for City Council consideration (9-26-05); DAB II - provided input and comment for City Council consideration (10-03-05); DAB III - unanimous vote that they do not want these type of SOB businesses in District III (10-05-05); DAB IV - provided input and comment for City Council consideration (10-05-05); DAB V - provided comment (10-03-05); DAB VI - provided feedback and input (09-12-05)

Background: On November 1, 2005, Wichita City Council voted (5-2) to enact approve first reading of an ordinance to add regulations to the Unified Zoning Code pertaining to Sexually Oriented Businesses. The attached ordinance for 2nd reading delineates the changes from first reading that are being recommended for the final ordinance. These changes consist of extending the amortization period from December 31, 2006 to December 31, 2007, as approved by City Council and adding additional due process procedures. Other changes are technical and reorganizational to further clarify the intent of consist of technical changes to the ordinance.

The agenda item referral packet for the meeting held November 1, 2005 included: a discussion of the proposed amendments to the Unified Zoning Code, the recommendation of the Metropolitan Area Planning Commission meeting and minutes from the meeting, a summary of recommendations from District Advisory Board meetings, delineated changes to the text (as recommended by presented to the MAPC meeting), comments from a citizens group, and the ordinance as presented for first reading.

The amendments would permit sexually oriented businesses only in the "GC" General Commercial, "LI" Limited Industrial and "GI" General Industrial zoning districts. A distance separation of 500 feet would be required from a school, church, public park, licensed day care center, residential district boundary, OT-O district boundary or other adult entertainment establishment.

**RECOMMENDATION:**

1. Adopt the ordinance with the changes provided for second reading; OR
2. Take other action as deemed appropriate.

(Adoption of the ordinance with the proposed changes is a modification of the n override of the Planning Commission's recommendation and therefore requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

(15004) Published in the Wichita Eagle on \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING AMENDMENTS TO SECTION II-B.9.b, SECTION II-B.10.h AND II-B.10.i, SECTION II-B.12.1, SECTION III-B.14.b(3),

SECTION III-C.4.b, SECTION III-D USE REGULATIONS SCHEDULE, SECTION III-D.6.w, SECTION III-D.6.ff AND SECTION VII-J OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 44-975, DEALING WITH SEXUALLY ORIENTED BUSINESSES IN THE CITY.

WHEREAS, under the authority of K.S.A. 12-741, et seq., the City of Wichita desires to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to Sexually Oriented Businesses in the City; and

WHEREAS, by K.S.A. 12-770, the City of Wichita may adopt reasonable regulations for the gradual elimination of sexually oriented businesses in the City which constitute nonconforming uses; and

WHEREAS, the governing body of the City of Wichita finds and determines that the regulations set forth in this ordinance are reasonable regulations for the gradual elimination of sexually oriented businesses in the City which constitute nonconforming uses;

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

SECTION 1. Section II-B.9.b of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

II-B.9.b Night Club in the City means an establishment located in the City of Wichita that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered to the public or its members, and which may or may not serve food. When the night club in the City qualifies as an Adult Entertainment Establishment under Chapter 3.05 of the Code of the City of Wichita, its uses shall be governed in this Code by the requirements for Sexually Oriented Businesses in the City.

SECTION 2. Section II-B.10.h and II-B.10.i of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

II-B.10.h Personal Care Service means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical uses include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors, and neighborhood laundry and dry cleaning operations. When the Personal Care Service establishment qualifies as an Adult Entertainment Establishment under Chapter 3.05 of the Code of the City of Wichita, its regulation shall be governed in this Code by the requirements for Sexually Oriented Businesses in the City.

II-B.10.i Personal Improvement Service means an establishment primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include portrait shops, photography studios, art and music schools, licensed massage therapists, health and fitness studios, swimming clubs and handicraft or hobby instruction. Personal improvement service in the County also includes tattooing and body piercing. When the Personal Improvement Service establishment qualifies as an Adult Entertainment Establishment under Chapter 3.05 of the Code of the City of Wichita, its regulation shall be governed in this Code by the requirements for Sexually Oriented Businesses in the City.

SECTION 3. Section II-B.12.1 (except Subsections (1) – (14)) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

II-B.12.1 Sexually Oriented Business in the unincorporated areas of the County (Sexually Oriented Business in the County) means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

II-B.12.1-a With the exception of escort agency, all of the same establishments described in the Sec. II-B.12.1 describe a Sexually Oriented Business in the City.

SECTION 4. Section III-B.14.b(3) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended by replacing the use “Sexually oriented business, subject to Sec. III-D.6.ff” with the use “Sexually oriented business in the County, subject to Sec. III-D.6.ff.”

SECTION 5. III-C.4.b of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

III-C.4.b Use regulations. The use regulations of the underlying zoning district shall control within the OT-O district, provided however, that all uses allowed as permitted and Conditional Uses within the residential zoning districts shall also be allowed as permitted or Conditional Uses, respectively, in the OT-O district; except that tattooing and body piercing facilities and any Sexually Oriented Business in the City shall not be allowed as a permitted or a Conditional Use.

SECTION 6. Section III-D Use Regulations Schedule of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following:

III-D Use Regulations Schedule

P = Permitted Use

C = Conditional Use

USE TYPE	ZONING DISTRICTS									
	RR	SF20	SF10	SF5	TF3	MF18	MF29	B	MH	NO
GO	NR	LC	OW	GC	IP	CBD	LI	GI	conditions	
COMMERCIAL										

Sexually Oriented Business in the City						P	P	P	D.ff
Sexually Oriented Business in the County	P					P	P	P	D.ff

SECTION 7. Section III-D.6.w of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

III-D.6.w Taverns and drinking establishments, clubs and night clubs in the City. Although listed as permitted uses in some districts, taverns, drinking establishments, clubs and night clubs in the City shall be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures) when located within 200 feet of a church or place of worship, public park, school or residential zoning district. This distance shall be measured from the nearest lot line of the church or place of worship, public park, school or residential zoning district to the nearest lot line of the premises on which the tavern, drinking establishment, club or night club is located or of any parking lot designated to be used by the patrons of such businesses, whichever is closest. For purposes of this measurement, the required parking spaces for such a business located within a multi-tenant structure or shopping center are those located nearest the public entrance to the business. "Establishment" of any tavern, drinking establishment, club or night club business shall be deemed to include the opening of such a business as a new business, the relocation of such businesses or the conversion of an existing business location to any such business use, or any expansion of such a business beyond the existing square footage of the premises. Night clubs in the City that qualify as Sexually Oriented Businesses in the City shall be permitted uses in those districts that allow Sexually Oriented Businesses in the City, if the location of operation is no less than 500 feet from a church, school, public park, licensed day care center, the boundary of any residential district, the boundary of the OT-O district, or any other Sexually Oriented Business in the City.

SECTION 8. Section III-D.6.ff of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

III-D.6.ff Sexually oriented business.

(1) Sexually oriented business in the County. Sexually oriented businesses shall be permitted in the unincorporated area of the County only when such business is properly licensed with the County pursuant to the County's Adult Entertainment Code (Article VIII of Chapter 17 of the Sedgwick County Code), and only when such business is in compliance with the requirements of said Adult Entertainment Code. No sexually

oriented business in the County shall be located less than 1,000 feet from a church, school, public park, residential dwelling or other adult entertainment establishment, all as defined in the Adult Entertainment Code, subject to the amortization provisions set forth in the Adult Entertainment Code and in Sec. VII-J.1 herein.

(2) Sexually Oriented Business in the City. Sexually oriented businesses shall be permitted in the City only when such business is properly located pursuant to this Code and is licensed with the City pursuant to Chapter 3.05 of the Code of the City of Wichita, and only when such business is in compliance with the requirements set out in this Code and Chapter 3.05 of the Code of the City of Wichita. No sexually oriented business in the City shall be located less than 500 feet from a church, school, public park, licensed day care center, the boundary of any residential district, the boundary of the OT-O district and from any other adult entertainment establishment defined in Chapter 3.05 of the Code of the City of Wichita, subject to the amortization provisions set forth in that Chapter and in Section VII-J.2 herein.

SECTION 9. Section VII-J of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows:

VII-J. AMORTIZATION OF NONCONFORMITIES: Sexually Oriented Business  
Distance Requirements and Zoning District Limitations

1. Amortization in the County

a.No sexually oriented business in Sedgwick County shall be located less than 1,000 feet from a church; less than 1,000 feet from a school; less than 1,000 feet from a public park; less than 1,000 feet from a residential dwelling; or less than 1,000 feet from another adult entertainment establishment, regardless of licensure. The terms church, school, residential dwelling, and adult entertainment establishment shall be defined as set forth in the County's Adult Entertainment Code (Article VIII of Chapter 17 of the Sedgwick County Code) and any amendments thereto. This distance is to be measured from the nearest property line of the church, school, public park, residential dwelling, or other adult entertainment establishment, (regardless of licensure), to the nearest property line of the premises on which the sexually oriented business in the County is located or of any parking lot designated to be used by the patrons of such an establishment.

(1) Exception: Sec. VII-J.1.a above shall not apply to a sexually oriented business in the County if said sexually oriented business in the County first locates at a particular premises after June 28, 2000; and the church, school, public park, residential dwelling, or other adult entertainment establishment moves into the 1,000 foot area after the sexually oriented business in the County has commenced operations on the premises.

(2) Exception: A sexually oriented business may be located within 1,000 feet of a currently occupied residential dwelling provided that any currently occupied residential dwelling within 1,000 feet of the sexually oriented business in the County is separated

from the sexually oriented business in the County by a roadway designated as a United States Highway.

(3) Exception: A sexually oriented business in the County may remain at a location within 1,000 feet of a church, school, public park, residential dwelling or separate adult entertainment establishment if said sexually oriented business in the County was operating as a sexually oriented business in the County at said location on or before June 28, 2000 and held a valid adult entertainment establishment license for said location on June 28, 2000, so long as said sexually oriented business in the County is and remains properly licensed and so long as said sexually oriented business in the County has continuously operated as a sexually oriented business in the County since June 28, 2000, subject to the exceptions and limitations set forth in the County's Adult Entertainment Code.

b. On or before June 30, 2004, all sexually oriented businesses in the County where the licensed premises are located within 1,000 feet of a church, school, public park, residential dwelling, or separate adult entertainment establishment all as defined in the County's Adult Entertainment Code, shall cease operation unless exempted pursuant to the provisions of the County's Adult Entertainment Code.

## 2. Amortization in the City

a. No sexually oriented business in the City shall be located less than 500 feet from a church; less than 500 feet from a school; less than 500 feet from a public park; less than 500 feet from a licensed day care center; less than 500 feet from the boundary of a residential district; less than 500 feet from the boundary of the OT-O district; or less than 500 feet from another adult entertainment establishment, regardless of licensure. This distance is to be measured from the nearest property line of the church, school, public park, licensed day care center, residential district boundary, OT-O district boundary or other adult entertainment establishment, (regardless of licensure), to the nearest property line of the premises on which the sexually oriented business in the City is located or of any parking lot designated to be used by the patrons of such an establishment.

(1) Exception: A Sexually Oriented Business in the City operating on or after February 8, 2005 under a valid Adult Entertainment Establishment license at a location in compliance with the distance requirements from a church, school, public park, licensed day care center or separate Adult Entertainment Establishment described in Sec. VII-J.2 of this Code shall not become nonconforming under this Code solely by reason of a church, school, public park, licensed day care center or separate Adult Entertainment Establishment moving, after February 8, 2005, to a location within the 500 foot radius of the Sexually Oriented Business after the City has issued an Adult Entertainment Establishment license for operation at the premises.

(2) Exception: A sexually oriented business in the City may remain in a zoning district other than GC General Commercial, LI Limited Industrial or GI General Industrial, within the OT-O district, or at a location within 500 feet of a church, school,

public park, licensed day care center, residential district boundary, OT-O district boundary or separate adult entertainment establishment if said sexually oriented business in the City was operating as a sexually oriented business in the City at said location on or before February 8, 2005 and held a valid adult entertainment establishment license for said location on February 8, 2005, so long as said sexually oriented business in the City is and remains properly licensed as an adult entertainment establishment and so long as said sexually oriented business in the City has continuously operated as a sexually oriented business in the City since February 8, 2005, subject to the exceptions and limitations set forth in Chapter 3.05 of the Code of the City of Wichita. This exception shall cease to exist, and shall no longer be effective after December 31, 2007.

b. On or before December 31, 2007, all sexually oriented businesses in the City where the licensed premises are located in a zoning district other than GC General Commercial, LI Limited Industrial, or GI General Industrial, or are within 500 feet of a church, school, public park, licensed day care center, residential district boundary, OT-O district boundary or separate adult entertainment establishment all as defined in Chapter 3.05 of the Code of the City of Wichita, shall cease operation unless exempted pursuant to Sec.VII-J.2. above.

c. No provision of Sec. VII-J.2.b relating to amortization of nonconformities shall be effective against any Sexually Oriented Business in the City operating from a location made nonconforming herein until the City Attorney has filed, on behalf of the City of Wichita, an action in a court of competent jurisdiction to obtain an independent judicial review of the provisions relating to amortization of nonconformities, and has obtained a final judicial decision from that review. Such an action shall place the burden of proof on the City, shall designate the property made nonconforming by these amendments to the zoning ordinance, and include notice and an opportunity to be heard for the Sexually Oriented Business in the City that is made nonconforming by these amendments to the Code.

SECTION 10. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Carlos Mayans, Mayor  
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

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Gary E. Rebenstorf, City Attorney

**Agenda Item No. 19a**

City of Wichita  
City Council Meeting  
November 8, 2005

Agenda Report No. 05-1006 A

TO: Mayor and City Council

SUBJECT: Contract-Wichita Minority Business Development Council

INITIATED BY: Finance Department

AGENDA: Unfinished Business

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Recommendation: Approve the contract.

Background: On August 16, 2005, the City Council approved the revised budget that included funding assistance in the amount of \$35,000 for the Wichita Minority Business Development Council, Inc for economic development services. Staff has developed the necessary contractual documents and performance measurements.

Analysis: The Wichita Minority Business Development Council (WMBDC) is a non-profit organization that was created in January 1991. Its mission statement is to promote and enhance minority and woman-owned business enterprises by increasing business opportunities and access to mainstream markets. The primary goal is to improve the economic viability of small, minority and women owned businesses in Wichita, with an emphasis on job creation. WMBDC will provide networking opportunities among mutually supportive businesses as well as seminars to grow their business.

A contract has been negotiated with the Wichita Minority Business Council, which establishes performance measures and performance outcomes. Small, minority and women owned businesses would be served under the contract. The contract term is January 1, 2005 to December 31, 2005.

Financial Considerations: The contract amount is \$35,000 and funding is appropriated in the 2005-revised budget.

Legal Considerations: The contract has been reviewed and approved as to form by the City Law Department.

Recommendations/Actions: It is recommended that the City Council approve the contract and authorize the Mayor to sign.

**Agenda Item No. 20**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1053

TO: Mayor and City Council

SUBJECT: Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds (InfoNXX, Inc.) (District II)

INITIATED BY: City Manager's Office

AGENDA: New Business

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RECOMMENDATION: Close the public hearing and approve a Letter of Intent.

BACKGROUND: The Greater Wichita Economic Development Coalition has worked with a national site consultant to recruit a new company to Wichita. InfoNXX, Inc. a major provider of telephone directory assistance and enhanced information services to leading communications companies, businesses and consumers located principally in the United States, United Kingdom, France, and Italy. As a result of the recruitment effort, InfoNXX will locate a large customer service center in the former MCI Building, near Rock Road and K-96 in northeast Wichita, and hire over 900 customer care representatives. As an economic development incentive, the City offered InfoNXX industrial revenue bonds (IRBs) and property tax abatement on equipment and furnishings, subject to City Council approval.

ANALYSIS: InfoNXX Inc. & Subsidiaries is requesting the issuance of a six-month Letter of Intent for Industrial Revenue Bonds in an amount not to exceed \$6 million. Bond proceeds will be used to finance the cost of equipping a customer service center facility. InfoNXX is also requesting the City Council's

approval of a 100% five-year tax exemption on bond-financed property, plus a second five-year exemption upon City Council approval.

InfoNXX was founded in 1992 and has grown to become the largest non-carrier directory assistance provider in the world. The Company has been consistently rated among the top third-party directory assistance (“DA”) companies in the country by a national rating agency. In the U.S., the Company provides non-branded, outsourced DA and related services under contract arrangements primarily to leading wireless carriers such as Sprint PCS, Verizon Wireless, U.S. Cellular and Dobson, among others. InfoNXX also provides outsourced DA to various cable telephony carriers and competitive local exchange carriers such as Cox Communications, Comcast, and XO.

InfoNXX has committed to hire at least 944 new employees over an 18-month period, at a weighted average wage rate of \$9.82 per hour. The Company will lease the former MCI Building at 8400 East 32nd Street North from its current owner.

An analysis of the uses of project funds is:

<b>USES OF FUNDS</b>	
Software	\$513,000
Licenses	834,980
Telecom Equipment	1,783,852
Computer Equipment	1,141,589
Furniture & Fixtures	
440,000	

Total Cost of Project: \$4,713,421

The firm Hinkle Elkouri L.L.C. will serve as bond counsel in the transaction. The Company will purchase the Bonds and as a result there is no need for an underwriter. The Company agrees to comply with the City’s requirements contained in the Letter of Intent. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City	2.82 to one
County	1.78 to one
USD 259	1.23 to one
State	5.78 to one

**FINANCIAL CONSIDERATIONS:** InfoNXX 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. Under the City’s Economic Development Incentive Policy,

the project qualifies for a 100% tax exemption on property purchased with bond proceeds, based on creation of 944 new jobs and the investment of \$6 million. Because of the competitive recruitment effort, GWEDC recommended the term of abatement be increased to 5+5 years. In addition to the property tax abatement, the project will qualify for a sales tax exemption on bond-financed property worth \$344,000.

The estimated first year's taxes on InfoNXX's proposed \$4,713,421 expansion would be \$81,756 on personal property improvements, based on the 2004 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$81,756 of new taxes from the personal property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$22,949; County/State - \$21,820; and USD 259 - \$36,986.

**LEGAL CONSIDERATIONS:** Bond documents needed for the issuance of bonds will be prepared by bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

**RECOMMENDATIONS/ACTIONS:** It is recommended that the City Council approve a Letter of Intent to InfoNXX Inc. for Industrial Revenue Bonds in an amount not-to-exceed \$6 million, subject to the Letter of Intent conditions, for a term of six-months, approve a 100% tax abatement on all bond-financed property for an initial five-year period plus an additional five years following City Council review, and authorize the application for a sales tax exemption on bond-financed property.

## **Agenda Item No. 21**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1054

TO: Mayor and City Council  
SUBJECT: HUD Consolidated Plan Process

INITIATED BY: Housing and Community Services Department

AGENDA: New Business

Recommendation: Approve the One-Year Action Plan process for 2006-2007, and funding categories.

Background: The U.S. Department of Housing and Urban Development (HUD) provides annual funding for programs which serve or benefit low to moderate

income persons. This funding is a part of the HUD Consolidated Plan process and includes three funding sources: Community Development Block Grant (CDBG); HOME Investment Partnership (HOME); and Emergency Shelter Grant (ESG). HUD requires local governments to submit annual amendments to the Consolidated Plan to receive funding. Each year the City of Wichita submits a One-Year Action Plan, outlining specific activities to be funded through the CDBG, HOME and ESG programs. In order to receive its annual allocation, the City must have an approved One-Year Action Plan.

City staff annually develops funding estimates and makes recommendations for funding categories to the City Council. After discussion, the City Council approves allocation categories and amounts and staff issue Requests for Proposals and applications to agencies which can provide the designated services. In addition, the availability of funds is posted on the City's website, to attract applicants other than those directly solicited.

Analysis: Unofficially, HUD estimates reduced funding for the 2006/2007 CDBG program. Therefore, staff has recommended funding categories and reduced amounts for 2006-2007, based on priorities of homeownership and based on Consolidated Plan priorities. Staff estimates that funding for HOME and ESG will remain the same, and therefore no changes in 2006-2007 HOME and ESG funding categories are proposed. Staff recommendations are included in the attached spreadsheet.

Staff will adjust funding categories and amounts once HUD announces final allocations. All staff modifications will be presented to the City Council for final approval after RFPs and applications have been received and reviewed.

Financial Considerations: Staff prepared the following funding estimates for 2006-2007: CDBG - \$3,107,364; HOME - \$1,903,630; and ESG - \$126,690. These are all Federal funds; the only fund source requiring a match is HOME. In the past, match funds of 25% have been achieved through creative partnerships with community agencies and have not required General Fund match support.

Legal Considerations: All proposed Council actions and program activities are consistent with Federal regulations and requirements.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve funding categories and reserve amounts for 2006-2007 Consolidated Plan funding, based on funding estimates available at this time.

## **Agenda Item No. 22**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1055

TO: Mayor and City Council

SUBJECT: Repair or Removal of a Dangerous & Unsafe Structure  
District I

INITIATED BY: Office of Central Inspection

AGENDA: New Business

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Recommendations: Adopt the resolution.

Background: On October 4, 2005 a report was submitted with respect to the dangerous and unsafe conditions on the property below. The Council adopted a resolution providing for a public hearing to be held on this condemnation action at 9:30 a.m. or as soon thereafter, on November 15, 2005.

Analysis: On September 12, 2005, the Board of Code Standards and Appeals (BCSA) held a hearing on the following property:

Property Address	Council District
a. 1135 North Piatt	I

Detailed information/analysis concerning this property is included in the attachments.

Legal Considerations: Pursuant to State Statute, the Resolution was duly published twice on October 6, 2005, and October 13, 2005. A copy of the resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolution declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of November 15, 2005; (2) the structure has been secured as of November 15, 2005 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of November 15, 2005 and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the

resolution published once in the official city paper and advise the owner of these findings.

**Agenda Item # 23**

City of Wichita  
City Council Meeting

November 15, 2005

Agenda Report # 05-1056

TO: Mayor and City Council Members

SUBJECT: Ordinance changes to the City of Wichita Electrical Code  
(Title 19 of the Code of the City of Wichita)

INITIATED BY: Office of Central Inspection.

AGENDA: New Business

Recommendation: Approve the attached proposed amendments to the City Electrical & Elevator Code (Title 19 of the Code of the City of Wichita).

Background: The National Electrical Code (NEC), published by the National Fire Protection Association, is updated every three years in order to keep current with changing industry standards and practices. The 2005 NEC is the most current edition. Presently, the City of Wichita is enforcing the 2002 edition of this code, as adopted and amended in Title 19 of the Code of the City of Wichita.

Similarly, ASME Standard A17.1, Safety Code for Elevators and Escalators, and ASME Standard A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts, both published by the American Society of Mechanical Engineers, are revised and updated about every four years to keep current with changing industry safety standards. The 2004 and 2003 editions of these codes (respectively) are the most current editions. Wichita is presently enforcing the 1996 editions of these codes, as adopted and amended in Title 19.

The Board of Electrical Appeals (Board), along with Office of Central Inspection staff, have recently completed their review of the most current editions of the 2005 NEC, the 2004 Safety Code for Elevators and Escalators and the 2003 Safety Standard for Platform Lifts and Stairway Chairlifts. Beginning in March 2005, the Board and OCI staff solicited input from various electrical trade organizations, elevator trade companies, the Wichita Area Builders Association and other interested individuals as they reviewed the new electrical codes and elevator safety standards. At its September 13, 2005 meeting, the Board voted unanimously to recommend to City Council that the 2005 edition of the National

Electrical Code, the 2004 edition of the Safety Code for Elevators and Escalators and the 2003 edition of the Safety Standard for Platform Lifts and Stairway Chairlifts be adopted by reference in Title 19, with proposed local amendments, as the electrical wiring/elevator installation code for the City of Wichita.

Analysis: There are only a few significant changes to the national model codes/standards that will effect the local construction and electrical/elevator trade industry. Most of the recommended local amendments are included to clarify the intent of certain code sections, or to codify local procedures and/or policies that have been in place and implemented for many years. Significant changes include:

- Implementation of the NEC requirement for installation of arc-fault circuit breakers in bedrooms of newly constructed homes, and in bedroom additions to existing homes. This requirement was amended out of Title 19 during the 2002 NEC adoption process to further study the technology, and to more fully gage its performance (both nationally and within unincorporated Sedgwick County which has been enforcing the arc-fault circuit requirement since 2001). Previous concerns expressed by the homebuilding industry related to reliability, cost and testing of arc-fault circuit equipment have been addressed, and local homebuilders (primarily represented by the Wichita Area Builders Association) are now supportive of this new technology as a reliable and effective life-safety device.
- Amending NEC Section 406.8(B)(1) & (2) to only require in-use weatherproof covers (commonly referred to as “bubble covers”) in situations where a cord will be plugged into the receptacle while unattended, as in a timer or transformer for low voltage lights or an outside appliance that is continually plugged in. This is in response to problems seen in maintaining the effectiveness of such “bubble covers” in many outdoor outlet situations. For most exterior outlets, the more common metal flip-cover protectors will still be allowed in lieu of the “bubble covers”.
- Replacing the “mobile home service technician” member of the Board of Electrical Appeals with a certified elevator mechanic. There have rarely been Board discussions that specifically affect mobile home service technicians, while there are frequent discussions of matters that relate to elevator codes, installations and technologies. The specific knowledge and input of a certified elevator mechanic will be extremely valuable to the Board.
- Inclusion of a new requirement that a water well electrical permit, separate from any residential “combination” building permit, be required for water well installations. This will minimize confusion and/or delays at the final building occupancy inspection for new houses that are served by a water well (for irrigation and/or non-potable drinking water purposes). This amendment was developed with feedback from the industry, WABA and the Environmental Services Department.

- Electrical permit fee increases. The minimum or base permit fee remains unchanged at \$25 (increased about 10 years ago), but most of the specific permit work item fees (number of circuits, number of outlets, number/size of electrical service, number of motors, etc.) have not been significantly increased for about 40 years. Even with the proposed fee increase, Wichita will have electrical permit fee rates that are very low relative to peer cities in this region.
- Elevator permit and safety inspection fee increases. These fees have not been increased for about 15 years. The proposed amendments increase the minimum elevator permit fee from \$15 to \$25 (consistent with all other trade permits minimum fees), and increase the fees for routine annual elevator inspections by \$5 and for 5-year full load safety tests/inspections by \$50 (from \$150 to \$200).
- Addition of new language requiring that an identification tag be located at the telephone terminal in a building with an elevator to identify the telephone line/number that is assigned to the emergency telephone in the elevator. This is a life safety code enhancement, is not difficult to achieve, and has the support of the industry and the Building Owners and Managers Association (BOMA).

A more detailed summary of the ordinance adoption amendments is included as Attachment A.

Financial Considerations: The proposed amendments on electrical and elevator permits will increase annual OCI revenues by approximately \$150,000.00.

Legal Considerations: The recommended ordinance revisions have been approved as to legal form by the Law Department.

Recommendations/Actions: The Board of Electrical Appeals and the Office of Central Inspection recommend that the attached proposed ordinance amendments to the City of Wichita Electrical Code (Title 19 of the Code of the City of Wichita) be approved on first reading.

## ATTACHMENT A

### Summary of Title 19 Ordinance Revisions

19.04.020 Definitions. Adds a definition for Code Official.

19.04.035 Maintenance of electrical systems. Adds wording that clarifies standards for replacement of wiring to adhere to the most current adopted code.

19.04.040 Board of electrical appeals--Composition. Adds language that replaces the mobile home serviceman position with an elevator mechanic to better serve the technical information and industry input/feedback needs of the Board of Electrical Appeals.

19.04.070 Board of electrical appeals--Promulgation of additional rules. Adds wording to better clarify the meaning of this section.

19.04.080 Board of electrical appeals--Matters pertaining to elevators. Adds wording that corrects errors in previously adopted language.

19.04.090 Electrical inspectors--Appointments--Duties. Adds the “International Code Council” as an approved inspector certification agency.

19.08.010 Master and journeyman electricians' certificates--Required. Adds wording to correct error in previously adopted language.

19.08.015 Apprentice electrician and/or electrical helper. Adds wording to make any electrical contractor license holder a responsible party for violations of this section.

19.08.030 Electricians' certificates--Examination fee -- Biennial fee. Adds language to change certificate renewals from an annual to biennial process/fee.

19.08.050 Electricians’ certificates--Contractor's license--Revocation. Replaces the word “superintendent” with “code official”. Also adds language to clarify that a licensed contractor who directs an apprentice to perform electrical work without a journeyman or master on site could result in license revocation.

19.08.061 Electrical work performed by owner-occupants of owner-occupied or to be owner-occupied detached single-family dwellings. Replaces the word “superintendent” with “code official”. Corrects existing wording to match central inspection long-existing policy.

19.08.070 License--Issuance of general electrical. Clarifies that a person can be the license holder for only one company.

19.08.145 Re-inspection – Discontinued service. Adds language to codify central inspection policy that has been in place and implemented since 1994, and adds a fee for this inspection.

19.08.150 Electrical permit required --Fees listed. Increases fees for permits issued to electrical contractors. Also adds language to separate the water well permit from the general contractor’s building permit to help minimize problems at the time of final building permit inspection.

19.08.170 Permits--Expiration--New permit required. Corrects an error in the referenced section number.

19.08.171 Insurance required. Clarifies that insurance is required for all electrical contractor licenses issued under this Title.

19.08.172 Truth in advertising requirements. Clarifies that insurance is required for all electrical contractor licenses issued under this Title.

19.08.180 Identification of Service Vehicles. Requires that licensed electrical company names and license numbers be clearly displayed on company service vehicles (this has been a requirement in the plumbing and mechanical ordinances for years, and complements the City's "Truth in Advertising" laws that relate to licensed construction contractors.

19.12.010 Installation standards. Adds language to adopt the 2005 National Electrical Code, with local amendments.

19.12.020 Wiring to be inspected prior to concealing. Adds language to correct errors in wording/spelling.

19.12.035 is hereby repealed. This was the section added in 2002 that deleted the NEC requirement for arc-fault breakers in residential bedrooms. The industry has agreed to allow as previous concerns have been satisfied/resolved.

19.12.040 Section 230.40 amended. Changes the reference to the 2005 edition of the NEC.

19.12.050 Services--Maximum amps, volts, etc. Clarifies the intent of language regarding the maximum length of un-fused conductors inside a building.

19.12.060 Section 210.52(C)(1) exception amended. Amends a new section in the 2005 NEC so that receptacle outlets are not required on a wall directly behind a range or sink.

19.12.080 Conductor requirements. Due to continued problems with the smaller aluminum wire, language is added to restrict usage in residential to 100 ampere rated wire or larger (this restriction has been required in commercial uses for over 25 years.)

19.12.090 Color code--Branch circuits. Adds language for clarification only.

19.12.110 Splicing of service-entrance conductors. Clarifies that because the City allows up to 15 feet of un-fused conductor inside buildings, such conductors must be installed in an "unbroken" manner to minimize the danger of fire.

19.12.130 NM Cable connectors. Adds language to codify policy and procedure that has been enforced since 1993.

19.12.150 Ceiling grid support wires. Adds language to codify policy and procedure has been enforced since 2003.

19.12.170 Conduit bodies. Adds language to codify policy and procedure that has been enforced since 1990.

19.12.185 Receptacles in countertops not to be installed face-up. Adds language to codify policy and procedure that been enforced since 1998.

19.12.190 Receptacles in wet locations. Adds language to require in-use weatherproof covers (“bubble covers”) only on receptacles in wet locations that have a cord plugged into them while unattended.

19.12.195 Pools shall not be located under overhead wiring. Changes wording to match the 1999 NEC (this continues what the City has been enforcing since 1999).

19.12.210 Temporary construction service requirements. Adds language to codify policy and procedure that has been enforced since 1984, and was last modified in 2000.

19.16.010 Mobile home serviceman electrician's certificates--Required. Corrects errors in wording.

19.16.030 Certificates--Examination fee-- Biennial fees. Changes certificate renewal requirements from annual to biennial.

19.16.040 Mobile home serviceman electrical license --Restrictions. Clarifies wording.

19.16.070 License--Issuance of mobile home serviceman electrical. Clarifies that a person can be the license holder for only one company.

19.16.090 Permits and fees. Clarifies that a permit is required for wiring on or in mobile homes and that the electrical permit fees are the same as for any other electrical permits.

19.16.110 Conductor requirements. Adds language to require that wiring smaller than 200 ampere rated wire is to be copper.

Chapter 19.22 Elevators and Escalators. Creates a new chapter that combines and reorganizes Title 19 sections relating to elevators, escalators and handicap lifts.

19.22.020 Installation standards. Adopts the 2004 Safety Code for Elevators and Escalators - ASME A17.1. Also adopts the 2003 Safety Standard for Platform Lifts and Stairway Chairlifts - ASME A18.1.

19.22.100 Elevators' certificates--Application--Examination. Requires elevator mechanics to obtain and maintain a technical certificate.

19.22.190 Alterations and repairs. Better defines when a permit is required for existing elevator work.

19.22.200 Permit required – Fees listed. Increases fees for elevator permits and routine and safety elevator inspections.

19.22.270 Emergency communications. Adds a requirement for installation of an identification tag at the main telephone terminal in the building to identify the telephone line that is assigned to the elevator.

19.24.025 Equipment in hoistways and machine rooms. Clarifies that equipment in these rooms must meet the same requirements as passenger elevators.

19.24.035 Machine Rooms and Machinery Spaces. Clarifies that these rooms must meet the same requirements as passenger elevators.

19.24.040 Buffers. Corrects errors in punctuation and wording.

19.24.060 Car enclosures. Corrects section numbers in order to match latest adopted code.

19.24.110 Required inspections. The 2004 elevator code recommends 1 year, 3 year and 5 year tests. The added language simply continues City requirements for 1 year and 5 year tests as has been required locally for many years.

### **Agenda Item #24**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1057

TO: Mayor and City Council Members

SUBJECT: SUB 2002-17 -- Plat of Holt Addition, Located on the South Side of Central Avenue and West of Greenwich Road.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

---

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: This site, consisting of one lot on 2.06 acres, is located in the County within three miles of Wichita's city limits. This site is zoned LI, Limited Industrial District.

Analysis: Municipal water is available to serve this site. A Petition, 100 percent, and a Certificate of Petition were submitted to guarantee the extension of future sewer. The site has been approved by the County Health Department for the use of on-site sanitary sewer facilities.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

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

Recommendations/Actions: It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

## **Agenda Item #24**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1057

TO: Mayor and City Council Members

SUBJECT: SUB 2002-17 -- Plat of Holt Addition, Located on the South Side of Central Avenue and West of Greenwich Road.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

---

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: This site, consisting of one lot on 2.06 acres, is located in the County within three miles of Wichita's city limits. This site is zoned LI, Limited Industrial District.

Analysis: Municipal water is available to serve this site. A Petition, 100 percent, and a Certificate of Petition were submitted to guarantee the extension of future sewer. The site has been approved by the County Health Department for the use of on-site sanitary sewer facilities.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

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

Recommendations/Actions: It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

### **Agenda Item # 25**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report # 05-1058

TO: Mayor and City Council Members

SUBJECT: SUB 2005-05 -- Plat of Clifton Cove Addition, Located on the South Side of 63rd Street South and West of Clifton. (District III)

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 109 lots on 51.4 acres, is within Wichita's city limits. Since annexation is a condition for approval for this plat, the corresponding annexation case (A05-06) is on the same agenda. When annexed, the site will be zoned SF-5, Single-Family Residential District.

Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for sewer, water, paving and drainage improvements. Restrictive Covenants were submitted to: 1) create a Lot Owners' Association for the ownership and maintenance of the proposed reserves being platted for drainage

purposes; 2) provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street; and 3) outline restrictions for lot-owner use for platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements. Since this site is located within the noise impact area of McConnell Air Force Base, an Avigational Easement and Restrictive Covenant were submitted. A Temporary Gas Service Line Easement was also submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Financial Consideration: None.

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

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.

### **Agenda Item # 26**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report # 05-1059

TO: Mayor and City Council Members

SUBJECT: SUB 2005-95 -- Plat of 21st Street Kids and Family Empowerment Addition, Located East of Hydraulic and on the North Side of 21st Street North. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

Background: This site, consisting of four lots on 32.05 acres, is located within Wichita's city limits. A zone change request (PUD 2005-04) from MF-29, Multi-Family Residential District to PUD, Planned Unit Development has been approved. A PUD Certificate was submitted identifying the approved PUD and its special conditions for development on this property.

Analysis: For those reserves being platted for drainage purposes, a Restrictive Covenant was submitted to allow the creation of a Lot Owners' Association to provide for ownership and maintenance of the reserves.

The City of Wichita is the property owner and plattor.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until such time as the plat is recorded with the Register of Deeds.

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

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures for approval of the plat and the City's ownership interest and approve first reading of the Ordinance.

(150004) Published in The Wichita Eagle on \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD 2005-04

Request for zone change from request from MF-29, Multi-Family Residential District to PUD, Planned Unit Development, described as follows:

Lots 1-4, Block 1, and Reserve B, Block 2, 21st Street Kids and Family Empowerment Addition, Wichita, Sedgwick County, Kansas.

Generally located on east of Hydraulic and on the North Side of 21st Street North..

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

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

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk  
Mayans, Mayor

\_\_\_\_\_  
Carlos

(SEAL)  
Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**Agenda Item No. 28**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1061

TO: Mayor and City Council Members

SUBJECT: A05-14R Request by Pearce Schnitzler Farms and R&R Realty, to annex land generally located northwest of 53rd Street and Meridian. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

\_\_\_\_\_  
Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex approximately 24.72 acres of land generally located northwest of the intersection at 53rd Street and Meridian. The annexation area abuts the City of Wichita to the east. In addition, a plat is currently being requested for this proposed annexation area, in which a Wal-Mart store is being proposed.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 24.72 acres of property currently zoned "SF-20" Single-Family Residential. Upon annexation, the property will automatically convert to "SF-5" Single-Family Residential. In addition, a request will be made to rezone the property for Limited Commercial use.

Property to the north, west and south of the subject property is zoned "SF-20" Single-Family Residential, while property to the east is zoned "LC" Limited Commercial, "GO" General Office, and "SF-5" Single-Family Residential.

Public Services: There is an existing 20" water line in Meridian along the east side of the subject property. As part of the platting process, the developer is being required to extend water along 53rd Street, on the south side of the property. The nearest current sewer line is located at Meridian and Keywest; but this area is currently in the design phase to extend a sewer main to service this property and a large area surrounding the property.

Street System: The subject property borders 53rd Street to the south and Meridian to the east. Meridian is a paved 4-lane roadway with improvements at the intersection to add the 5th lane. 53rd Street is paved and is currently 5-lanes at the intersection and tapers back to 2-lane west of Meridian. The City of Wichita Capital Improvement Program (CIP) 2005-2014, the 2004 Transportation Improvement Program, and the Sedgwick County Capital Improvement Program 2005-2009 do not call for improvements near the proposed annexation site.

Public Safety: Fire services to this site can be provided by the City of Wichita within a four (4) to five (5) minute approximate response time from City Station No. 13 located at 3162 W. 42nd Street North. Upon annexation, police protection will be provided to the area by the Patrol North Bureau of the Wichita Police Department, headquartered at 3015 E. 21st Street North.

Parks: The Brooks Tract Park is currently being developed, which is 272-acres that is located approximately 1 mile to the southwest of the proposed annexation site. In addition, Hellers Park is a 32-acre park, located approximately 2 miles to the southeast of the proposed annexation site. Hellers Park has a half-mile dirt trail and is designated as a Wichita Wild Habitat Area. According to the 1996 Parks and Open Space Master Plan, a pathway has been proposed that would run along the south boundary of the subject property.

School District: The annexation property is part of the Unified School District 262 (Valley Center School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is \$5,572 with a total assessed value of \$1,6712. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$52 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property, and the current mill levy. At this time, the property owner is anticipating that the property will be developed within the next three years. The total appraised value of this limited commercial development after completion is estimated at \$12,534,908. Assuming the current City levy remains about the same, this would roughly yield \$98,418 in City annual tax revenues.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request and first reading of the Ordinance.

(150004) PUBLISHED IN THE WICHITA EAGLE ON \_\_\_\_\_  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A05-14)

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

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District VI respectively:

A tract in the Southeast Quarter of Section 13, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as the East 675.07 feet of the South 1,454 feet thereof, except the South 375 feet of the East 375 feet thereof, and except road.

AND ALSO:

A tract of land located in the Southeast Quarter of Section 13, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas being more particularly described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter;

THENCE North 89°57'37" West, along the South line of said Southwest Quarter, a distance of 675.07 feet of the POINT OF BEGINNING;

THENCE continuing North 89°57'37" West, along the South line of said Southeast Quarter, a distance of 220.53 feet;

THENCE North 00°48'32" West, parallel with the East line of said Southeast Quarter, a distance of 1,454.00 feet;

THENCE South 89°57'37" East, parallel with the South line of said Southeast Quarter, a distance of 220.53 feet;

THENCE South 00°48'32" East, parallel with the East line of said Southeast Quarter, a distance of 1,454.00 feet to the POINT OF BEGINNING; EXCEPT for roads.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this \_\_\_\_\_.

\_\_\_\_\_  
Carlos Mayans, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

\_\_\_\_\_

Gary E. Rebenstorf, Director of Law

**Agenda Item No. 27**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No.05-1060

TO: Mayor and City Council Members

SUBJECT:A05-06R Caywood, LLC & Donnie E. Cook request to annex lands generally located southwest of the intersection of 63rd Street South and Clifton Street. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 51.4 acres of land generally located southwest of the intersection of 63rd Street South & Clifton Street. The annexation area abuts the City of Wichita to the west of the proposed property. The property owner proposes to develop the property for single-family use. The proposed property consists of a replat of Woodvale Addition, in addition to property that is currently being reviewed for plat approval.

Analysis:

Land Use and Zoning: The proposed annexation consists of 51.4 acres of property currently zoned "SF-20" Single-Family District and "RR" Rural Residential. Upon annexation, the zoning of the subject property will change from "SF-20" and "RR" to "SF-5" to allow for the lot sizes being platted. Directly west of the proposed property lies the Big Arkansas River, and the west side of the River is developed "SF-5" Single-Family Residential and "RR" Rural Residential. The properties to the east and south of the proposed annexation are zoned "RR" Rural Residential. The properties directly to the north of the proposed site are zoned "SF-20" and "RR."

Public Services: The City of Wichita signed a water agreement with the City of Derby on November 8, 2005 for the sale of water by Wichita in the El Paso Water Company, Inc., Service Area. Baughman Company is currently working with the City of Wichita for sewer extensions to serve this proposed property. The nearest sewer connections are approximately 1 mile to the north.

**Street System:** The subject property currently has access to 63rd Street, Clifton Street and Vassar Street. Clifton Street and Vassar Street are paved, two-lane roads. According to the Sedgwick County Capital Improvement Program 2005-2009 and the Wichita-Sedgwick County MAPD Transportation Improvement Program 2004-2008, improvements are being made to the east of the proposed annexation property on 63rd Street South between Buckner and the Butler County line. The County is currently upgrading 63rd Street to a four-lane paved road. 63rd Street South is a major commuter route to McConnell and Boeing and connects south Wichita with Derby and Butler County.

In addition, the Sedgwick County Capital Improvement Program 2005-2009, the Wichita-Sedgwick County MAPD Transportation Improvement Program 2004-2008 and the City of Wichita Capital Improvement Program 2005-2014 has scheduled improvements to the west of the proposed annexation property. These improvements include the widening of Hydraulic from 57th Street to 63rd Street, and the widening of 63rd Street South between Broadway and Hydraulic.

**Public Safety:** Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 19 located at 4440 South Broadway. Upon annexation, police protection will be provided to the area by the Patrol South Bureau of the Wichita Police Department, headquartered at 211 East Pawnee.

**Parks:** South Arkansas River Greenway, a 158-acre park, is located about 3/4 of a mile to the south of the proposed annexation site. It is expected that this parcel will remain a protected undeveloped area along the Arkansas River south of Wichita. In addition, according to the 1996 Parks and Open Space Master Plan, a pathway is proposed along the west and southwest side of the subject property.

**School District:** The annexation property is part of the Unified School District 260 (Derby School District). Annexation will not change the school district.

**Comprehensive Plan:** The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The proposed annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

**Financial Considerations:** The current approximate appraised value of the proposed annexation lands, according to County records, is \$203,040 with a total assessed value of \$24,703. Using the current City levy (\$31.406/\$1000 x assessed valuation), this roughly yields \$756 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property, and the current mill levy. At this time, the property owner is seeking final approval of a plat to develop 109 single-family units on the subject property within the next five years. The value of each developed lot is estimated at \$88,000, so the total value after development is complete is estimated at \$9,592,000.

Assuming the current City levy remains about the same, this would roughly yield \$34,643 in City annual tax revenues.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request and first reading of the Ordinance.

## **Agenda Item No. 29**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No.05-1062  
TO: Mayor and City Council Members

SUBJECT: A05-15R Request by Paul R. Weninger Revocable Living Trust and Mary Joan Weninger Revocable Living Trust, to annex land generally located southwest of the intersection of Pawnee and 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 155.53 acres of land generally located southwest of the intersection of Pawnee Street and 127th Street East. The annexation area abuts the City of Wichita to the north. The property owner anticipates that the proposed property will be developed with approximately 380 "SF-5" Single-Family Residential units, as well as, approximately 390,000 SF of office and/or commercial property. An isolated road segment is also included with this annexation.

### Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 148 acres of property currently zoned "SF-20" Single-Family Residential, which upon annexation will convert to "SF-5" Single-Family Residential. The proposed annexation also consists of approximately 7.33 acres of "LC" Limited Commercial property, which will remain "LC" Limited Commercial upon annexation, unless otherwise requested.

Property to the west and south of the subject property is zoned "SF-20" Single-Family Residential, while property to the east is zoned "SF-20" and "LC." Property to the north

of the subject property is zoned "SF-5" Single-Family Residential and "LC" Limited Commercial.

**Public Services:** There is an existing 12" water line along Pawnee, coming from Greenwich and ending at the northwest corner of the subject property. There is also an existing 8" sanitary sewer at the northwest corner of the subject property; but in addition, a 10" sewer line is planned that will cross Pawnee approximately 1/4 mile west of 127th Street.

**Street System:** The subject property borders Pawnee Street to the north and 127th Street East to the east, which are both paved, two-lane arterial roads. The City of Wichita Capital Improvement Program (CIP) 2005-2014 does not call for improvements to roads along the subject property, but has scheduled improvements to the west of the subject property that would widen Pawnee Street from Greenwich Road to Webb Road and Greenwich Road from Pawnee to Kellogg to a four or five lane road. The 2004 Transportation Improvement Program and the Sedgwick County Capital Improvement Program 2005-2009 does not call for improvements near the proposed annexation site.

**Public Safety:** Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 15 located at 7923 E. Lincoln. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 S. Edgemoor.

**Parks:** The W.B. Harrison Park, a 40.15-acre park, is located approximately 3 miles to the northwest of the proposed annexation site. Amenities at the park include two tennis courts, a softball diamond, a rugby field, a children's play area, a jogging trail, a fishing pond, picnic tables and two parking areas. According to the 1996 Parks and Open Space Master Plan, a pathway has been proposed that would run along the north boundary of the subject property along Pawnee, and then south through the property and then east along the south side of the subject property.

**School District:** The annexation property is part of the Unified School District 259 (Wichita School District). Annexation will not change the school district.

**Comprehensive Plan:** The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

**Financial Considerations:** The current approximate appraised value of the proposed annexation lands, according to County records, is \$72,310 with a total assessed value of \$13,235. Using the current City levy ( $\$31.828/\$1000 \times$  assessed valuation), this roughly yields \$594 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property, and the current mill levy. At this time, the property owner is anticipating that approximately 380 single-family housing units and approximately 390,000 sq. ft. of office and commercial property will be developed within the next

twenty years. The total appraised value of this residential development after completion is estimated at \$47,500,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$171,555 in City annual tax revenues. The total appraised value of the office and commercial development after completion is estimated at \$9,400,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$73,804 in City annual tax revenues. In sum, after the residential, commercial and office developments are complete, the appraised value of the subject property is estimated at \$56,900,000 and should roughly yield a total of \$245,359 in City annual tax revenues.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request and first reading of the Ordinance.

(150004) PUBLISHED IN THE WICHITA EAGLE ON \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A05-15)

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

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District II respectively:

The Northeast Quarter (being Government Lots 1 and 2 and the South Half of said Northeast Quarter) of Section 3, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT for roads.

AND ALSO,

Greenwich Road from the south right-of-way line of 29th Street North to the south right-of-way line of K-96 Highway.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this \_\_\_\_\_.

\_\_\_\_\_

Carlos Mayans, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

**Agenda Item No. 30**

City of Wichita  
City Council Meeting  
November 15, 2005

Agenda Report No. 05-1063

TO: Wichita Housing Authority Board Members

SUBJECT: 2006 Payment Standards – Section 8 Housing Choice Vouchers

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority

Recommendation: Review and approve the revised Payment Standards for the Section 8 Housing Choice Voucher Program.

Background: Payment standards represent the amount of rent paid to owners, plus tenant paid utilities, and are established by Housing Authorities based on current Fair Market Rents. The Department of Housing and Urban Development published a notice of Fair Market Rents (FMRs), effective October 1, 2005. These FMRs are calculated to be at the 50th percentile of rents in the Wichita area, and include an allowance for utilities.

The Quality Housing and Work Responsibility Act (QHWRA) of 1998 requires that Housing Authorities operating Section 8 Housing Choice Voucher Programs, establish Section 8 Voucher Payment Standards between 90% and 110% of the Published Fair Market Rent for each bedroom size. The payment standards are used to calculate the amount of the monthly subsidy paid to landlords.

Analysis: The QHWRA also includes a provision that a family, which initially receives Section 8 tenant-based assistance, may not be required to pay more than 40% of its adjusted monthly income for rent and utilities. In order to determine appropriate rent rates for the WHA based on the latest published Fair Market Rent schedule, staff reviewed requests for tenancy and actual rents for the months of January through October 2005. As a result of the staff review, Housing and Community Services recommends that the current payment standards for 0-2 and 4-6 bedroom sizes be calculated at 100% of the 2005 FMR. The Department further recommends that payment standards for 3 bedroom units be calculated at 105% of 2005 FMR to meet the average rate of rent.

Following is a table of the October 2005 FMR, the current payment standards and the recommended increase or decrease in payment standards based on bedroom sizes:

BEDROOM SIZE										
	0	1	2	3	4	5	6			
FMR (10/1/2005)			439	492	635	816	930	1069	1209	
Current Pymt. Standard				429	492	658	886	963	1044	1180
Recommended Standard			439	492	635	856	930	1069	1209	

Financial Consideration: Decreasing the payment standards will help the Wichita Housing Authority (WHA) maintain the current number of households served. Wichita Housing Authority recommends these standards in order to meet its goal of assisting as many households as possible, in light of continued decreases in Housing Assistance Payment funds by HUD.

Legal Considerations: None

Recommended Action: It is recommended that the Wichita Housing Authority Board approve the revised Payment Standards for the Section 8 Voucher Program to be effective for January 1, 2006 for new clients and current clients who are relocating, and as of April 1, 2006 for current clients as determined by their recertification dates.

*EXHIBIT "A"*

### **SCOPE OF SERVICES**

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the

PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company

representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by **February 15, 2006**. (Project No. 448 89614).
  - b. Plan Development for the sewer improvements by **February 15, 2006**. (Project No. 468 83318).
  - c. Plan Development for the storm water improvements by **March 30, 2006**. (Project No. 468 83319).
  - d. Plan Development for the paving improvements by **March 30, 2006**. (Project No. 472 83430).

### **Agenda Item No. 31**

CITY OF WICHITA  
City Council Meeting

November 15, 2005

Agenda Report No. 05-1064

TO: Wichita Airport Authority Board

SUBJECT: Consent to Assignment of Aviation Education Center to WATC

INITIATED BY: Law Department

AGENDA:Wichita Airport Authority

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**Recommendation:** Consent to the assignment of the prior Agreement on Conveyance of Real Estate (dated September 20, 1976) from USD 259 to the Wichita Area Technical College (“WATC”).

**Background:** Prior to July 1, 2004, WATC was part of and governed by the Board of Education of USD 259. In the 2004 legislative session, a law was passed that placed technical colleges under the State Board of Regents and took them out from the governance of the local Boards of Education. Under that law, technical colleges became political subdivisions of the State.

**Analysis:** The Aviation Education Center located on Airport property is used by WATC. The existing Agreement on Conveyance of Real Estate covering such property is an agreement between the Wichita Airport Authority and USD 259. The agreement provides for assignment with the consent of the non-assigning party.

**Financial Considerations:** This transaction has no financial impact on the City.

**Legal Considerations:** The Law Department has approved the Acknowledgement and Consent as to form.

**Recommendations/Actions:** Approve the assignment of the Agreement on Conveyance of Real Estate and authorize the Mayor to sign the same.