FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. July 7, 2009

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the regular meeting on June 23, 2009 and special meeting on July 2, 2009

AWARDS AND PROCLAMATIONS

-- Awards:

- Introduction of Superintendent John Allison
- Medal of Recognition and Certificate for Children of Employees of the Department of State Foreign Service, Cailey Sheppman

I. PUBLIC AGENDA

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

1. John Buass-Consider adopting a policy or passing a resolution to apply "complete streets" principles when designing, modifying, or repairing streets.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Petition to construct a sanitary sewer for an area south of 35th Street North, at Salina. (District VI)

   RECOMMENDED ACTION: Approve the petition, adopt the resolution and authorize the necessary signatures.

III. NEW COUNCIL BUSINESS

1. Public Hearing and Second Amendment of Redevelopment Plan - Douglas and Hillside Redevelopment District. (District II)

   RECOMMENDED ACTION: Close the public hearing and approve the first reading of the ordinance approving the Second Amendment to the Douglas and Hillside Redevelopment District Project Plan.

2. Intrust Bank Arena Parking Lot Improvements. (District I)

   RECOMMENDED ACTION: Approve the parking lot improvements.

3. Bridge at Chisholm Creek Tributary located north of 29th Street North, east of Oliver. (District I)

   RECOMMENDED ACTION: Approve the project, adopt the resolution and authorize the necessary signatures.

4. Broadway Bridge at 34th Street South. (District III)

   RECOMMENDED ACTION: Approve the project, approve the agreement, place the ordinance on first reading and authorize the signing of state/federal agreements as required.

(9:30 a.m. or soon thereafter)

5. Repair or Removal of Dangerous and Unsafe Structures. (Districts I and III)

Property Address	Council District
a) 1412 East 11th Street North	I
b) 1025 North Estelle	I
c) 1410 North Lorraine	I
d) 1411 North Loraine	I
e) 4316 East Bayley	III
f) 1437 South Wichita (rear)	III

   RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSA recommended actions 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 any structures would be contingent on the following: (1) All taxes have been paid to date, as of July 7, 2009; (2) the structures have been secured as of July 7, 2009 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of July 7, 2009, and will be so maintained during renovation.

6. Justice Assistance Grant (JAG).

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

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

IV. NON-CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 3)

1. CUP2008-52– DP 18 Amendment #3 to allow a nightclub on property zoned LC Limited Commercial; generally located north of 21st Street North and east of Somerset Avenue, 1580 West 21st Street North. (District VI)
   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the community unit plan amendment subject to the recommended conditions (requires a ¾ supermajority vote by the governing body to override the valid protest); OR 2) Adopt the findings of the MAPC and approve the CUP Amendment subject to staff recommended conditions plus the additional conditions agreed to by the applicant as outlined in the memorandum of March 4, 2009 (requires a ¾ supermajority vote by the governing body to override the valid protest; OR 3) Return the application to the MAPC for reconsideration (requires a simple majority).
   (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

2. PUD2008-08 – City Planned Unit Development request from SF-5 Single-family Residential ("SF-5") zoning to create PUD #29, The Moussavi Office Park Planned Unit Development; generally located north of Harry Street, between Rock Road and Webb Road. (District II)
   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the PUD subject to platting within one year; place the ordinance on first reading; withhold publication of the ordinance until instructed by planning staff, following the recording of the plat; OR 2) Return the application to the MAPC for reconsideration.
   (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

3. ZON2009-00015-City zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with a Protective Overlay ("PO"); generally located south of Maple Street and west of Tyler Road. (District V)
   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #232; place the ordinance establishing the zone change on first reading; OR 2) Return the application to the MAPC for reconsideration.
   (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

V. CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 7)

1. *SUB 2009-19 -- Plat of Ann Walenta Commercial Addition located on the south side of Kellogg and on the east and west sides of Oliver. (District III)

   RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures and approve first reading of the ordinance.

2. *VAC2008-22-Request to vacate a platted easement and a contingent alley, generally located east of Hydraulic Avenue and north of 10th Street. (District 1)

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

3. *VAC2008-00031 - Request to vacate a portion of platted complete access control; generally located east of Webb Road, on the south side of 21st Street North. (District II)

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

4. *VAC2009-14 - Request to vacate a portion of platted complete access control; generally located west of Amidon Avenue, on the north side of 21st Street North. (District VI)

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

5. *VAC2009-00015 - Request to vacate a platted contingent dedication of street right-of-way, and a portion of street right-of-way; generally located north of K-96 and east of Webb Road. (District II)

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

6. *DED 2009-12 -- Dedication of a Drainage and Utility Easement and DED 2009-13 -- Dedication of Access Control located south of Kellogg and on the west side of 127th Street East. (District II)

   RECOMMENDED ACTION: Accept the Dedications.

7. *DED 2009-16 -- Dedication of a Utility Easement and DED 2009-17 -- Dedication of a Drainage and Utility Easement located south of 31st Street South and on the west side of Hoover Road. (District IV)

   RECOMMENDED ACTION: Accept the Dedications.

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VIII. NON-CONSENT AIRPORT AGENDA

1. ACT 3 Landside Utilities, Phase I, and Mid-Continent Drive Relocation - Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the project capital budget, the supplemental agreement (pending FAA concurrence), and authorize the necessary signatures.

IX. CONSENT AIRPORT AGENDA (ITEMS 1 THROUGH 7)

1. *Wichita Mid-Continent Airport - Air Capital Terminal 3 (ACT 3) Apron, Phase II - Supplemental Agreement No. 7, Construction Related Services.

   RECOMMENDED ACTION: Approve the supplemental agreement (pending FAA concurrence) and authorize the necessary signatures.

2. *Taxiway G Grant Application - Colonel James Jabara Airport.

   RECOMMENDED ACTION: Approve the grant application and receipt of funds, and authorize the Director of Airports to sign all documents related to the grant.

3. *Colonel James Jabara and Mid-Continent Airports - Pavement Condition Inventories.

   RECOMMENDED ACTION: Approve the capital budgets, contract and authorize necessary signatures, as well as authorize the Director of Airports to sign all the documents related to the grants.

4. *ARFF Class II Rapid Intervention Vehicle Acquisition - Wichita Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the capital project budget and grant application and authorize the Director of Airports to sign all the documents related to the grant.

5. *Supplemental Agreement for 1761 and 1801 Airport Road Parking Lot Improvements - Wichita Mid-Continent. Airport

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

6. *Supplemental Agreement No. 5 – Professional Insurance Management 2120 Airport Road, Wichita Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the Supplemental Agreement; and authorize the necessary signatures.

7. *Federal Aviation Administration – Lease No. DTFASW-10-L-00042 1761 Airport Road – Wichita Mid-Continent Airport.

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

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

None

XI. COUNCIL MEMBER APPOINTMENTS

1. Plumbing Board Appointments.
(Deferred June 23, 2009)

RECOMMENDED ACTION: Approve the Appointments.

2. Board Appointments.

RECOMMENDED ACTION: Approve the appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 17A)

1. Report of Board of Bids and Contracts dated July 6, 2009.
   a. Board of Bids and Contracts.

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

2. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2009	(Consumption off Premises)
Wal-Mart Stores, Inc.	Wal-Mart Supercenter #1507	3030 North Rock Road

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

3. Preliminary Estimates:
   a. Preliminary Estimates dated July 6, 2009. (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:
    a. Meridian Improvement, 71st Street South to 47th Street South. (District IV)
    b. Petition for Sanitary Sewer in Gray's 6th Addition and an unplatted tract, south of MacArthur, west of Hoover. (District IV)
    c. Petition to design improvements to the K-96/Greenwich Interchange. (District II)
    d. Petition to construct 21st Street Deceleration Lane east of Webb. (District II)
    e. Petition to construct a Storm Water Drain in two unplatted tracts, north of Kellogg, east of Maize. (District V)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Statement of Costs:
    a. Statement of Cost. (See Attached)

RECOMMENDED ACTION: Approve and file.

6. Agreements/Contracts:
    a. KDOT Construction Agreements. (Districts I, IV, and VI)
    b. Renewal of Contract – Kansas Department of Agriculture Food Service Establishment Inspection Contract.
    c. Encroachment Agreement with Quest Pipeline. (District V)
    d. Program Management Services for Water Supply Projects-Supplemental Agreement.

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

7. Change Orders:
    a. Storm Water Drain for an area south of 29th Street North, along Maize. (District V)
    b. MacArthur Improvement between Meridian and Seneca. (District IV)
    c. Kellogg-Rock Interchange. (District II)
    d. Waterline extension at Ridge and K-42 Highway. (District IV)

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

8. Property Acquisitions:
    a. Acquisition of a Portion of 789 North Saint Paul for the 9th Street Drainage Outfall Project. (District VI)
    b. Acquisition of Sewer Easement at 10915 West Kellogg for the Lateral 23, Main 13 Southwest Interceptor Sewer Project at West Kellogg and 111th. (District IV)
    c. Acquisition of Sewer Easements in the 15300 Block of East Kellogg/US Highway 54 for the Crestview Country Club Interceptor, Phase II. (District II)
    d. Acquisition of Sewer Easement in the 15300 Block of East Kellogg Drive for the Crestview Country Club Interceptor, Phase II. (District II)
    e. Acquisition of a Portion of 3432 and 3426 West 8th Street for the 9th Street Drainage Outfall Project. (District VI)
    f. Acquisition of a Portion of 792 North Sheridan for the 9th Street Drainage Outfall Project. (District VI)
    g. Acquisition of a Portion of 797 North Mount Carmel for the 9th Street Drainage Outfall Project. (District VI)
    h. Partial Acquisition of 1459 South Greenwich for the Greenwich: Harry to Kellogg Improvement Project. (District II)
    i. Partial Acquisition of 930 South Greenwich for the Greenwich: Harry to Kellogg Improvement Project. (District II)
    j. Partial Acquisition of 550 East 47th Street South for the I-135/47th Street South Interchange Project. (District III)
    k. Partial Acquisition of Land in the East Half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West for the integrated Local Water Supply Plan. (County)
    l. Partial Acquisition of 1624 East Morris for the Hydraulic: Harry to Kellogg Improvement Project. (District I)
    m. Partial Acquisition of 1619 East Morris for the Hydraulic: Harry to Kellogg Improvement Project. (District I)
    n. Partial Acquisition of 10919 East Harry for the Greenwich: Harry to Kellogg Improvement Project. (District II)
    o. Partial Acquisition of 11148 East Harry for the Greenwich: Harry to Kellogg Improvement Project. (District II)
    p. Right of Entry to 4716 South Santa Fe for the I-135/47th Street South Interchange Project. (District III)
    q. Partial Acquisition of 15403 West Hendryx for the Goddard School 2nd Addition Sanitary Sewer Project, East of 167th Street and North of West Kellogg. (District V)

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

9. Minutes of Advisory Boards/Commissions

Wichita Historic Preservation Board, May 11, 2009
District IV Advisory Board, April 1, 2009
District IV Advisory Board, May 6, 2009
Wichita Public Library, May 1, 2009
Board of Electrical Appeals, April 14, 2009
Police and Fire Retirement Board, April 22, 2009

RECOMMENDED ACTION: Receive and file.

10. Senior Management Report, April 2009.

    RECOMMENDED ACTION: Receive and file.

11. Senior Management Report, May 2009.

    RECOMMENDED ACTION: Receive and file.

12. General Obligation Bond and Note Sale.

    RECOMMENDED ACTION: Adopt the resolution authorizing the general obligation bond and note sales; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form "deemed final" for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(l), subject to revision, amendment and completion in the final Official Statement; and, 4) authorizing publication of the Notice of Sale.

13. Prisoner Reentry Program Memorandum of Agreement.

    RECOMMENDED ACTION: Approve a One Year Memorandum of Agreement with the Kansas Department of Corrections (DOC) for a City Housing Specialist who will provide housing counseling and related services to facilitate the reintegration of ex-offenders into the community after release from DOC facilities.

14. Settlement of Lawsuit.

    RECOMMENDED ACTION: Authorize payment of $50,000.00 as a full settlement of all possible claims which were made or could have been made in the claim.

15. Landfill Gas Collection System for the closed Chapin Landfill. (District III)

    RECOMMENDED ACTION: Approve construction of LFT Collection System and authorize the necessary budget transfers.

16. Diesel Emissions Reductions Grants.

    RECOMMENDED ACTION: Affirm the grant applications.

17. Second Reading Ordinances: (First Read June 23, 2009)
    a. List of Second Reading Ordinances. (See Attached)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

Agenda Item No. II-1.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Petition to construct a sanitary sewer for an area south of 35th Street North, at Salina (District VI)

INITIATED BY: Department of Public Works

AGENDA: Unfinished Business

Recommendation: Approve the petition.

Background: On June 9, 2009 the City Council considered a petition to construct a sanitary sewer for an area south of 35th Street North, at Salina. The City Council deferred action to ensure all property owners within the improvement district have been notified. The signatures on the petition represent 2 of 3 (67%) resident owners and 65% of the improvement district area. District VI Advisory Board sponsored a May 4, 2009, neighborhood hearing on the project. Due to citizen opposition, the Board voted 9-1 to recommend that the petition not be approved. However, since the petition is a valid petition, the City Council should consider whether or not to proceed with the project. The property owners have been notified of the City Council public hearing date.

Analysis: The project will construct a sanitary sewer for two single family homes that are on private septic tank systems. The Environmental Services Department has advised that one of the septic tank systems is failing.

Financial Considerations: The estimated project cost is $27,000 with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties is $13,500 per lot. Since this project provides city sewer to an existing residential neighborhood, the proposed assessments are figured on a 20 year bond basis.

Goal Impact: This project addresses the Efficient Infrastructure goal by extending a sanitary sewer in a residential area.

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

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

Attachments: Map, CIP sheet, assessment roll, petition and resolution.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-188

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 154, MAIN 4, SANITARY SEWER NO. 23 (SOUTH OF 35TH ST. NORTH, EAST OF SENECA)) 468-84613 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 154, MAIN 4, SANITARY SEWER NO. 23 (SOUTH OF 35TH ST. NORTH, EAST OF SENECA) 468-84613 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 154, Main 4, Sanitary Sewer No. 23 (south of 35th St. North, east of Seneca) 468-84613.

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

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Twenty-Seven Thousand Dollars ($27,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after March 1, 2009, exclusive of the costs of temporary financing.

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

WALNUT GROVE ADDITION

Tract 1: West 126.6 feet of lot 15

Tract 2: Beginning northeast corner of lot 14: south 540 feet west 80.67 feet north 540 feet east 80.67 feet to beginning

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

That the method of assessment of all costs of the improvement for with the improvement district shall be liable shall be on a fractional basis with each tract paying (1/2) of the total amount assessed to the benefit district. With all tracts being described above.

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

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

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

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

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

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

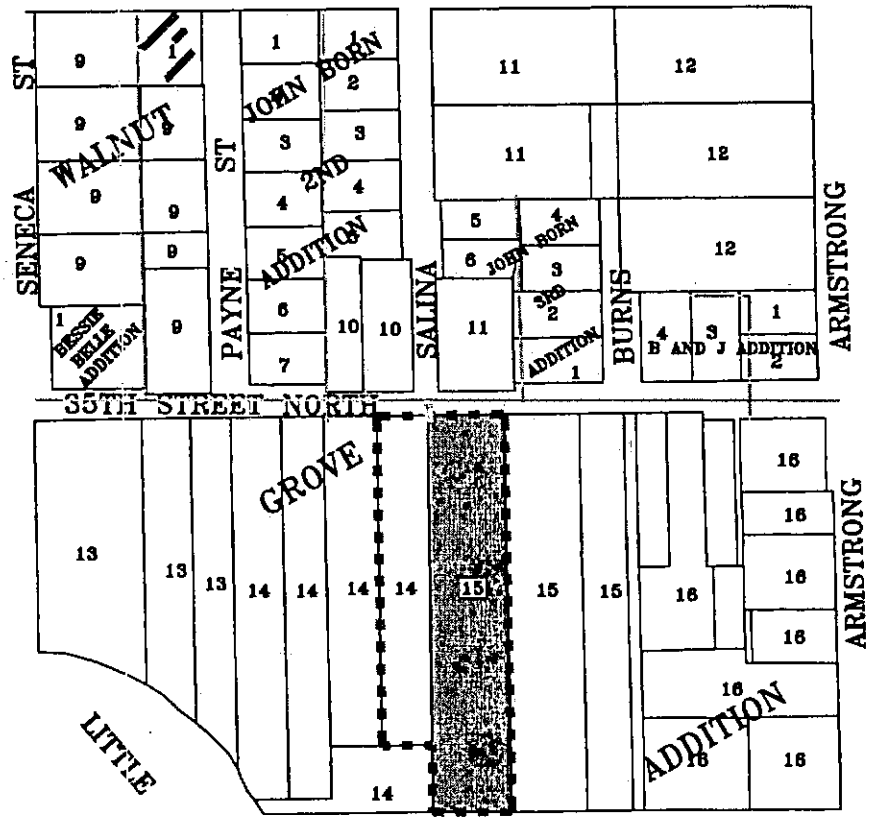
PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

PROPOSED SANITARY SEWER TO SERVE PART OF LOT 14 & 15, WALNUT GROVE ADD.



RESIDENT OWNERS SIGNED (67%)
AREA SIGNED (65%)

IMPROVEMENT DISTRICT BOUNDARY

PROPOSED SANITARY SEWER

EXISTING SANITARY SEWER

THE CITY OF WICHITA

CITY ENGINEER'S OFFICE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	5/18/2009	Sanitary Sewer for Lots 14 and 15, Walnut Grove Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		$27,000		$27,000
Sidewalk				
Water				
Other				
Totals		$27,000		$27,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

65% Petition

* Sanitary Sewer Utility

468-84613

13. Recommendation: Approve the Petition and Adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
[signature]	[signature]	[signature] Date 5-26-09	Date

Estimated assessments for Sanitary Sewer to serve						05/19/09	
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Annual Payment**	Resident Owners
WALNUT GROVE ADD.							
A 14370	MILLER_ANDREW D & LACEY A	1231 W 35TH ST N	W 126.6 FT LOT 15	83582.41	$13,500	$1,083	2
A 14366	TURNER_CARMAN J	1301 W 35TH ST N	BEG NE COR LOT 14 S 540 FT W 80.67 FT N 540 FT E 80.67 FT TO BEG	44144.01	$13,500	$1,083	1
			Total:	127,726	$27,000		3

Abbreviations:
etal. = and others
etux. = and wife
etvir. = and husband
nr = non resident

* Estimated assessment for sanitary sewer construction based on a fractional basis excluding inflation, and/or temporary financing.
This cost does not include the Sewer Plant Equity Fee, approximately $1350 for a residential property, or for installation of the private sewer line.

** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 20 years (last bond sale 4.09%)

SANITARY SEWER PETITION

L154 M4 SS#23
05/21/2009

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

468-84613

Walnut Grove Addition
Tract 1: West 126.6 feet of lot 15
Tract 2: Beginning northeast corner of lot 14: south 540 feet west 80.67 feet north 540 feet east 80.67 feet to beginning

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

(a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements being **Twenty Seven Thousand Dollars ($27,000),** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after **March 1, 2009.**

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

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

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a **Fractional** basis with each

tract paying (**1/2**) of the total amount assessed to the benefit district. With all tracts being described above.

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

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

(b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
Walnut Grove Addition		
W 126.6 FT LOT 15	MILLER_ANDREW D & LACEY A	
BEG NE COR LOT 14 S 540 FT W 80.67 FT N 540 FT E 80.67 FT TO BEG	TURNER_CARMAN J	

AFFIDAVIT

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

Lacey A Miller
Andrew D Miller
Name

1731 W 38th N
Address

316-992-6614
Telephone Number

Sworn to and subscribed before me this 1st day of April, 2009.

Deputy City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Public Hearing and Second Amendment of Redevelopment Plan - Douglas and Hillside Redevelopment District (District II)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendations: Close the public hearing, approve the amended project plan and approve first reading of the ordinance.

Background: On August 15, 2006, the City Council adopted an ordinance establishing a redevelopment district in the area of Douglas Avenue and Hillside, for the purpose of providing tax increment financing (TIF) to pay a portion of the costs of constructing a commercial redevelopment project in that area. On February 13, 2007, the City Council approved the TIF Project Plan. On January 15, 2008, the City Council approved an amendment to the TIF Project Plan and Development Agreement. Since that time, College Hill Urban Village, LLC ("Developer") has made changes to the redevelopment project and has requested an amendment to the TIF Project Plan and Development Agreement in order to proceed with the project. Amendment of TIF project plans requires holding a new public hearing at a time and place set by resolution by the City Council.

Analysis: The TIF Project Plan approved by the City Council in 2007 consisted of land acquisition, demolition of remaining structures in the Project Area, landscaping, construction of a pocket park with public art and a portion of street improvement costs, all to be financed with TIF. The cost of utility relocations and the balance of street improvement costs are to be financed with special assessments on the private property in the project. The private development consisted of a 14-story high-rise tower, with 87 residential condominium units and underground parking, over 50 brownstone-type row houses with built-in 2-car garages, a four-story building of residential flats and retail buildings with loft apartments above, with adjacent parking lots. The original Project Plan also included a roundabout as an aesthetic feature.

The 2008 Project Plan amendment removed the roundabout due to Fire Department access concerns and replaced it with decorative entry features at the same cost. The first amendment also included the purchase of three additional properties within the redevelopment district using TIF funds. The amended Project Plan increased the residential condominium units from 87 to 94 and the Brownstones from 50 to 65; phase two included 3,800 sq ft of retail space; the Clubhouse/Pool was removed from phase three and the Project Area was increased to include the properties that were to be purchased. The additional property and design change increased the TIF eligible development costs by $1,180,000 to $5,630,000.

The Developer has recently made additional changes to the project site plan based on changing construction costs and real estate market conditions. The underground parking for the condominium tower has been replaced with an attached above-grade parking garage due to the high cost related to constructing a below ground parking structure. The Brownstone complex surrounding the condo tower will be reduced to accommodate the parking garage.

The amended Project Plan reduces the total number of Brownstones by 21; decreases the units in the condo tower from 94 to 83; eliminates retail space at Victor and Rutan; increases the number of lofts from 5 to 15 and increases the number of flats from 29 to 42. The overall estimated value of the project has increased slightly based on recent sales of Brownstone and condo tower units.

The Developer no longer plans to purchase the property at 3225 Victor Place. The $150,000 cost of the property, and additional savings from property acquisition, are proposed to be reallocated from land acquisition to public improvements in the TIF eligible expenses. No increase in the limit of TIF funding is required to support the changes.

The changes in the development plan have affected the paving of Victor, Rutan and 1st Street within the development, creating additional paving costs. A change order to the contract with Kansas Paving, Inc. will be prepared for the cost of the additional work and brought to the City Council for approval, along with a supplemental design agreement with Poe and Associates, paving project consultant engineer, and a revised petition for special assessment financing.

Financial Considerations: The current TIF-bond financing structure calls for the issuance of general obligation bonds, which are secured solely by TIF revenues generated by the property within the TIF district. The project plan amendment will not increase the TIF eligible project costs of $5,630,000. Net savings in TIF-funded land acquisition costs in the amount of $398,000 are proposed to be reallocated to cover the increased costs of the paving contract and other contingencies.

Goal Impact: Economic Vitality and Affordable Living, Quality of Life, Core Area and Neighborhood. Redevelopment of blighted areas, and declining areas, are needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections

Legal Considerations: Pursuant to state law, the resolution setting the public hearing on the proposed TIF project plan amendments was published on two consecutive weeks in the City's official newspaper. The attached ordinance, amendment to the TIF project plan, change order and supplemental design agreement have been reviewed by the Department of Law and approved as to form. Adoption of the ordinance approving the project plan amendments requires a two-thirds majority vote of the City Council.

Recommendation/Action: It is recommended that City Council close the public hearing and approve the first reading of the ordinance approving the Second Amendment to the Douglas and Hillside Redevelopment District Project Plan.

Attachment(s):

- Ordinance approving the amendment of the Project Plan for the Douglas and Hillside Redevelopment District;
- Amended Douglas and Hillside Redevelopment District Project Plan.

ATTACHMENT A

SECOND AMENDMENT
DOUGLAS AND HILLSIDE REDEVELOPMENT DISTRICT
PROJECT PLAN
July 7, 2009

THIS Second Amendment to the Douglas and Hillside Redevelopment District Project Plan is dated July 7, 2009 with respect to the following facts and objectives:

A. The City of Wichita, Kansas (the "City") adopted a Project Plan (the "Project Plan") with respect to redevelopment by College Hill Urban Village, LLC (the "Developer") of certain real property located adjacent to the intersection of Rutan Avenue and Victor Place in Wichita, Kansas (the "Project Area").

B. The City amended the Project Plan to include additional property to the Project Area, to increase the amount of Eligible Project Costs to include the cost to acquire and improve additional property and to make other conforming changes to the Project Plan.

C. The Project Plan identifies specific components of the project that will be constructed and includes an itemized budget of TIF expenditures.

D. The Developer desires to amend the Project Plan to modify the construction components and to re-allocate eligible expenditures from property acquisition to infrastructure improvements.

NOW, THEREFORE, the Project Plan is hereby amended as follows:

Section 1. The Project site plan and description of proposed project for the Douglas and Hillside Redevelopment District is hereby amended to include the following changes:

Northeast Brownstone Complex – The brownstone-type row houses to be constructed will be reduced from 17 to 16. Ground floor retail in the southwest corner of the complex will be eliminated.

Condominium Tower and Brownstone Complex – Underground parking for the condominium tower will be replaced with an above ground parking garage. Brownstones surrounding the tower will be reduced from 24 to 9 units to accommodate the parking garage.

South Project Retail/Residential Complex – The brownstone-type row houses will be replaced with residential lofts and flats. The number of Lofts will increase from 5 to 15 units. Residential will increase from 29 to 42 units.

Section 2. The list of Eligible Project Costs is amended as shown in Exhibit A attached hereto.

Section 3. The Comprehensive Financial Feasibility Study for the College Hill Urban Village Project is hereby amended by replacing Exhibits III and IV with those attached hereto as Exhibit B.

Section 4. All other terms and provisions of the Project Plan shall remain unchanged and in full force and effect.

CITY OF WICHITA, KANSAS

By:_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, City Attorney

EXHIBIT A

College Hill Urban Village Project
(Parkstone)

Related Public Improvements Development Budget

Budget Item	Not-to-exceed Cost
Property Acquisition	$3,300,000
Demolition and Site Preparation	$130,000
Public Improvements*	$2,000,000
Contingency	$200,000
Total Related Public Improvements Financed by Tax Increment Financing	**$5,630,000**

* Public Improvements include street improvements, utility relocations and extensions, landscaping, development of a pocket park with public art, street lighting, public parking lots and entry features. Any additional street and/or utility costs will be financed by Special Assessment Financing. Such special assessments will be imposed on Private Improvement Land and Additional Private Improvement Land only.

Exhibit B

EXHIBIT III

Projected Tax Increment Report

City of Wichita, Kansas
Douglas and Hillside Redevelopment District
College Hill Urban Village Project

Levy & Appraised Year (1)	Year Taxes Distributed (2)	Total Assessed Value (3)	Original Assessed Value (4)	Captured Assessed Value (5)	Mill Rate (6)	Tax Increment Collected (a) (7)	Less: City Admin. Fee (9)	Net Tax Increment (10)
2008	2009	697,013	672,061	24,952	95.742	2,389	0	2,389
2009	2010	706,832	672,061	34,771	95.742	3,329	0	3,329
2010	2011	1,978,959	672,061	1,306,898	95.742	125,125	0	125,125
2011	2012	6,951,134	672,061	6,279,073	95.742	601,171	0	601,171
2012	2013	10,023,286	672,061	9,351,225	95.742	895,305	0	895,305
2013	2014	10,163,549	672,061	9,491,488	95.742	908,734	0	908,734
2014	2015	10,305,921	672,061	9,633,860	95.742	922,365	0	922,365
2015	2016	10,450,434	672,061	9,778,373	95.742	936,201	0	936,201
2016	2017	10,597,110	672,061	9,925,049	95.742	950,244	0	950,244
2017	2018	10,745,978	672,061	10,073,917	95.742	964,497	0	964,497
2018	2019	10,897,093	672,061	10,225,032	95.742	978,965	0	978,965
2019	2020	11,050,463	672,061	10,378,402	95.742	993,649	0	993,649
2020	2021	11,206,142	672,061	10,534,081	95.742	1,008,554	0	1,008,554
2021	2022	11,364,150	672,061	10,692,089	95.742	1,023,682	0	1,023,682
2022	2023	11,524,540	672,061	10,852,479	95.742	1,039,038	0	1,039,038
2023	2024	11,687,321	672,061	11,015,260	95.742	1,054,623	0	1,054,623
2024	2025	11,852,556	672,061	11,180,495	95.742	1,070,443	0	1,070,443

Exhibit B

EXHIBIT IV

Projected Bond Cash Flow Report

City of Wichita, Kansas
Douglas and Hillside Redevelopment District
College Hill Urban Village Project

Annual Period Ending (1)	Principal (2)	G.O. Taxable Rate (3)	Interest (4)	P&I (5)	Net Tax Increment (7)	Annual Balance (8)	Cumulative Balance (9)
9/1/2010		5.86%		-	3,329	3,329	3,329
9/1/2011		5.86%		-	125,125	125,125	128,454
9/1/2012	70,000	5.86%	395,534	465,534	601,171	135,637	264,091
9/1/2013	300,000	5.86%	391,429	691,429	895,305	203,876	467,968
9/1/2014	325,000	5.86%	373,836	698,836	908,734	209,898	677,865
9/1/2015	355,000	5.86%	354,778	709,778	922,365	212,587	890,452
9/1/2016	390,000	5.86%	333,960	723,960	936,201	212,241	1,102,693
9/1/2017	420,000	5.86%	311,091	731,091	950,244	219,153	1,321,846
9/1/2018	455,000	5.86%	286,461	741,461	964,497	223,036	1,544,882
9/1/2019	495,000	5.86%	259,780	754,780	978,965	224,185	1,769,067
9/1/2020	535,000	5.86%	230,752	765,752	993,649	227,897	1,996,964
9/1/2021	580,000	5.86%	199,379	779,379	1,008,554	229,175	2,226,139
9/1/2022	630,000	5.86%	165,368	795,368	1,023,682	228,314	2,454,453
9/1/2023	675,000	5.86%	128,424	803,424	1,039,038	235,614	2,690,067
9/1/2024	730,000	5.86%	88,841	818,841	1,054,623	235,782	2,925,849
9/1/2025	785,000	5.86%	46,033	831,033	1,070,443	239,410	3,165,259
	6,745,000		3,565,666	10,310,666	13,475,925	3,165,259	

PUBLISHED IN THE WICHITA EAGLE ON July 17, 2009 028001

ORDINANCE NO. 48-364

AN ORDINANCE ADOPTING A SECOND AMENDMENT TO THE PROJECT PLAN FOR THE DOUGLAS AND HILLSIDE REDEVELOPMENT DISTRICT

WHEREAS, by Ordinance No. 47-098 adopted August 15, 2006, the City of Wichita established a redevelopment district pursuant to K.S.A. 12-1770 et. seq., as amended, known as the Douglas and Hillside Redevelopment District; and

WHEREAS, by Ordinance No. 47-342 adopted February 13, 2007, the City of Wichita has adopted a Project Plan for the Douglas and Hillside Redevelopment District, and has transmitted documentation for said adoption in accordance with K.S.A. 12-1776; and

WHEREAS, by Ordinance No. 47-753 passed January 15, 2008, the City adopted an amendment to the Project Plan for the Douglas and Hillside Redevelopment District; and

WHEREAS, the Developer has amended the site plan to address changing construction costs and real estate market conditions and desires to reallocate cost savings from property acquisition to infrastructure improvements to pay for increased construction costs; and

WHEREAS, the City and Developer desire to amend the Project Plan to include the changes in the site plan in the project description and to re-allocate savings from property acquisition to infrastructure improvements in the TIF eligible expenses to pay for increased construction costs; and

WHEREAS, the Governing Body of the City of Wichita, Kansas, by Resolution number R-09-185 adopted June 23, 2009, set a public hearing to consider the adoption of the second amendment to the Douglas and Hillside Project Plan on the 7th day of July, 2009, at 9:00 a.m. or thereafter, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas; and

WHEREAS, the Governing Body is authorized following the public hearing to adopt the Second Amendment to the Project Plan by Ordinance passed upon a two-thirds vote.

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

1. The Second Amendment to the Douglas and Hillside Project Plan is attached hereto as Attachment A, and is incorporated by reference as though fully set forth herein. Said amendment is hereby adopted as the Second Amendment to the Project Plan for the Douglas and Hillside Redevelopment District.

2. This Ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

ADOPTED AND PASSED BY THE GOVERNING BODY, not less than two-thirds (2/3) of the members elect voting in favor thereof July 14, 2009.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, City Attorney

Agenda Item No. III-2.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Intrust Bank Arena parking lot improvements (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the proposed parking lot improvements.

Background: On December 16, 2008, the City Council approved an agreement with Sedgwick County which provides $5 million in County funding for Intrust Bank Arena street and parking lot improvements with the work to be administered by the City. The City will own and maintain the parking lots. On April 28, 2009, the City Council approved agreements with Baughman Company and Ruggles & Bohm to prepare construction plans for the parking lot improvements.

Analysis: The parking lots are located at: Lewis & Emporia, Kellogg & St. Francis, William & Broadway and Waterman & Mead. The work will include new and/or expanded parking areas, resurfacing, lighting, pavement marking and landscaping.

Financial Considerations: The project budget is $3,000,000. Funding source is Sedgwick County.

Goal Impact: The project addresses the Efficient Infrastructure and Vibrant Downtown Goals by improving the area around the Intrust Bank Arena.

Legal Considerations: None.

Recommendation/Action: It is recommended that the City Council approve the parking lot improvements.

Attachment: None.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Bridge at Chisholm Creek Tributary located north of 29th Street North, east of Oliver (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The heavy rains in April damaged an old wooden bridge over Chisholm Creek Tributary No. 5 located north of 29th Street North, east of Oliver. The bridge has been closed and it is impractical to attempt repairs.

Analysis: The bridge provides access to two homes and an undeveloped area. Without the bridge, residents do not have access to 29th Street. They city has constructed a temporary access across an adjacent property. A replacement bridge or culvert needs to be constructed as soon as possible.

Financial Consideration: Estimated project cost is $300,000. The project is proposed for programming in the 2009-2018 Capital Improvement Program, but staff recommends that we proceed with the project now as an emergency. The proposed funding source is General Obligation bonds.

Goal Impact: This project addressed the Efficient Infrastructure goal by replacing a bridge that was destroyed.

Legal Considerations: The Law Department has approved the authorizing resolution as to legal form.

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

Attachments: Map, CIP sheet and resolution.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-189

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT A BRIDGE ON CHISHOLM CREEK TRIBUTARY NO. 5 LOCATED NORTH OF 29TH STREET NORTH, EAST OF OLIVER (472-84834).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The design and construction of a bridge.

SECTION 2: The total cost is estimated not to exceed $300,000, exclusive of the costs of interest on borrowed money, with the total paid by the issuance of bonds by the City of Wichita at large.

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.

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

N
Oliver Avenue
5851C
36
Bridge Location
29th Street North
5850D
1
BEACON HILL ST
5750A
2

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	Bridge at Chisholm Creek Tributary No. 5

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
B-		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts	$300,000			$300,000
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals	$300,000			$300,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

* KDOT

472-84834

13. Recommendation: Approve the project and resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Broadway Bridge at 34th Street South (District III)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the design project and agreement.

Background: In August, 2007, the Broadway Bridge near 34th Street South was closed to traffic due to major structural defects. Emergency repairs were made to the bridge to put it back into service as soon as possible, but at a limited capacity. The Kansas Department of Transportation has advised that federal funds are available to fund part of the cost of designing improvements for the replacement of the bridge.

Analysis: The proposed agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for designing a replacement of the Broadway Bridge. The Staff Screening and Selection Committee met on January 21, 2009 to interview two consultants (MKEC & PEC) for designing a replacement of the existing bridge. The Staff Screening and Selection Committee selected MKEC based on their clear recognition of all aspects of the scope of the project.

Financial Considerations: Staff is requesting a design budget of $500,000 with $100,000 paid by City General Obligation bonds and $400,000 by federal grants administered by the Kansas Department of Transportation. The project is scheduled to be programmed in the 2009-2018 Capital Improvement Program. The MKEC design fee is $424,250. Once the design options are identified, an alternative chosen, and the possibility of federal or state funding determined, the project will be returned to Council for approval of construction funding.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving a bridge on an important transportation route.

Legal Considerations: The agreement and authorizing ordinance have been approved as to form by the Law Department

Recommendation/Action: It is recommended that the City Council approve the project, approve the agreement, place the ordinance on first reading and authorize the signing of state/federal agreements as required.

Attachments: Map, CIP sheet, agreement and ordinance.

132019

First Published in the Wichita Eagle on July 17, 2009

ORDINANCE NO. 48-360

AN ORDINANCE DECLARING **THE BROADWAY BRIDGE AT 34TH STREET SOUTH (472-84830)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. l2-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. l2-685 et seq., and

WHEREAS, K.S.A. l2-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. l2-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

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

SECTION l. That **the Broadway Bridge at 34th Street South (472-84830)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. l2-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **the Broadway Bridge at 34th Street South (472-84830)** as a main trafficway in the following particulars:

The design of a bridge as necessary for a major traffic facility.

SECTION 3. SECTION 3. The costs of the design of the above described improvement is estimated to be **Five Hundred Thousand Dollars ($500,000)** exclusive of the cost of interest on borrowed money, with $100,000 paid by the City of Wichita and $400,000 by Federal Transportation Grants

Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689.

SECTION 4. The above described main trafficway improvement shall be made in accordance with Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvement described herein is hereby authorized under the provisions of K.S.A. l2-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 14th day of July, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

31st Street South
W 31ST ST S
31ST ST S
S WICHITA ST
S WACO AVE
W 32ND ST S
S PALISADE AVE
W PATTERSON AVE
E PATTERSON ST
Broadway Avenue
W BENWAY ST
S WACO ST
W 34TH ST S
N
W CARLYLE ST
W 35TH ST S
S TOPEKA AVE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	Broadway Bridge at 34th St South

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
B-		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts	$100,000		$400,000	$500,000
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals	$100,000		$400,000	$500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

* KDOT

472-84830

13. Recommendation: Approve the project, agreement and ordinance

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

BROADWAY BRIDGE AT 34TH STREET SOUTH

THIS AGREEMENT, made this _____ day of _____, 2009, 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;

BROADWAY BRIDGE AT 34TH STREET SOUTH
(Project No. 472 84830)

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing a replacement of the Broadway Bridge at 34th Street South 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.

A. 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.

B. 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 based upon the ENGINEER'S actual costs and may be less than the estimated amount. Payment shall be full compensation for salary costs, expenses, overhead (overhead to be applied to straight-time salary cost only with premium overtime reimbursed at cost), profit, subcontracting and all other costs required in performing the work described herein. Overhead includes fringe benefits. The test of the allowability to be applied for this agreement shall be based on the provisions of the agreement and on the reasonableness of allocation of costs under generally accepted accounting principles and practices. Overhead costs shall be computed by multiplying an Overhead Factor times the actual salaries or wages paid to personnel assigned to the PROJECT. The Overhead Factor shall be 1.434 percent for the work required by this agreement. The ENGINEER shall submit to CITY the basis for the overhead rate prior to any payments.

Total payments to the ENGINEER for the preparation of the work associated with the PROJECT shall include the actual costs accruing in the performance of the professional services as outlined in this agreement which are estimated to amount to $384,250.41 plus a fee for profit which shall be eleven and three tenths (11.30) percent of the ENGINEER'S actual costs so that the total payments shall not exceed the sum of $424,250.41 and shall generally be in accordance with the estimate provided as Exhibit C. Profit shall not be applied to subcontractors, i.e., landscape architectural services, geotechnical services, etc.; or to direct expenses such as plan reproduction, CAD system services, etc.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of the costs accrued to the PROJECT plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs. Accumulated partial payments for the PROJECT shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement.

A. 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,

Exhibit "A"

SCOPE OF SERVICES

BROADWAY BRIDGE AT 34TH STREET SOUTH

(Project No. 472 84830)

The ENGINEER shall provice a design for replacement of the existing bridge. The design shall consider possible options for the type of bridge to be constructed, including in-depth coordination with the Union Pacific Railroad (UPRR) beneath. The new bridge will include four travel lanes, minimum six foot sidewalk on both sides, and lighting, at a minimum.

During the Discovery/Concept Phase the ENGINEER is to meet with the area businesses, the respective District Advisory Board (DAB), the City's Design Council and City staff, and the UPRR as needed. A written document is to be prepared by the ENGINEER stating the scope of physical improvements to be included in the project, and design goals and issues to be addressed, including coordination with and requirements of the UPRR. The ENGINEER is to prepare conceptual design alternatives with construction cost estimates for each, to respond to the design criteria and project scope identified and approved early in the Discovery/Concept Phase. The ENGINEER is to make presentations of the conceptual design alternatives to the necessary associations and boards, City staff, and to the City Council, and revise the designs as necessary to secure approval by the City Council of a final concept. A preliminary cost estimate of the approved concept is to be prepared by the ENGINEER as part of the Discovery/Concept Phase.

Tract maps to identify right-of-way requirements are part of the Discovery/Concept Phase. This project will include relocation of utilities as necessary. The project design is partially funded by KDOT. Construction may be partially funded by KDOT. Contact Gary Janzen.

- Concept plans are due August 2009.
- Field Check plans are due February 2010.
- Office Check plans are due August 2010.
- Final plans are due November 2010.

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts.

The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.

3. Meet with Public. Meet with interested neighborhood residents and property owners to ascertain neighborhood concerns and assess possible traffic control problems during construction.

4. Prepare and Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Evaluate feasible options and recommend a lead option that satisfies the project's goals. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

5. Prepare Preliminary Design Concept Documents. Develop the concept design of a preliminary design concept selected by the City Engineer for the City of Wichita prior to progressing to detail aspects of the work.
   a. Concept Strip Map. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
   b. Construction Cost Estimate: Prepare a concept-level construction cost estimate
   c. Preliminary Street and Storm Water Sewer Alignments and Profiles: Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
   d. Preliminary Water Line Alignments and Profiles. Preliminary water alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work.

6. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.

7. Presentation to Public Works Staff. Present the findings of the discovery phase design, including drainage study, to the appropriate Public Works Department staff members. Prepare displays, drawings and materials, necessary to adequately present the findings to staff members.

8. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in power point presentation.

9. Prepare Right-of-Way Tract Maps. Identify right-of-way requirements for the preliminary concepts developed. Such right-of-way requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions.

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 if not included in the ENGINEER'S fee estimate. However, all bridge projects shall include the cost of soils and boring investigations in the ENGINEER'S fee.

4. Prepare Permit Applications. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.

5. Office Check Plans. When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review.

   a. Construction Drawings. Submit three (3) sets of office check plans to the CITY and, if required, two (2) additional sets of office check plans for forwarding to KDOT. Office check plans shall include traffic signalization details, lighting details, landscaping details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction." Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals.

   b. Construction Cost Estimate. Prepare and submit an office check construction cost estimate for the proposed improvements and submit with the Office Check Plans. The estimate is to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.

   c. Supplemental Specifications. Prepare and submit one (1) copy of supplemental specifications for portions of the work that are not covered under the CITY's or KDOT's current standard specification.

   d. ENGINEER to participate in an office check of the PROJECT with the CITY and with KDOT when required.

6. 2nd ULCC Meeting. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer. 2nd ULCC. Submit fifteen (15) sets of office check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of office check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council. Prepare a list of potential conflicts between each utility and the proposed improvements for distribution as well.

7. Design Council. ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise. (It should be

12. Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Staking and Inspection. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.

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

Exhibit "C"

CITY OF WICHITA, SEDGWICK COUNTY
SOUTH BROADWAY BRIDGE AT 34TH STREET SOUTH

PE Estimate
MKEC Engineering Consultants, Inc
May, 2009

		Work Type	Proj. Mgr.	Sr. Engr./ L.A.	Engr./ L.A.	Tech.	Cler.	2-Man Surv. Crew	Surv. Offc.	Total Hours
PHASE 1 - PRELIMINARY CONCEPT DEVELOPMENT	A.1	Perform Design Surveys	16			60		264	60	400
	2	Agency Coordination	96	32			32			160
	3	Meet with Public	24	56		12	6			98
	4	Prepare and Review Alternative Design Concepts	32	64	64	144	16			320
	5	Prepare Preliminary Design Concept Documents	48	80	108	180	24			440
	5.a	Concept Strip Map								
	5.b	Construction Cost Estimate								
	5.c	Preliminary Street and Storm Water Sewer Alignments and Profiles								
	5.d	Preliminary Water Line Alignments and Profiles								
	6	Drainage Study			58	48				106
	7	Presentation to Public Works Staff	16	16		16	4			52
	8	Public Hearings	32	32			16			80
	9	Prepare Right-of-Way Tract Maps	12			48			96	156
	10	Bridge SI&A	8	16			4			28
	11	Landscape Concept Plan Preparation	8	16	16	44				84
	12	Design Council	16	24		32	24			96
PHASE 2 - PLAN DEVELOPMENT	B.1	ULCC: 1st Meeting	16		32	96	8			152
	2	Prepare Field Check Plans	40	108	144	280	40			612
	2.a	Construction Drawings								
	2.b	Construction Cost Estimate								
	2.c	Field Check Meeting								
	2.d	Right-of-Entry Tract Maps								
	3	Soils and Foundations Investigations (sub-consultant)	8				8			16
	4	Prepare Permit Applications	16		64	48	16			144
	5	Prepare Office Check Plans	124	256	312	596	40			1328
	5.a	Construction Drawings								
	5.b	Construction Cost Estimate								
	5.c	Supplemental Specifications								
	5.d	Office Check Meeting								
	6	ULCC: 2nd Meeting	12		32	60	8			112
	7	Design Council (Design Freeze Review)	16	24		32	24			96
	8	Right-of-Way Marking	4			16		40	16	76
	9	Prepare Final Construction Documents	32	64	92	164	40			392
	9.a	Construction Drawings								
	9.b	Construction Cost Estimate								
	9.c	Supplemental Technical Specifications								
	9.d	Plan Coordinate Information								
	10	Shop Drawing Review	4	20	20		4			48
	11	Public Information Meeting	16	16		16	4			52
	12	Right-of-Way Monumentation	4			20		56	24	104
	13	Staking and Inspection								0
		Total Staff Hours	600	824	942	1912	318	360	196	5152
		Hourly Rate	$38.00	$34.00	$29.00	$22.00	$18.00	$40.00	$26.00	
		Total Staff Comp.	$22,800.00	$28,016.00	$27,318.00	$42,064.00	$5,724.00	$14,400.00	$5,096.00	$145,418.00
		Salary Related and General Overhead								$208,529.41
		Total Payroll Plus Overhead								$353,947.41
		Net Fixed Fee								$40,000.00
		Total Direct Payroll, Overhead and Fixed Fee								**$393,947.41**
		Direct Expenses:								
		Soils and Foundations Investigations								$18,000.00
		Abstractor								$4,000.00
		Postage, Courier, Shipping								$2,000.00
		Printing								$6,000.00
		Mileage		600		@	$0.505			$303.00
		Total Direct Expenses								$30,303.00
		Total Cost Plus Fixed Fee								**$424,250.41**

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

BROADWAY BRIDGE AT 34TH STREET SOUTH

THIS AGREEMENT, made this _____ day of _____, 2009, 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;

BROADWAY BRIDGE AT 34TH STREET SOUTH
(Project No. 472 84830)

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

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing a replacement of the Broadway Bridge at 34th Street South 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 $20,000.00. 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

A. 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.

B. 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 based upon the ENGINEER'S actual costs and may be less than the estimated amount. Payment shall be full compensation for salary costs, expenses, overhead (overhead to be applied to straight-time salary cost only with premium overtime reimbursed at cost), profit, subcontracting and all other costs required in performing the work described herein. Overhead includes fringe benefits. The test of the allowability to be applied for this agreement shall be based on the provisions of the agreement and on the reasonableness of allocation of costs under generally accepted accounting principles and practices. Overhead costs shall be computed by multiplying an Overhead Factor times the actual salaries or wages paid to personnel assigned to the PROJECT. The Overhead Factor shall be 1.434 percent for the work required by this agreement. The ENGINEER shall submit to CITY the basis for the overhead rate prior to any payments.

Total payments to the ENGINEER for the preparation of the work associated with the PROJECT shall include the actual costs accruing in the performance of the professional services as outlined in this agreement which are estimated to amount to $384,250.41 plus a fee for profit which shall be eleven and three tenths (11.30) percent of the ENGINEER'S actual costs so that the total payments shall not exceed the sum of $424,250.41 and shall generally be in accordance with the estimate provided as Exhibit C. Profit shall not be applied to subcontractors, i.e., landscape architectural services, geotechnical services, etc., or to direct expenses such as plan reproduction, CAD system services, etc.

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of the costs accrued to the PROJECT plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs. Accumulated partial payments for the PROJECT shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement.

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

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

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

V. THE PARTIES HERETO MUTUALLY AGREE:

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

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims,

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

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

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

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

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

BY ACTION OF THE CITY COUNCIL

Carl Brewer, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

(Name & Title)

Jay Anglemyer, P.E.

ATTEST:

SCOPE OF SERVICES

BROADWAY BRIDGE AT 34TH STREET SOUTH

(Project No. 472 84830)

The ENGINEER shall provide a design for replacement of the existing bridge. The design shall consider possible options for the type of bridge to be constructed, including in-depth coordination with the Union Pacific Railroad (UPRR) beneath. The new bridge will include four travel lanes, minimum six foot sidewalk on both sides, and lighting, at a minimum.

During the Discovery/Concept Phase the ENGINEER is to meet with the area businesses, the respective District Advisory Board (DAB), the City's Design Council and City staff, and the UPRR as needed. A written document is to be prepared by the ENGINEER stating the scope of physical improvements to be included in the project, and design goals and issues to be addressed, including coordination with and requirements of the UPRR. The ENGINEER is to prepare conceptual design alternatives with construction cost estimates for each, to respond to the design criteria and project scope identified and approved early in the Discovery/Concept Phase. The ENGINEER is to make presentations of the conceptual design alternatives to the necessary associations and boards, City staff, and to the City Council, and revise the designs as necessary to secure approval by the City Council of a final concept. A preliminary cost estimate of the approved concept is to be prepared by the ENGINEER as part of the Discovery/Concept Phase.

Tract maps to identify right-of-way requirements are part of the Discovery/Concept Phase. This project will include relocation of utilities as necessary. The project design is partially funded by KDOT. Construction may be partially funded by KDOT. Contact Gary Janzen.

- Concept plans are due August 2009.
- Field Check plans are due February 2010.
- Office Check plans are due August 2010.
- Final plans are due November 2010.

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts.

The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.

Associated improvements as part of these projects will include permanent traffic signalization system improvements (if required), permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing (when applicable), incidental drainage, sidewalk (when required), identification of additional right-of-way (if required) and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita and the Kansas Department of Transportation (KDOT), and the U.S. Army Corps of Engineers, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept. A landscape architect should be included on the Consultants' Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved.

In addition, the ENGINEER will notify the City Archaeologist, at 316-978-3195 prior to beginning work on this project.

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

A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Perform Design and Property 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. Coordination of utilities and pipelines for the PROJECT by the ENGINEER shall conform to current adopted policies of the City Engineer for Category II projects. Perform necessary property research and perform legal surveys of adjacent properties potentially impacted by the PROJECT.
2. Agency Coordination. Meet with City staff, the Kansas Department of Transportation, and the Union Pacific Railroad, to confirm the project's goals, refine the design scope, establish design criteria and confirm submittal requirements and schedules. Coordination with appropriate agencies is anticipated for proper storm water discharge. Meet with utility companies, including City staff to discuss utility conflict concerns. Gather utility maps and data from each utility. Establish a project contact with each utility company and provide a project schedule noting key project milestones including proposed dates of ULCC meetings. Expense for railroad flagman to accompany survey crews on railroad property will be included under this item.

3. Meet with Public. Meet with interested neighborhood residents and property owners to ascertain neighborhood concerns and assess possible traffic control problems during construction.

4. Prepare and Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Evaluate feasible options and recommend a lead option that satisfies the project's goals. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

5. Prepare Preliminary Design Concept Documents. Develop the concept design of a preliminary design concept selected by the City Engineer for the City of Wichita prior to progressing to detail aspects of the work.

a. Concept Strip Map. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.

b. Construction Cost Estimate. Prepare a concept-level construction cost estimate

c. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.

d. Preliminary Water Line Alignments and Profiles. Preliminary water alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work.

6. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.

7. Presentation to Public Works Staff. Present the findings of the discovery phase design, including drainage study, to the appropriate Public Works Department staff members. Prepare displays, drawings and materials, necessary to adequately present the findings to staff members.

8. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in power point presentation.

9. Prepare Right-of-Way Tract Maps. Identify right-of-way requirements for the preliminary concepts developed. Such right-of-way requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions.

10. Bridge S. I. & A. Perform initial and keep current the inspection/inventory and analysis for completion/update of the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT. ENGINEER shall also provide the CITY with a new S. I. & A. upon completion of the bridge construction, along with the Design Load Ratings ("Load Factor" method) and pictures, with one copy submitted to KDOT Bridge Engineer.

11. Landscape Concept Plan Preparation. When the design has fulfilled the program requirements, submit three (3) sets of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit two (2) sets to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment.

12. Design Council. ENGINEER shall meet with the City's Design Council, to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the *PROJECT should* be presented to the Design Council for review.

B. PHASE II - 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 and as agreed upon at Field Check and/or Office Check Review.

1. 1st ULCC Meeting. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer. 1st ULCC. Submit fifteen (15) sets of field check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of field check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council. Prepare a list of potential conflicts between each utility and the proposed improvements for distribution as well.

2. Prepare Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY.

   a. Construction Drawings. ENGINEER to prepare and submit seven (7) sets of field check plans to the CITY. Plans shall be in the format and at the level of completeness generally required by the CITY and by KDOT at the Field Check review.

   b. Construction Cost Estimate. Prepare and submit a field check construction cost estimate for the proposed improvements and submit with the Field Check Plans.

   c. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required.

   d. Prepare legal descriptions for Right of Entry and submit drawings to the City that are suitable for mailing to property owners. Incorporate Right of Entry limits on the plans.

3. Soils and Foundation Investigations. The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The 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 if not included in the ENGINEER'S fee estimate. However, all bridge projects shall include the cost of soils and boring investigations in the ENGINEER'S fee.

4. Prepare Permit Applications. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.

5. Office Check Plans. When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review.

a. Construction Drawings. Submit three (3) sets of office check plans to the CITY and, if required, two (2) additional sets of office check plans for forwarding to KDOT. Office check plans shall include traffic signalization details, lighting details, landscaping details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction." Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals.

b. Construction Cost Estimate. Prepare and submit an office check construction cost estimate for the proposed improvements and submit with the Office Check Plans. The estimate is to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.

c. Supplemental Specifications. Prepare and submit one (1) copy of supplemental specifications for portions of the work that are not covered under the CITY's or KDOT's current standard specification.

d. ENGINEER to participate in an office check of the PROJECT with the CITY and with KDOT when required.

6. 2nd ULCC Meeting. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer. 2nd ULCC. Submit fifteen (15) sets of office check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of office check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council. Prepare a list of potential conflicts between each utility and the proposed improvements for distribution as well.

7. Design Council. ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise. (It should be

noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

8. Right-of-Way Marking. The ENGINEER shall conduct a one-time marking of all project right-of-way for the purpose of utility relocations. This work shall be performed at a time designated by the CITY.

9. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review.

   a. Construction Drawings. Prepare final engineering plans and submit in the following format ready for reproducing for distribution to prospective bidders:

      i. Electronic versions of the approved final plans for all projects need to be submitted on CD or DVD in both AutoCAD and .pdf format (.dwg format is preferred, .dxf is acceptable). Text fonts other than standard AutoCAD fonts are to be included with drawing files. Pdf files should be scalable to 22"x36" and oriented right side up.

      ii. Two 11"x17" half-scale hardcopies of all plans are required. Four additional half-scale sets are required for all KDOT/Federally funded projects.

      iii. Mylar plans are required for all water projects and any plans that incorporate water line improvements (both CITY and KDOT). Mylar cover sheet only is required for all other KDOT/Federally funded projects for the signature purposes.

      iv. Field notes, other pertinent project mapping records, supplemental specifications, special provisions and cost estimates are to be provided to the City Engineer for the taking of bids as appropriate for the CITY and/or KDOT.

   b. Construction Cost Estimate. Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to CITY or KDOT standards as applicable.

   c. Technical Specifications. Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.

   d. Plan Coordinate Information. All applicable coordinate control points and related project staking information shall be furnished on the plans, as well as on a CD-ROM in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

   e. The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.

   f. ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.

10. Shop Drawing Review. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.

11. Public Information Meeting. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.

12. Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Staking and Inspection. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.

Attachment No. 1 to Exhibit "A"

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita

Environmental Services

1900 E. 9th St. North

Wichita, KS 67214

THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

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.

CITY OF WICHITA, SEDGWICK COUNTY
SOUTH BROADWAY BRIDGE AT 34TH STREET SOUTH

PE Estimate
MKEC Engineering Consultants, Inc
May, 2009

Exhibit "C"

		Work Type	Proj. Mgr.	Sr. Engr./ L.A.	Engr./ L.A.	Tech.	Cler.	2-Man Surv. Crew	Surv. Offc.	Total Hours
PHASE 1 - PRELIMINARY CONCEPT DEVELOPMENT	A.1	Perform Design Surveys	16			60		264	60	400
	2	Agency Coordination	96	32			32			160
	3	Meet with Public	24	56		12	6			98
	4	Prepare and Review Alternative Design Concepts	32	64	64	144	16			320
	5	Prepare Preliminary Design Concept Documents	48	80	108	180	24			440
	5.a	Concept Strip Map								
	5.b	Construction Cost Estimate								
	5.c	Preliminary Street and Storm Water Sewer Alignments and Profiles								
	5.d	Preliminary Water Line Alignments and Profiles								
	6	Drainage Study			58	48				106
	7	Presentation to Public Works Staff	16	16		16	4			52
	8	Public Hearings	32	32			16			80
	9	Prepare Right-of-Way Tract Maps	12			48			96	156
	10	Bridge SI&A	8	16			4			28
	11	Landscape Concept Plan Preparation	8	16	16	44				84
	12	Design Council	16	24		32	24			96
PHASE 2 - PLAN DEVELOPMENT	B.1	ULCC: 1st Meeting	16		32	96	8			152
	2	Prepare Field Check Plans	40	108	144	280	40			612
	2.a	Construction Drawings								
	2.b	Construction Cost Estimate								
	2.c	Field Check Meeting								
	2.d	Right-of-Entry Tract Maps								
	3	Soils and Foundations Investigations (sub-consultant)	8				8			16
	4	Prepare Permit Applications	16		64	48	16			144
	5	Prepare Office Check Plans	124	256	312	596	40			1328
	5.a	Construction Drawings								
	5.b	Construction Cost Estimate								
	5.c	Supplemental Specifications								
	5.d	Office Check Meeting								
	6	ULCC: 2nd Meeting	12		32	60	8			112
	7	Design Council (Design Freeze Review)	16	24		32	24			96
	8	Right-of-Way Marking	4			16		40	16	76
	9	Prepare Final Construction Documents	32	64	92	164	40			392
	9.a	Construction Drawings								
	9.b	Construction Cost Estimate								
	9.c	Supplemental Technical Specifications								
	9.d	Plan Coordinate Information								
	10	Shop Drawing Review	4	20	20		4			48
	11	Public Information Meeting	16	16		16	4			52
	12	Right-of-Way Monumentation	4			20		56	24	104
	13	Staking and Inspection								0
		Total Staff Hours	600	824	942	1912	318	360	196	5152
		Hourly Rate	$38.00	$34.00	$29.00	$22.00	$18.00	$40.00	$26.00	
		Total Staff Comp.	$22,800.00	$28,016.00	$27,318.00	$42,064.00	$5,724.00	$14,400.00	$5,096.00	$145,418.00
		Salary Related and General Overhead								$208,529.41
		Total Payroll Plus Overhead								$353,947.41
		Net Fixed Fee								$40,000.00
		Total Direct Payroll, Overhead and Fixed Fee								$393,947.41
		Direct Expenses:								
		Soils and Foundations Investigations								$18,000.00
		Abstractor								$4,000.00
		Postage, Courier, Shipping								$2,000.00
		Printing								$6,000.00
		Mileage		600		@	$0.505			$303.00
		Total Direct Expenses								$30,303.00
		Total Cost Plus Fixed Fee								$424,250.41

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures (Districts I and III)

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolution.

Background: On May 19, 2009, a report was submitted with respect to the dangerous and unsafe conditions on the properties listed below. The Council adopted a resolution providing for a public hearing to be held on the condemnation actions at 9:30 a.m. or as soon thereafter, on July 7, 2009.

Analysis: On May 4, 2009, the Board of Code Standards and Appeals (BCSA) held hearings on the properties listed below

Property Address	Council District
a. 1412 East 11th Street North	I
b. 1025 North Estelle	I
c. 1410 North Lorraine	I
d. 1411 North Loraine	I
e. 4316 East Bayley	III
f. 1437 South Wichita (rear)	III

Detailed information/analysis concerning these properties are included in the attachments.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional $500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on May 22, 2009 and May 29, 2009. A copy of each 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 resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSA recommended actions 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 any structures would be contingent on the following: (1) All taxes have been paid to date, as of July 7, 2009; (2) the structures have been secured as of July 7, 2009 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of July 7, 2009, 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 resolutions published once in the official city paper and advise the owner of these findings.

Attachments: Case Summary, Summary and Follow-Up History.

July 7, 2009
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlvmnt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
1412 E. 11th N.	I	13 yrs. 9 mos.	No	03/13/09	05/04/09	No	10/10	Secure	Maintained	Current	None
1025 N. Estelle	I	6 yrs. 6 mos.	No	03/13/09	05/04/09	No	10/10	The structure is unsecure with an open back door and crawl space.	Large amount of scattered trash and debris in backyard.	The 2008 taxes are delinquent in the amount of $1,723.98, which includes specials and interest.	There is a 2008 special assessment for lot cleanup in the amount of $1,691.90, which includes interest.
1410 N. Lorraine	I	1 yr. 7 mos.	No	03/13/09	05/04/09	No	10/10	Unsecure front door, cellar door and garage window.	Tires and tree waste	The 2007 and 2008 taxes are delinquent in the amount of $426.79, which includes interest.	None
1411 N. Lorraine	I	6 yrs.	No	03/13/09	05/04/09	No	10/10	Unsecure south side window.	Tree waste	The 2005, 2006, 2007 and 2008 taxes are delinquent in the amount of $4,632.17, which includes specials and interested.	There is 2005 special assessment for weed cutting and lot cleanup in the amount of $2,093.32.
4316 E. Bayley	III	6 yrs. 9 mos.	No	03/13/09	05/04/09	No	10/10	Secure	Maintained	The 2006, 2007 and 2008 taxes are delinquent in the amount of $584.17, which includes interest.	None

July 7, 2009
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlvmnt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
1437 S. Wichita	III	15 yrs. 11 mos.	No	03/13/09	05/04/09	Yes	10/10	Main level is secure. The upper level is unsecure with open windows.	Bulky waste	The 2006, 2007 and 2008 taxes are delinquent in the amount of $6,758.92, which includes specials and interest.	There is a 2008 special assessment for house removal and board-up in the amount of $4,467.82, which includes interest.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1412 E. 11th N (aka: 1202 N. Cleveland)

LEGAL DESCRIPTION: LOTS 93 AND 95, CLEVELAND AVENUE, GRANVILLE PARK ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 24 x 30 feet in size. Vacant for at least 10 years, this structure has a shifting and cracking concrete block foundation; rotted and missing wood lap siding; deteriorating front and rear porches; rotted wood trim and framing members; and the 16 x 25 foot concrete block accessory structure is dilapidated.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 1412 E. 11th N (aka: 1202 N. Cleveland)

ACTIVE FIELD FILE STARTED: September 25, 1995

NOTICE(S) ISSUED: Since September 25, 1995, several notice of improvements and numerous violation notices have been issued. From September through October 1996, six violations were cleared. In December 2007, a Vacant Neglected Building (VNR) statement of intent was approved to have the structure razed. On April 28, 2008, the OCI Superintendent granted an extension and waived penalty fees until June 30, 2008. In June 2008, Prentice McLean advised the structure should be demolished within 45 to 60 days. In August 2008, OCI staff was notified that the owner was working to secure a demolition contractor. There is an open VNR case on this property.

PRE-CONDEMNATION LETTER: November 4, 2008

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Maintained

VACANT NEGLECTED BUILDING REPORT: Open case

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From February 13, 1991 through June 15, 2005 there have been fifteen reported police incidents at this location including attempt to locate person, burglary residence, other traffic violation impounded auto, child endangerment, aggravated indecent liberties, miscellaneous report (2), battery (2), child abuse, disorderly conduct other (2), other miscellaneous offenses, other destruction of property and suspicious character other.

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009, BCSA hearing no one attended on behalf of this property.

Board Member Harder made a motion to refer the property to City Council with a recommendation of condemnation, with ten days to begin razing the building and ten days to finish the demolition. Board Member Willenberg seconded the motion. The motion was unanimously approved.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1025 N. ESTELLE

LEGAL DESCRIPTION: LOTS 22 AND 24, BLOCK 3, ESTERBROOK PARK ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 20 x 26 feet in size. Vacant for at least 6 years, this structure has a shifting and cracking concrete block foundation with missing blocks; rotted wood siding and missing asbestos siding; sagging and badly worn composition roof, with holes and missing shingles; rotted windows; and the sill plates are exposed.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 1025 N. ESTELLE

ACTIVE FIELD FILE STARTED: December 10, 2002

NOTICE(S) ISSUED: Since December 10, 2002, numerous notices of improvements and violation notices have been issued. Several Uniform Criminal Complaints have been issued. On March 16, 2004 OCI staff completed an emergency board-up on this property at a cost of $78.11. OCI staff has been informed of possible ownership issues. A Vacant Neglected Building (VNR) plan was approved to have repairs completed by December 25, 2007.

PRE-CONDEMNATION LETTER: March 18, 2008

TAX INFORMATION: The 2008 taxes are delinquent in the amount of $1,723.98, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2008 special assessment for lot cleanup in the amount of $1,691.90, which includes interest.

PREMISE CONDITIONS: Large amount of scattered trash and debris in backyard.

VACANT NEGLECTED BUILDING REPORT: Open case

NUISANCE ABATEMENT REPORT: Weed mowing cases on July 3, 2005 in the amount of $101.64, September 19, 2005 in the amount of $111.64, December 15, 2005 in the amount of $111.64; and lot cleanup case on August 21, 2007, in the amount of $1,476.16.

POLICE REPORT: From September 8, 1992 through August 31, 1999 there have been ten reported police incidents at this location including other traffic violation, burglary residence (2), pedestrian violation, disorderly conduct other, draw deadly weapon, embezzled auto, suspicious character other and miscellaneous report (2).

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: No repairs have been made. The structure is unsecure with an open back door and crawl space.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009, BCSA hearing no representative was present at the hearing.

Board Member Harder made a motion to send the property before the City Council, recommending condemnation, with ten days to initiate demolition and ten days to remove the structure. Board Member Youle seconded the motion. The motion carried.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1410 N. LORRAINE

LEGAL DESCRIPTION: LOTS 10 AND 12 LORRAINE AVENUE, GIRARD ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one-story masonry dwelling about 43 x 26 feet in size. Vacant for at least a year, this structure has sustained interior fire and smoke damage. It has a shifting and cracking cellar access; cracking brick walls; deteriorating front porch; and the 25 x 12 foot concrete block accessory structure is dilapidated.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 1410 N. LORRAINE

ACTIVE FIELD FILE STARTED: November 8, 2007

NOTICE(S) ISSUED: Since November 8, 2007, a notice of improvements and several violation notices have been issued. There is an open Vacant Neglected Building case on this property.

PRE-CONDEMNATION LETTER: December 29, 2008

TAX INFORMATION: The 2007 and 2008 taxes are delinquent in the amount of $426.79, which includes interest.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Tires and tree waste

VACANT NEGLECTED BUILDING REPORT: Open case

NUISANCE ABATEMENT REPORT: Weed mowing case on August 19, 2005 in the amount of $111.64.

POLICE REPORT: From October 5, 1990 through January 3, 2006 there have been six reported police incidents at this location including non-injury accident under $1000, burglary residence (2), lost miscellaneous property, disorderly conduct other and larceny a all other $1000+.

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: No repairs have been made. Unsecure front door, cellar door and garage window.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009 BCSA, hearing there was no party in attendance to represent this property.

Board Member Harder made a motion to send the property before the City Council with a recommendation of condemnation, with ten days to begin wrecking the structure and ten days to complete the removal. Board Member Willenberg seconded the motion. The motion passed without opposition.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1411 N. LORRAINE

LEGAL DESCRIPTION: LOTS 9 AND 11 LORRAINE AVENUE, GIRARD ADDITION, WICHITA, SEDGWICK COUNTY KANSAS

DESCRIPTION OF STRUCTURE: A one and one-half story frame dwelling about 22 x 52 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; broken and missing asbestos siding; sagging and badly worn composition roof; collapsing front porch; and rotted window trim and garage doors.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.

D. The building has parts, which are so attached that they may fall and injure other property or the public.

E. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 1411 N. LORRAINE

ACTIVE FIELD FILE STARTED: June 18, 2003

NOTICE(S) ISSUED: Since June 18, 2003, a notice of improvements and numerous violation notices have been issued. Several Uniform Criminal Complaints have been issued and the property has been the subject of Neighborhood Court.

PRE-CONDEMNATION LETTER: December 29, 2008

TAX INFORMATION: The 2005, 2006, 2007 and 2008 taxes are delinquent in the amount of $4,632.17, which includes specials and interest.

COST ASSESSMENTS/DATES: There is 2005 special assessment for weed cutting and lot cleanup in the amount of $2,093.32.

PREMISE CONDITIONS: Tree waste

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: Lot cleanup on February 8, 2005 in the amount of $738.08 and July 9, 2005 in the amount of $893.65. Weed mowing on August 19, 2005 in the amount of $111.64 .

POLICE REPORT: From November 7, 1990 through May 14, 1996 there have been six reported police incidents for this location including battery (2), disturb the peace phone call, destruction to auto, miscellaneous report and lost miscellaneous property.

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: Some patch repair to south side foundation. Unsecure south side window.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009, BCSA hearing no one was present to represent this property.

Board Member Willenberg made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to begin wrecking the structure and ten days to finish the demolition. Board Member Harder seconded the motion. The motion carried.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 3

ADDRESS: 4316 E. BAYLEY

LEGAL DESCRIPTION: LOT 26, BLOCK A, HILLTOP MANOR, A REPLAT OF PART HILLTOP MANOR AND HILLTOP MANOR 2ND ADDITION, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one-story frame dwelling about 57 x 24 feet in size. Vacant for at least 6 years, this structure has deteriorated and missing hardboard and asbestos siding; sagging and badly worn composition roof with holes and missing shingles; deteriorated front and rear porches; and rotted wood trim.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. The building has parts, which are so attached that they may fall and injure other property or the public.

D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 4316 E. BAYLEY

ACTIVE FIELD FILE STARTED: September 25, 2002

NOTICE(S) ISSUED: Since September 25, 2002, a notice of improvements and numerous violation notices have been issued. From October 2004 through February 2005, work progressed resulting in six violations being cleared. From June 2006 through January 2008, nine additional violations were identified and added. There is an open Vacant Neglected Building case and a Tall Grass and Weeds case on this property.

PRE-CONDEMNATION LETTER: September 9, 2008

TAX INFORMATION: The 2006, 2007 and 2008 taxes are delinquent in the amount of $584.17, which includes interest.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Maintained

VACANT NEGLECTED BUILDING REPORT: Open case

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From June 2, 1995 through July 27, 2001 there have been eight reported police incidents for this location including disorderly conduct other, burglary residence force day, battery, simple assault other, larceny b all other, other traffic violation impounded auto and miscellaneous report.

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009, BCSA hearing there was no one present as a representative of this property.

Board Member Willenberg made a motion to refer this property to the City Council, recommending condemnation, with ten days to commence razing the structure and ten days to complete removal of the structure. Board Member Harder seconded the motion. The motion was approved by the Board.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: June 18, 2009

CDM SUMMARY

COUNCIL DISTRICT # 3

ADDRESS: 1441 S. WICHITA #2 (aka: 1437 S. Wichita "rear")

LEGAL DESCRIPTION: LOTS 30, 32 AND 34, ON WICHITA STREET, IN FITZGERALD'S 2ND ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A two-story frame dwelling about 43 x 26 feet in size. Vacant for at least 7 months, this structure has sustained fire damage. It has a cracking concrete foundation; fire damaged asbestos siding, with missing shingles; badly worn composition roof with missing shingles; missing stairway; exposed, fire damaged framing members; and rotted and damaged wood trim.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: June 18, 2009

BCSA GROUP # 3

ADDRESS: 1441 S. WICHITA #2 (aka: 1437 S. Wichita "rear")

ACTIVE FIELD FILE STARTED: August 24, 1993

NOTICE(S) ISSUED: Since August 24, 1993, several notices of improvements and violation notices have been issued. On March 14, 2008, OCI was contacted by the Wichita Fire Department in regards to the fire at this location. On March 15, 2008, OCI staff completed an emergency board-up on this property at a cost of $211.04. There is an open Neighborhood Nuisance Enforcement (NNE) case on this property. In April of 2008, OCI did an emergency demolition of the garage at a cost of $5,139.91. Part of those costs were recovered from fire insurance proceeds.

PRE-CONDEMNATION LETTER: September 08, 2008

TAX INFORMATION: The 2006, 2007 and 2008 taxes are delinquent in the amount of $6,758.92, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2008 special assessment for house removal and board-up in the amount of $4467.82, which includes interest.

PREMISE CONDITIONS: Bulky waste

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From October 17, 1993 through February 23, 1998 there have been five reported police incidents for this location including dead bodies found no witness, miscellaneous officers, burglary residence, other destruction of property and child abandonment.

FORMAL CONDEMNATION ACTION INITIATED: March 13, 2009

RECENT DEVELOPMENTS: No repairs have been made. Main level is secure. The upper level is unsecure with open windows.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the May 4, 2009, BCSA Jack Trimmell, owner of the property, was in attendance.

Speaking to the Board, Mr. Trimmell said that the former tenants left debris in the rear yard. Due to the recent rains, he has been unable to complete the clean-up of the premise.

Board Member Harder made a motion that the property be submitted to the City Council with a recommendation of condemnation, with ten days to start wrecking the structure and ten days to complete the removal of the structure. Board Member Willenberg seconded the motion. The motion was approved.

Ms. Legge explained the "10 and 10" process.

STAFF RECOMMENDATION/REMARKS: Staff recommends removal of the structure, however, any extensions to repairs would be providing any back taxes now due are paid, the structure is kept secured, and the premises remain free of debris and maintained. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Justice Assistance Grant (JAG)

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Approve the application.

Background: The City of Wichita Police Department and Sedgwick County Sheriff's Office have received notification they are eligible to receive a second allocation of 2009 Justice Assistance Grant (JAG) funding. The allocations established by the Bureau of Justice Assistance are $533,919 to the City of Wichita, and $25,430 to Sedgwick County. The application is due July 9, 2009.

Historically, the City of Wichita and Sedgwick County have split the JAG allocation equally. The aggregate total of the current allocation for the City of Wichita and Sedgwick County is $559,349. The jurisdictions have agreed to a distribution of 70 percent ($391,544) to the City of Wichita and 30 percent ($167,805) to Sedgwick County.

The City of Wichita and Sedgwick County are required to submit a disparate certification for JAG funding, specifying the amount of the funds that are to be distributed to each of the units of local government and the purposes for which the funds will be used.

A disparate allocation occurs when a city or municipality is scheduled to receive one and one-half times (150 percent) more than a county with concurrent jurisdiction, while that county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crime. JAG disparate jurisdictions are certified by the Director of the Bureau of Justice Assistance (BJA), based in part on input from the State's Attorney General.

Jurisdictions certified as disparate must identify a fiscal agent that will submit a joint application for the total eligible allocation. The joint application must specify the award distribution to each unit of local government and the purposes for which the funds will be used. Sedgwick County will be the applicant/fiscal agent for the joint funds.

Analysis: Prior to beginning the JAG application process, a Memorandum of Understanding, MOU, will be signed by both Sedgwick County and City of Wichita officials, outlining the administration and distribution of the grant funds. The Sedgwick County Commission will hold a public hearing for the joint JAG application to allow public comment by citizens. The Wichita Police Department will use their share of the JAG funding for Law Enforcement purposes to ensure a Safe and Secure Community.

Financial Considerations: The City of Wichita will receive $391,544 in 2009 Justice Assistance Grant funding. There is no local match requirement.

Safety Equipment (radios, Tasers)	120,000
Investigations Equipment (cameras, software)	60,000
Technical Services and Records Workstations	100,000
Scanning services	50,000
Police Equipment	61,544
Total	**$391,544**

Goal Impact: Under the City of Wichita's Safe and Secure Initiative, the additional funding will help to ensure the police department can continue its emphasis on the community policing philosophy. This philosophy relies on the positive interactions between the police, other public servants and community members to serve our community's needs regarding safety, crime prevention, and crime-related quality-of-life issues.

Legal Considerations: The required Memorandum of Understanding will be reviewed by the Law Department.

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

Attachments: Memorandum of Understanding between the City of Wichita and Sedgwick County.

GMS APPLICATION NUMBER: **2009-H1976-KS-DJ**
(Mandatory)

COUNTY CLERK
CONTRACT NO. _____

AGREEMENT BETWEEN
THE CITY OF WICHITA, KANSAS AND COUNTY OF SEDGWICK

2009 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this____day of_____, 2009, by and between The COUNTY of Sedgwick, acting by and through its governing body, the Board of County Commissioners, hereinafter referred to as COUNTY, and the CITY of Wichita, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Sedgwick County, State of Kansas, witnesseth:

WHEREAS, this Agreement is made under the authority of K.S.A. 12-2908, et seq; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the COUNTY agrees to provide the CITY $391,544.00 from the JAG award for the Equipment Replacement and Enhancement Program; and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

COUNTY agrees to pay CITY a total of $391,544.00 of JAG funds.

Section 2.

CITY agrees to use $ 391,544.00 for the Equipment Replacement and Enhancement Program until 9-30-2012.

GMS APPLICATION NUMBER: **2009-H1976-KS-DJ**
(Mandatory)

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 5.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

GMS APPLICATION NUMBER: **2009-H1976-KS-DJ**
(Mandatory)

ATTEST:

SEDGWICK COUNTY, KANSAS

_____
KELLY ARNOLD
County Clerk

_____
KELLY PARKS, Chairman
County Commissioner, 4th District

APPROVED AS TO FORM:

_____
JENNIFER MAGAÑA
Deputy County Counselor

GMS APPLICATION NUMBER: **2009-H1976-KS-DJ**
(Mandatory)

ATTEST:

CITY OF WICHITA, KANSAS

_____
KAREN SUBLETT
City Clerk

_____
CARL BREWER, Mayor

APPROVED AS TO FORM:

_____
GARY REBENSTORF
City Attorney

Agenda Item No. IV-1.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: CUP2008-52– DP-18 Amendment #3 to allow a nightclub on property zoned LC Limited Commercial; generally located north of 21st Street North and east of Somerset Avenue (1580 West 21st Street North). (District VI)

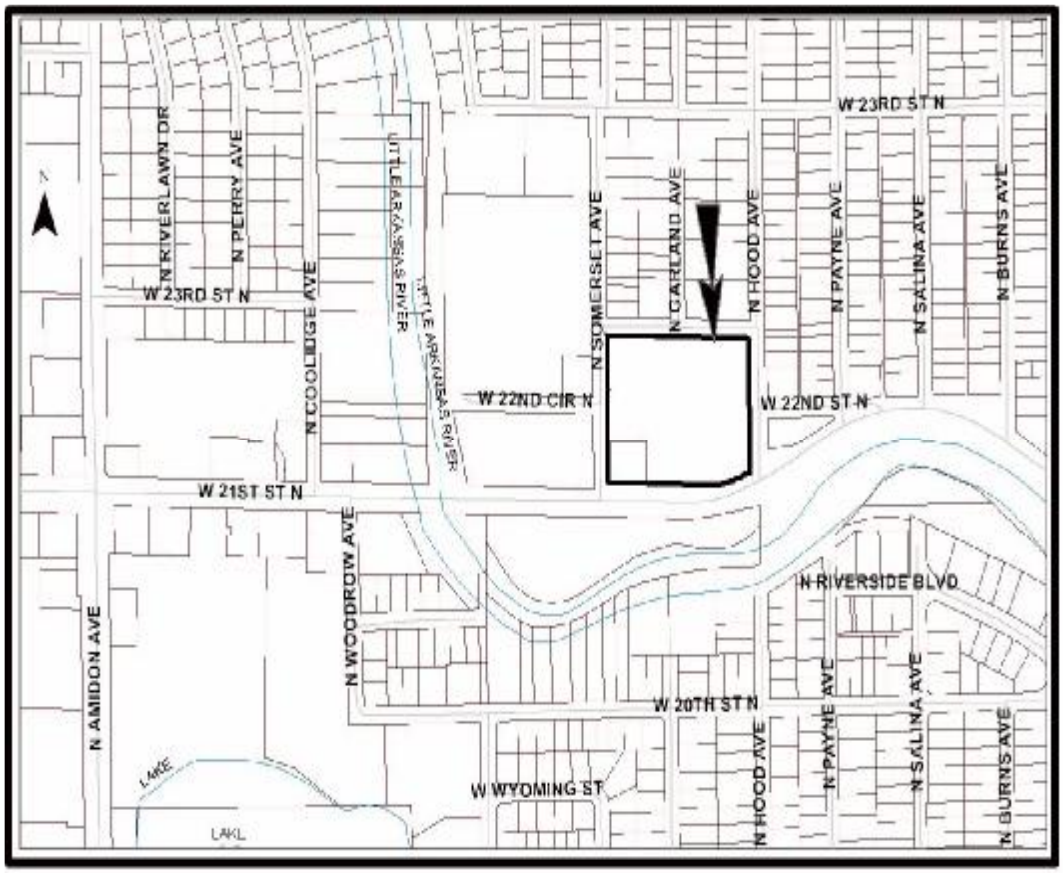
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to staff recommendations (8-1).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve, subject to staff recommendations (10-0).



BACKGROUND: The applicant seeks a CUP amendment to allow a nightclub within an existing restaurant located at 1580 W. 21st Street North. The applicant wishes to use 5,000 square feet of the existing restaurant as a nightclub and private rental facility; this space is limited by fire code to a 300 person occupancy. The 5,000 square feet of designated nightclub space is located within a larger 10,600 square foot building. DP-18 does not list nightclubs as a permitted use for this site. Also, the site is located within 60 feet of a church and multi-family residential zoning; these factors require the applicant to request a CUP amendment for a nightclub.

A "nightclub in the city" is defined by the *Unified Zoning Code* as an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, where alcoholic beverages are offered to the public or its members and which may or may not serve food. "Nightclub in the city" is a use permitted by right in the LC Limited Commercial ("LC") zoning district except when it is located within 200 feet of a church or place of worship, public park, school or residential zoning district; measured property line to property line. A Conditional Use (or an amendment to a Community Unit Plan) is required if a nightclub is located within 200 feet of the aforementioned uses or zoning districts.

The existing business is located within a shopping center outbuilding, located on the west side of the property, northeast of the Somerset Avenue and 21st Street intersection. The site is within Parcel 1 of the River Bend Shopping Center Community Unit Plan (CUP), DP-18. The applicant's property is zoned LC, subject to the conditions contained in DP-18, including the development standards for Parcel 1. Uses permitted in Parcel 1 are restricted to: Shopping center, department store, restaurant, offices and other similar uses permitted in LC zoning. Existing businesses located in the CUP include a gas station/tire store, a bus station, a retail strip center, a bingo hall and a vacant restaurant.

North and east of this property is SF-5 Single-family Residential ("SF-5") and LC zoning with single family residences to the north and east, and commercial uses to the east. South of the site, on the south side of 21st Street, is GO General Office ("GO") zoning and a medical office building. West of the site is B Multi-family Residential ("B") and GO zoning with a church and an apartment complex.

A previous nightclub located within this same shopping center generated law enforcement problems several years ago. In 2004, a different tenant within this shopping center requested an amendment to this same CUP for a drinking establishment and nightclub; that request was denied and generated significant neighborhood opposition. It would be important to note that the previous nightclub and the previously denied application were on the east side of the shopping center, with the club and parking approximately 100 feet from single-family residences. The previous club and other request also had higher occupancies than the current request. This current request is at a different location within the shopping center. When measured from the building proposed to house the nightclub, the building is over 280 feet from single-family residences to the north, and over 475 feet from residences to the east, with a commercial strip center building located between this site and all single-family residences. The proposed nightclub building is located over 320 feet from the nearest apartment building, and 178 feet from the church building to the west. However, as indicated above, the application area, measured property line to property line, is located within 60 feet of the apartment and church properties located to the west.

Analysis: DAB VI heard this request on January 5, 2009. One person spoke against the request and several people spoke in support of the request at the DAB hearing. DAB VI approved the request subject to staff recommendations. (DAB VI will hear this item again on July 6, 2009. That hearing will seek additional public comment on the request.) The MAPC heard this request on January 8, 2009. At the MAPC hearing, the manager of the adjacent apartment complex located west of the site spoke against the request, one residential neighbor spoke in support of the request and one business neighbor asked questions and expressed concerns. The action of the MAPC was to approve the request subject to staff recommended conditions. (Option 1 under the Recommendation/Actions section).

A neighborhood meeting was held on March 3, 2009. At that meeting, the applicant agreed to additional staff-proposed conditions, among which: eliminated the request for a "drinking establishment," require the

applicant to abide by all license and permit requirements, require additional review provisions, and have a revocation clause if the applicant failed to meet the CUP amendment conditions. A copy of the follow-up memorandum from that meeting, dated March 4, 2009, is attached. (Option 2 in the Recommendation/Action section below would incorporate recommendations discussed at the neighborhood meeting into the MAPC's recommended action.)

City Council first heard this request on February 10, 2009, and the Council deferred the case to the March 10, 2009, hearing. On March 10, 2009, the action of the City Council was to defer this request until after such time that the new entertainment ordinance is passed, and at that time send it back through the District Advisory Board and MAPC process. The applicant has since requested that the Council make a decision on this item without waiting for the above stated conditions to be met. On June 23, 2009, the Council voted to hear the request at the July 7, 2009, hearing. (The recommendation of the second, July 6, DAB VI meeting will be provided during the Council's July 7 meeting.)

The applicant submitted letters of support, along with the application, from neighborhood and business associations, and the church west of the site. The adjacent apartment complex management submitted a letter of opposition to the request from the same church and from several individual members of a neighborhood association which had submitted a letter of support. Twenty-three properties filed protests against this request, for a total of 63% of the protest area. Because the protest area is greater than 20%, the governing body requires a ¾ supermajority to override the protests.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: No ordinance is required.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the community unit plan amendment subject to the recommended conditions (requires a ¾ supermajority vote by the governing body to override the valid protest); or

2. Adopt the findings of the MAPC and approve the CUP Amendment subject to staff recommended conditions plus the additional conditions agreed to by the applicant as outlined in the memorandum of March 4, 2009 (requires a ¾ supermajority vote by the governing body to override the valid protest)

3. Return the application to the MAPC for reconsideration (requires a simple majority).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

March 4, 2009

MEMORANDUM FOR: City Council

FROM: Jess McNeely, MAPD Staff

RE: **CUP2008-52** - DP-18 Amendment #3 to allow a night club on property zoned LC Limited Commercial, generally located north of 21st Street North and east of Somerset Avenue.

On March 3, 2009 at 6:30 pm, MAPD staff, Councilmember Sharon Fearey, and Wichita Police Department staff held a neighborhood public meeting regarding this request. City staff, with the applicant's concurrence, recommended the following revised conditions to the CUP Amendment request:

Italicized conditions are added since the WCC hearing on February 10, 2009; also, references to a "drinking establishment" land-use have been removed.

1. DP-18 Parcel 1 item I. shall be amended to add Amendment #3: "One nightclub shall be permitted at 1570 W. 21st Street North. The nightclub shall be attached to a restaurant and under the same ownership as the restaurant. The nightclub shall not exceed 5,000 square feet in size, shall not exceed a 300-person occupancy, and shall conform to an approved site plan."

2. The applicant shall submit a site plan, to be approved by Planning Staff, which demonstrates a designated nightclub parking area of 150 spaces which shall not be permitted within 160 feet of the east property line. The nightclub shall be responsible to enforce the designated parking area.

3. The restaurant and nightclub shall be restricted to a Drinking Establishment – Restaurant (DER) liquor license, consistent with the Zoning Code definition of a "restaurant".

4. *The applicant, or nightclub operator, shall maintain in full force and effect all licenses or permits that are required by any governmental agency for the operation of a nightclub.*

5. *City Staff shall provide City Council with a review report of DP-18 Amendment #3 within six months of approval by the City Council. The report shall address conformance to the DP-18 Amendment #3 conditions and any licensing and/or other law enforcement issues that have occurred in that six-month period. The City Council may request further staff reports on DP-18 Amendment #3 conformance with City codes and conditions.*

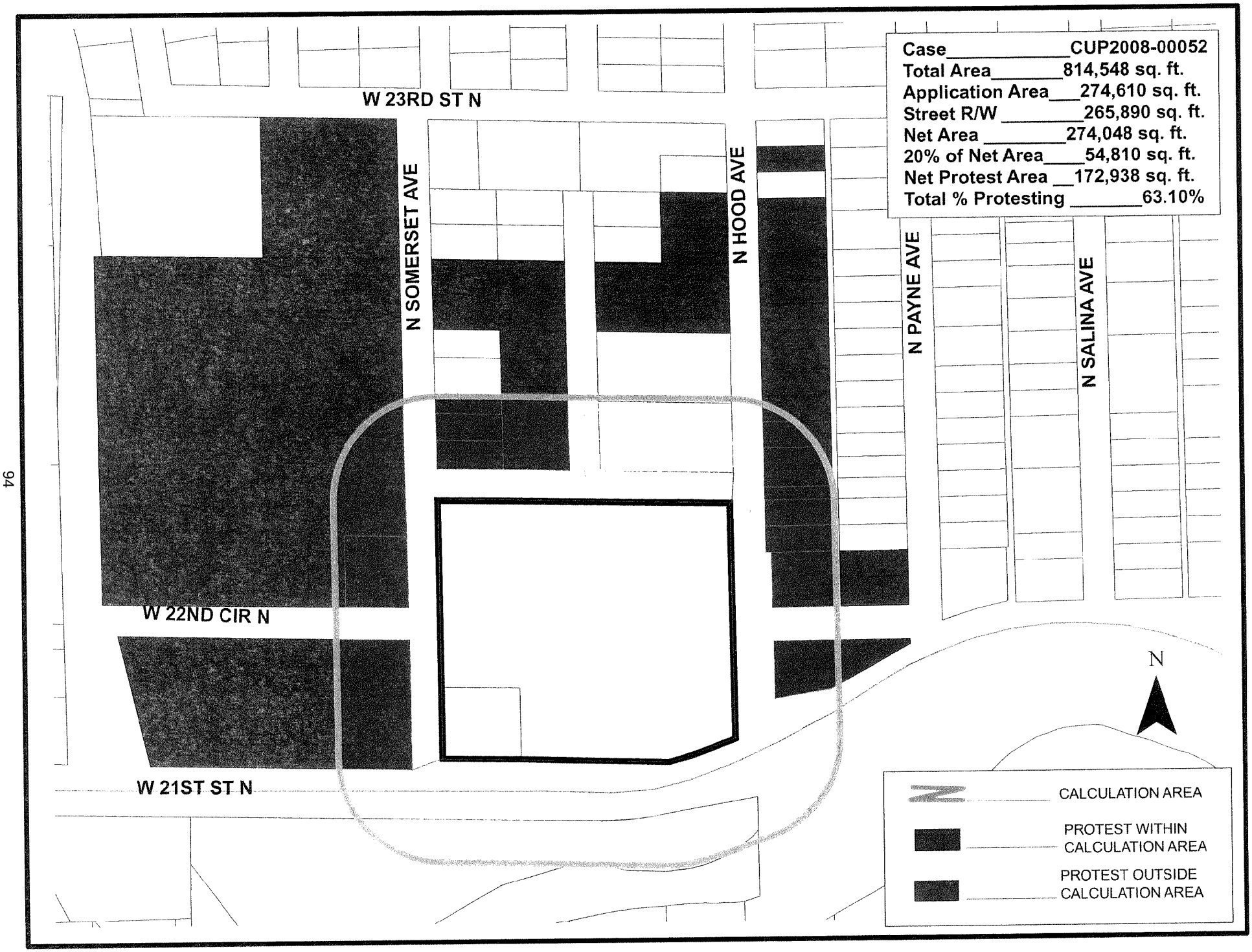
6. *If the Zoning Administrator finds that there is a violation of any of the conditions of the DP-18 Amendment #3, the Zoning Administrator, may, with the concurrence of the Planning Director, declare the DP-18 Amendment #3 null and void.*

7. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Under the current CUP restrictions, the applicant has a DER and cabaret license, which allows for a restaurant that also sells alcohol, and live entertainment. With the above proposed conditions, permitting the CUP Amendment for a nightclub would then allow the applicant to obtain a dance hall license, which would be the only change to the current establishment. City Staff feels that the proposed conditions, along with licensing ordinances, would keep the proposed nightclub at a neighborhood scale, would mitigate negative effects on the surrounding neighborhood, would have adequate additional review, and would have a revocation clause if the site failed to comply with the Amendment Conditions.

The neighborhood meeting had a sign-in attendance of 35 people representing 28 addresses (see the attached sign-in roster). The majority of the public attending the meeting were vocally opposed to the requested CUP Amendment, citing concerns such as graffiti, trash, poor maintenance of the CUP grounds, a lack of parking on the site due to other nighttime businesses, concerns that designated parking areas would not be enforced, concerns that condition violations or complaints would not result in timely Police or OCI enforcement actions, intoxicated drivers, noise, firearm violations, violence in general, and illegal activity in general.

Please review this information when **CUP2008-52** (DP-18 Amendment #3 to allow a night club on property zoned LC Limited Commercial) is considered.


Case CUP2008-00052
Total Area 814,548 sq. ft.
Application Area 274,610 sq. ft.
Street R/W 265,890 sq. ft.
Net Area 274,048 sq. ft.
20% of Net Area 54,810 sq. ft.
Net Protest Area 172,938 sq. ft.
Total % Protesting 63.10%
W 23RD ST N
N SOMERSET AVE
N HOOD AVE
N PAYNE AVE
N SALINA AVE
W 22ND CIR N
W 21ST ST N
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

1-8-2009 MAPC HAND OUT ITEM # 5

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District 6

SUBJECT: **CUP2008-00052 1570 W 21ST ST N** DP-18 Amendment #3 to allow a night club/drinking establishment on property zoned LC Limited Commercial generally located north of 21st Street North and East of Somerset Avenue.

DATE: January 7, 2009

On Monday, January 5, 2009 the District 6 Advisory Board (DAB) considered a DP-18 Amendment #3 to allow a night club/drinking establishment on property zoned LC Limited Commercial generally located north of 21st Street North and East of Somerset Avenue. The members were provided the MAPD staff report for review prior to the meeting. *Jess McNeely*, Planner presented the case background and reviewed the staff recommendation with members and the public.

The Board asked the following questions/comments:

- What is the correct address of the location?
- Was a notification sign posted as I don't see one.
- What about the parking for the supermarket, where is it to be?
- How do you intend to isolate the parking?
- Will this CUP request stay with the property?
- This is not in compliance with the *Comphrensive Plan* as the distance requirements are not met.
- What are the owner's plans for security and training them?
- Will this club be connected to the restaurant and will it be non-smoking?
- I suggest you cut the parking along Somerset.
- Very impressed the owner has worked with the neighborhoods for their support

One member of the public spoke in opposition of the request.

Seven public members spoke in favor of the request stating:

- Support for small businesses.
- Family/community oriented business.
- Will coordinate safety efforts with police.
- The owner already has a flourishing business for the past 10 years.
- The business brings Hispanic pride to the community.

****Action:** The DAB VI members made a motion to recommend to City Council Approval (**10-0**) of the request based on staff recommendations.

Please review this information when **CUP2008-00052(DP-18)** is considered.

mtd

EXCERPT OF JANUARY 8, 2009 MAPC HEARING

Case No.: CUP2008-52 – Nuot Nguyen and Ly Ngoc Thi (owner); Mario Quiroz (applicant); Baughman Company P.A., c/o Russ Ewy (agent) Request DP-18 Amendment #3 to allow a night club/drinking establishment on property zoned LC Limited Commercial.

Lot 1, W. F. Farha 3rd Addition, Wichita, Sedgwick County, Kansas, generally located north of 21st Street North and east of Somerset Avenue.

BACKGROUND: The applicant seeks a CUP amendment to allow a drinking establishment and nightclub within an existing restaurant located at 1580 west 21st Street North. The applicant wishes to use 5,000 square feet of the existing restaurant as a nightclub and private rental facility, this space is limited by fire code to a 300 person occupancy. The 5,000 square feet of designated nightclub space is located within a larger 10,600 square foot building. DP-18 does not list nightclubs or drinking establishments as permitted uses for this site. Also, the site is located within 200 feet of a church and multi-family residential zoning; these factors require the applicant to request a CUP amendment for a drinking establishment and nightclub.

If this request is approved, the current limitation on the amount of alcohol that can be sold on this site by virtue of the current Drinking Establishment–Restaurant (DE-R) license would be removed. The DE-R license requires that 50% of gross revenue be from food sales. Without the DE-R license restriction, there are no restrictions on the volume of alcohol that could be sold. Establishments that sell alcohol and provide entertainment/dancing can be good neighbors to other businesses, but they can also become nuisances that generate excessive noise and nuisance activity.

A "nightclub in the city" is defined by the *Unified Zoning Code* as an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and where alcoholic beverages are offered to the public or its members, and which may or may not serve food. "Nightclub in the city" is a use permitted by right in the LC Limited Commercial ("LC") zoning district except when it is located within 200 feet of a church or place of worship, public park, school or residential zoning district. A Conditional Use (or an amendment to a Community Unit Plan) is required if a nightclub is located within 200 feet of the aforementioned uses or zoning districts.

The existing business is within a shopping center outbuilding, located on the west side of the property, northeast of the Somerset Avenue and 21st Street intersection. The site is within Parcel 1 of the River Bend Shopping Center Community Unit Plan (CUP), DP-18. The applicant's property is zoned LC, subject to the conditions contained in DP-18, including the development standards for Parcel 1. Uses permitted in Parcel 1 are restricted to: shopping center, department store, restaurant, offices and other similar uses permitted in LC zoning. Existing businesses located in the CUP include a gas station/tire store, a bus station, a retail strip center, a bingo hall and a vacant restaurant.

North and east of this property is SF-5 Single-family Residential ("SF-5") and LC zoning with single family residences to the north and east, and commercial uses to the east. South of the site, on the south side of 21st Street, is GO General Office ("GO") zoning and a medical office building. West of the site is B Multi-family Residential ("B") and GO zoning with a church and an apartment complex.

A previous night club within this same shopping center generated law enforcement problems several years ago. In 2004, a different applicant requested an amendment to this same CUP for a drinking establishment and nightclub, that request was denied and generated significant neighborhood opposition. It would be important to note that the previous nightclub and the previously denied application were on

the east side of the shopping center, with the club and parking approximately 100 feet from single-family residences. This current request is at a different location within the center; the building is over 280 feet from single-family residences to the north, and over 475 feet from residences to the east, with a commercial strip center building between this site and all single-family residences. The proposed nightclub building is over 350 feet from the nearest apartment building, and over 200 feet from the church building to the west. However, the application area parking is within 200 feet of the apartment and church properties to the west.

CASE HISTORY: The W.F. Farha 3rd Addition was approved in 1966. DP-18 was approved in 1984. Currently 1530 west 21st Street has "drinking establishment-restaurant" (DE-R) license.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residential
SOUTH:	GO	Medical office
EAST:	SF-5, LC	Residential, office and retail
WEST:	SF-5, GO, B	Church and multi-family residential

PUBLIC SERVICES: At this location 21st Street North is a four-lane arterial with a central turn lane. This section of 21st carries 17,316 average daily trips. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan designates this site as appropriate for local commercial uses, defined as commercial uses that do not have a significant regional market draw. The site is within the adopted *21st Street North Corridor Redevelopment Plan*. The *21st Street North Corridor Redevelopment Plan* designates this shopping center as a "Commercial Mixed" area, which would encourage retail, office and restaurant uses mixed with medium density residential. The Comprehensive Plan has an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments (p. 12, Land Use-Residential Objective II. B). Strategy II.B3 states that there is a need to evaluate the effectiveness of regulations aimed at reducing or preventing the detrimental impacts of land uses that produce excessive odors, noise or safety hazards upon residential areas.

RECOMMENDATION: Night clubs within this shopping center had negative impacts on the surrounding neighborhood in the past. This application is within a building further removed from single-family neighborhoods, and within a limited amount of space. Appropriate conditions limiting the size of the establishment and tying it to a restaurant will keep the proposed nightclub at a neighborhood scale, and mitigate any potential negative effects on the residential neighborhood. This application has generated only one phone call in opposition, possibly demonstrating neighborhood acceptance of this proposal. Likewise, several business and neighborhood group's submitted letters of support for this application, see attached. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. DP-18 Parcel 1 item I. shall be amended to add Amendment #3: "One drinking establishment/nightclub shall be permitted at 1530 W. 21st Street North. The drinking establishment/nightclub shall be attached to a restaurant and under the same ownership as the restaurant. The nightclub shall not exceed 5,000 square feet in size, shall not exceed a 300-person occupancy, and shall conform to an approved site plan."

2. The applicant shall submit a site plan, to be approved by Planning Staff, which demonstrates a designated nightclub parking area of 150 spaces which shall not be permitted within 160 feet of the east property line. The nightclub shall be responsible to enforce the designated parking area, and shall conform to all other codes and regulations.

3. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and east of this property is SF-5 and LC zoning with single family residences to the north and east, and commercial uses to the east. South of the site, on the south side of 21st Street, is GO zoning and a medical office building. West of the site is B and GO zoning with a church and an apartment complex. If the request is limited to the proposed conditions, a neighborhood scale nightclub buffered from single-family residences could be compatible with the surrounding neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC subject to the development standards contained in DP-18. Uses permitted on the site are: shopping center, department store, restaurant, offices and other similar uses permitted in LC zoning. The site could continue to be used under the current zoning and CUP restrictions.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Currently the sale of alcoholic beverages is limited by its DE-R status; approval of this request would remove this limitation. The requested CUP amendment would generate traffic at later hours than the current restaurant use.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan designates this site as appropriate for local commercial uses, defined as commercial uses that do not have a significant regional market draw. The site is within the adopted *21st Street North Corridor Redevelopment Plan*. The *21st Street North Corridor Redevelopment Plan* designates this shopping center as a "Commercial Mixed" area, which would encourage retail, office and restaurant uses mixed with medium density residential. The Comprehensive Plan has an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments (p. 12, Land Use-Residential Objective II. B). Strategy II.B3 states that there is a need to evaluate the effectiveness of regulations aimed at reducing or preventing the detrimental impacts of land uses that produce excessive odors, noise or safety hazards upon residential areas.

5. Impact of the proposed development on community facilities: The proposed CUP amendment could result in an increased demand for police services. The proposed CUP amendment could also result in increased traffic demand at later hours.

JESS MCNEELY, Planning Staff presented the Staff Report. He reported that DAB VI recommended unanimous approval of the application; however, one neighbor spoke against the request. He added that the owners of the apartment complex were also against the request, but several neighborhood associations and businesses were in favor of the request. He reminded the Commission that any CUP amendment runs with the land.

MILLER STEVENS asked about the church to the west and if it was within 200 feet of the site.

MCNEELY commented that the church is zoned General Office because of an application for a day-care center approved several years ago and clarified that it is within 200 feet of the CUP.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said the applicant was also present to answer any questions. He referred the Commission to the agenda, which included a letter of support from the Church. He commented that he would wait for rebuttal to address any concerns. He also mentioned that this application received unanimous support from DAB VI. He added that there were a number of fundamental differences between this application and the application that was denied in 2004 including scale of use, as well as being tied into another business use. He mentioned issues touched upon at the DAB meeting including the new proposed code changes concerning regulating and enforcement at night clubs. He said his client has a working relationship with the Wichita Police Department (WPD) and that the beat officer actually spoke on behalf of the applicant at the DAB meeting. He mentioned security both inside and outside the nightclub and how the new regulations were a very structured system, with greater penalties that they will go a long way to teaching club owners how to manage property and preserve neighborhood peace.

MILLER STEVENS commented that the ordinance **EWY** referred to has not been passed so the applicant would not fall under the provisions of that ordinance.

EWY said that was correct.

BRANDY ALCORN, REPRESENTING PACIFIC PROPERTIES said they have a multi-family housing property directly across the street from this location consisting of 230 multi-family units, in addition to 293 units at Twin Lakes Apartments located less than one mile from this location. She referred Commission members to several pictures she took earlier today of the wall behind the shopping center where the club is being proposed, which was covered with graffiti. She commented that it was obvious from the pictures that the area has never been taken care of by the property owner. She said the pictures just demonstrate some of the challenges they already face in the neighborhood with graffiti. She mentioned one of the letters of support that said they were comfortable that the applicant would be able to provide security to control 300 people and mentioned that there was not enough control with the other nightclub that had been located there. She said they are very concerned about keeping a nice neighborhood for their residents. She said unfortunately, they did not find out about the application until yesterday. She said they will be submitting a petition within 14 days with numerous names who want to be involved in not letting this happen. She concluded by mentioning that the church, named Breakthrough Ministries, was geared towards drug and alcohol rehabilitation and she wondered about a bar being located across the street. She also mentioned that there was a bus station located in the same building as the proposed nightclub and that was also a concern.

DELORA DONAVON, 559 FARRELL DRIVE, PRESIDENT, NORTH RIVERSIDE NEIGHBORHOOD ASSOCIATION said they have been having dialogue with the applicant for several months concerning the proposal. She said this has been discussed at neighborhood and DAB meetings, which are open for everyone to go to. She said from her standpoint and her discussions with the applicant, she would like to see this higher class club opened in the neighborhood rather than to wait for the next person to open a "hip hop" joint. She commented that there was graffiti in Minisa Park, along the bike path and other areas and she doesn't think graffiti has anything to do with the applicant's proposal for a nightclub.

HANK BLASE, 2302 NORTH HOOD said he has an office across the street to the East of the application area. He said at the DAB meeting there was concern that the sign required to be placed at the proposed location was initially placed but then removed from the site and never replaced and that the sign had not been up for the required period of time. He said the sign was never replaced so there has been a lack of information going to the neighborhood for people who are concerned and want to come forward and express their opinion. He said the regulation about nightclubs that was mentioned is a proposed

regulation that has not gone into effect yet, and therefore, has no control over anything. He referred to the comments from the North Riverside Association representative and said it was interesting to note the comments of the President of the North Riverside Association in 2004, Rosalee Bradley, which specifically referred to overconsumption of alcohol and consumption of alcohol outside the building at the Latino Boom. He said she also mentioned excessive loud noise, trash in the neighborhood, and damage to cars and properties as patrons from the club cut through the neighborhood. He commented that zoning changes go with the property and not with the client, and once the zone change is granted; there is nothing anyone can do to prevent this from becoming another Latino Boom.

He mentioned the letters attached to the Staff Report commenting on what a good operator the applicant is. He asked what happens when this owner leaves and a hip hop joint comes in. He said there is no control and that there should be some. He commented that 2004 statistics provided by the WPD showed that there were 54 WPD reports in an 18-month period at the location. He said the past four years have been a period of peace and tranquility in the neighborhood. He said his point is that the recommendation for approval of this application has been based on this applicant, not the property or the impact it will have on the neighborhood for all time. He said no one has found that this will improve the neighborhood. He said the Commission has the ability to make the recommendation that the applicable laws be changed to allow amendments to CUP's to authorize uses based on the conduct and character of the applicant rather than just the property site. He said that way, a new operator and their track record would come under scrutiny. He said the Commission could at least impose a condition on the application and approval of the amendment that will revoke the amendment in case that say "*X number of WPD reports occur in Y amount of time.*" He asked for something that will retain some kind of control over what happens as a result of the operation. He concluded by saying that dance clubs and night clubs are not allowed within 200 feet of residential areas for a good reason; to protect the neighborhoods. He asked the Commission to protect and strengthen the neighborhood.

RUSS EWY, BAUGHMAN COMPANY said property owners within a 500-foot radius of the property were notified of the proposal and added that over 90 property owners were sent notices so he does not believe that inadequate notices were given on the project. He also stated that he thought it was unfair to tie graffiti in the neighborhood to a particular land use. He added that the implication of increased gang activity and vandalism is also a little unfair. He said Planning Staff did see the sign posted at the location. Referring to the past comments of the former North Riverside Association President and how they reflect on the current application, he said it shows how people can be objective and can change their mind. He said the proposed land use under the umbrella of zoning is harmonious with surrounding land and will be a good asset to the neighborhood in general. He concluded by mentioning the support of the WPD and stated that **MR. QUIROZ** was present to answer any questions on how he has integrated his club plan with the WPD.

MITCHELL asked if the restaurant at the location serves liquor today.

EWY said yes.

HILLMAN asked if it were possible to tie a conditional use to the conduct and character of the operator; the number of WPD reports of problems in the area; or some other tie that might go with the operator, so if a sale were to take place or something change, the approval process would automatically be negated.

JOE ALLEN LANG, CITY LAW DEPARTMENT commented that the application is being presented as a CUP amendment rather than a conditional use permit. He said with a conditional use permit the time could be limited, or it could be reviewed upon certain events; however, that is not normally done with a CUP or other zoning, which is based on land use. He said he thought something could be crafted that would require review; but he believes that needs to be done in the context of a conditional use application.

HILLMAN asked if that could be done at this meeting or if the Commission needed to move to defer the item, have it reconstructed as a conditional use request and brought back to the MAPC.

DIRECTOR SCHLEGEL said if the Commission wanted to attach that type of condition to an approval of the site, deferral would be needed to give staff time to work with the applicant to come up with some type of standard. He said he doesn't know what the standard might be, but staff would need time to talk to the applicant and his agent.

HILLMAN asked if the applicant would be interested in this alternative and if he would be willing to work with staff to make this happen.

EWY said the applicant has demonstrated his willingness to work with the City and that he would let him address that question. He said with most Conditional uses if any of the terms are found to be in violation, the conditional use is revoked. He said he does not know if a CUP has that same language. He said the question is what would that actually look like and how would those terms be defined. He asked how you draw a fair line with that type of enforcement. He said the proposed code amendments which are currently being written by WPD do spell out penalties. He said he could ask his applicant to take a two-week deferral.

MARIO QUIROZ, 1530 WEST 21ST STREET NORTH said he is trying to run a clean and good place in the area. He said there is graffiti in all the neighborhood area and that big businesses are moving out. He said he has decided to stay and rebuild his neighborhood. He said they opened last April with a cabaret license so they can have different shows and performances for the entire community. He said his restaurant has received recognition (3 out of 4 stars) from the Wichita Eagle. He said he has been in the restaurant business the last eight years and has also been be involved with the community. He said he is trying to work with the community and the neighborhood to try to establish a good way of living. He said he doesn't want to make a bar with a bad reputation. He said this is a new era and a new segment and he wants to bring a different atmosphere to his neighborhood and that all he is asking is a chance to have a decent place. He said he has been working with WPD to establish a "best practices" establishment. He concluded by saying that he has the support of the WPD, the surrounding neighborhood associations and the church and that he has done his homework and talked to people and opened doors in support of his project. He added that he has been learning a lot. He offered to answer any questions.

TAPE 1, SIDE 2

HILLMAN asked if he was the sole owner of the facility.

QUIROZ said he and a partner have a corporation and that they also own LeMesa Mexican Restaurant.

HILLMAN asked if he would be willing to work with staff and reform the request into a conditional use and re-apply.

EWY said they wouldn't go so far as to say that. He said that could take up to three more months and creates a whole other class of problems from a zoning procedure standpoint. He said he believes they can get where they need to be through the CUP amendment.

> **MOTION:** To approve subject to staff recommendation.
>
> **ANDERSON** moved, **MITCHELL** seconded the motion, and it carried (8-1).
> **FOSTER** - No.

MITCHELL said he would like to make a statement on how the proposed changes in zoning and CUP's are being handled. He said he was at the DAB meeting Monday night and pleasantly surprised to hear most of the testimony in favor of the applicant. He said the DAB members voted unanimously to approve, which is very unusual. He said he doesn't want to see zoning cases decided on a popularity contest and that is exactly what went on that night. He said although the outcome was good, that is not the way zoning cases ought to be considered or voted on. He said he would not support any move to make zoning cases specific to the applicant.

MCKAY asked if the applicant would fall under the new ordinance. He asked if the ordinance would be retroactive, or would the applicant be grandfathered in.

LANG said he didn't know the specific answer to that question and said he believes that issue will be addressed when the applicant's license comes up for renewal.

SCOTT KNEBEL, Planning Staff said he has been working with WPD on the licensing ordinance. He said as the ordinance is proposed today, people would be subject to the new requirements when they come in to renew their license.

Butler
Community College
Pure Learning Power

September 16, 2008

To Whom It May Concern:

We, Butler Community College HALO (Hispanic American Leadership Organization) are writing this letter in support of Mr. Mario Quiroz and his establishment of Fridas Mexican Grill. HALO was established by Butler students for the purpose of improving the community and strengthening student leadership skills. HALO consists of energetic and ambitious Butler students who recognize, develop, and test leadership skills both on campus and in the community. The goals of HALO include: strengthening Latino students, recognition on and off campus, provide and develop leadership and professional opportunities, foster an understanding and appreciation for Latino customs and traditions and form a united fellowship for addressing issues and concerns affecting the Hispanic community.

Our organization strives for success and would not be capable of achieving the goals we have achieved without the support of Butler, the Latino community, and local Latino business owners, such as Mr. Quiroz. Mr. Quiroz, has been a leader in the Latino community, supporting not only our organization but other Latino organizations as well. Mr. Quiroz has repeatedly supported us by allowing us to use his facilities in order to host events. Considering that one of our goals is to create recognition on and off campus of Latino students and to foster an understanding and appreciation for Latino customs and traditions, we greatly appreciate being able to host events in the heart of the Latino community and being able to introduce our customs and traditions to our non-Latino peers.

Mr. Quiroz and his business are a great asset to the Wichita community. Thank you for your time and consideration. If you have any further questions or comments please feel free to contact me at cbravo@butlercc.edu or (316) 304-9236.

Sincerely,

Clever Bravo
President
Butler HALO

Ministerio Rompimiento (Templo De Poder Sinai)

To Whom It May Concern:

With this letter I would like to grant my ongoing support to Mr. Mario Quiroz and his restaurant Frida's. Mr. Quiroz has demonstrated to be a respectable member of society, who continually supports the Hispanic community by offering his establishment for church and school activities. His success in business has helped in the growth of other Hispanic businesses in our community.

In addition, the restaurants vibrant colors, Mexican artifacts and, most importantly, the artwork of the famous painter Frida contribute to the enrichment of our Hispanic culture. Also, the décor portrays the importance of our culture and traditions, which is especially important to our youth in today's society.

Mr. Quiroz has set a good example in our community, and I believe this is very important in our growing community. Therefore, I once again offer my support to his restaurant Frida's.

Pastor Juan Larin

(316) 880-2059

21st St. Business Association

P.O. Box 47,052 Wichita, KS 67201

Representing "EL CORAZON" of the Business Community of North Central Wichita, Kansas

Sept. 18, 2008

HELLO FRIENDS OF THE COMMUNITY:

We are writing this letter in support of a fellow business association member, Mr. Mario Quiroz, owner of Frida's Mexican Grill, located at 1580 W. 21st St. N., Wichita, KS 67203. Mario exhibits the professional business ethics and vision that we share in our business community. **We find his business concepts and vision to be a refreshing encouragement, for our future "NOMAR INTERNATIONAL MARKET" district area.** "Frida's" is a more than just another restaurant/cantina, because it is themed around the arts. The restaurant was named after Frida Kahalo, a very famous artist from Mexico, known for her very avante-guarde impressionistic paintings. Frida was married to Diego Rivera, a famous muralist, who was highly sought after by American industrialists and Public Works Departments. Copies of this couple's famous artistry can be found at the restaurant.

Mr. Quiroz has amazingly been able to bring in a variety of interesting musicians, ranging from jazz, and saxaphonists, to the traditional mariachi and cowboy (ranchero) groups! This range of artistry adds to the diversity, and upscale appeal that the "NOMAR" business district leaders wish to achieve.

We appreciate the cooperative and friendly attitude demonstrated by Mr. Quiroz, and heartily extend a big "Welcome/ Bienvenidos" to Mr. Quiroz, and best wishes for his continued success in this important business endeavor.

Sincerely,

Sharon Stauth

Sharon Stauth, Secretary - 21st St. Business Association, & Public Accountant

OFFICERS OF 21ST ST. BUSINESS ASSOCIATION

President: Ron Cruz
Cell # 316-204-0445

Secretary: Ken Thomas
Treasurer: Sharon Stauth

Vice-Presidents:
East Side: Bob Alford
Central: Dick Glenn
West Side: Jim Basham

NORTH RIVERSIDE NEIGHBORHOOD ASSOCIATION

(boundaries include Little and Big Arkansas River
13th St. north to 21st St.)

September 26, 2008

To whom it May Concern:

It was my pleasure to meet with Mr. Mario Quiroz, owner of Frida's Mexican Grill, located at 1580 W. 21st St N., Wichita, KS. He shared his dream of operating an up-scale club at this location where people could meet to enjoy good music in a safe environment, visit with friends and perhaps dance a little. His targets audience will be college age people and others who are interested in improving the image of the Hispanic population here in Wichita. Mr. Quiroz had gone to the expense of installing audio/visual equipment that can be used for business presentations, closed circuit TV games, and etc. He assures us that he has adequate security to control a crowd of 300, which is the capacity of his building.

The North Riverside Neighborhood Association Board met to discuss Mr. Quiroz's project and after careful consideration, we wish to add our support to him for opening and operating a club on 21st St.. We are also in support of his being awarded a dancing permit so he can operate his business in accordance with the city ordinances.

Sincerely,

D. Donovan President
Claire Wittenberg Treas.
Sharon Powell Quincy

ASOCIACIÓN DE VECINOS
EL PUEBLO
NEIGHBORHOOD ASSOCIATION
2105 N. BROADWAY, WICHITA, KS 67214

Phone: 316-267-6359
Fax: 316-267-6354
Email: guero7@cox.net

September 25, 2008

We are writing this letter in support of Mr. Mario Quiroz, owner of Frida's Mexican Grill, located at 1580 W. 21st St. N., Wichita, KS 67203. We appreciate the cooperation and friendliness of this business to the El Pueblo Neighborhood Association and community. "Frida's" has opened their doors to various community organizations, and has allowed us to hold meetings there, free of charge and interference.

The esthetics of the restaurant, in its humble beginnings, are that of appreciation and education of the cultural arts. The restaurant was named after Frida Kahlo, a very famous artist from Mexico, wife of Diego Rivera, a muralist. The restaurant walls are hung with some copies of their works. Mr. Quiroz also has brought in a variety of musicians, such as saxophonists, which adds to the diversity and appeal of our community.

The back part of the building has a large space available for social events and other activities which is widely accepted in our predominantly Hispanic and Catholic community. We know that Mr. Quiroz runs a clean business, provides for tight security, and demonstrates a sensitivity to community needs.

We appreciate the fact that Mr. Quiroz has attended our community meetings and has made himself available and accountable to our large neighborhood of residents and other business, along the west 21st St. N. corridor.

El Pueblo Neighborhood Association is in favor of Frida's Mexican Grill in getting a conditional use to the community unity plan and extends a big welcome to Mr. Quiroz with best wishes for success in his business.

Thank you for your time and attention.

Sincerely,
Alejandro Calderon

Alejandro Calderon, President
(316) 640-5387—Cell
guero7@cox.net

Neighborhood diversity is power / La diversidad en el vecindario es poder

WEIGAND-OMEGA MANAGEMENT, INC.

February 4, 2009

Re: DP18 Amendment #3, CUP2008-52

Dear Mayor Brewer and Council Members,

I am the District Manager for Twin Rivers Apartments located at 2305 North Somerset in Wichita. We have become concerned about the current attempt to gain authority to operate a drinking establishment/nightclub in the shopping center located across the street from out apartments. Our concern about the nightclub stems from concern about our residents' safety and quiet enjoyment of their living quarters, as well as, the potential diminution in value of our property.

I just received notice of the MAPC meeting from our corporate office on the day before it was to occur. I also understand the sign required to be posted for 13 days prior to the hearing was only placed, if at all, for a very short period of time. As a result, I was not prepared to fully expound on the reasons why our ownership is opposed to the operation of a nightclub so close to our 230 unit multi-family housing property. Additionally, the allotted time of 5 minutes to address the MAPC is not enough to meaningfully communicate all of our concerns. I did produce pictures of extreme amounts of graffiti located on the wall behind the building that has applied for this amendment. This was discounted because "graffiti is a problem everywhere". I disagree with that because the graffiti was taken from the property of the same owner who is asking to be allowed to operate a nightclub/drinking establishment when clearly the owners cannot properly maintain their property as it is.

In reviewing the information in the staff report on this application and in hearing the statements of the applicant at the MAPC hearing, I began to question why a minister of the church that had an alcohol rehabilitation program across the street from the proposed nightclub location would be in favor of the application. Since his phone number was listed at the bottom of his letter of recommendation, I called him. To my surprise, he told me that he was totally against drinking and the establishment of new nightclubs, and that he did not know that his letter would be used to promote a nightclub. I also learned that he is not currently a Pastor of the church that is across the street from the proposed nightclub. He prepared and signed a letter clarifying his position in opposition any business involved in selling alcohol or operating nightclubs, a copy of which is enclosed.

In reviewing the Minutes of the MAPC meeting, it is reported that one member asked a question about the proximity of the Church to the proposed nightclub location and was advised that it was within 200 feet of the CUP. This question was immediately followed by the agent for the applicant who stated that the MAPC agenda "included a letter of support from the Church." Later, the applicant stated "that he has the support of the WPD, the surrounding neighborhood

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Associations and the church. After talking with the WPD North station I was told that their department would not take a public stance on this and that there must have been a misunderstanding.

I then contacted the minister of Breakthrough Ministries (the next door), Rev. Henry Foster, who told me that he opposed the operation of a nightclub across the street from his church and alcohol rehabilitation program. He then signed a formal protest petition stating his opposition to the proposed change in the CUP. He has also assured me that he will make every effort to appear at the City Council meeting on February 10th, 2009 and can clarify that his church never gave their support and that statements to that effect were indeed false.

Also attached to the Staff Report submitted to the MAPC were several letters from neighborhood associations, one of which was the North Riverside Neighborhood Association. We also have an apartment complex near Twin Lakes in North Riverside, and I know the North Riverside association had been vocal in their opposition to a nightclub at the River Bend Shopping Center four years ago. Our Twin Lakes Manager called the Vice President of the association to inquire about their support for the nightclub. He said he had no knowledge of the letter, and certainly is opposed to the new nightclub application. I attended the next meeting of the North Riverside Neighborhood Association held on January 19, 2009, and discussed with them this application. Two of the three persons who signed the letter were at this meeting and one of them said that they had discussed the application at their November, 2008, meeting when Mario Quiroz was present and no one opposed it at that time, so they approved the letter. I should point out that there was no notice of the fact that this nightclub application was going to be discussed at that meeting so interested parties could attend and speak about it. I should further point out that the letter signed by this association was dated September 26, 2008, within the same two week time period of all the dated letters included in the Staff Report. The letter also does not state that the entire association met to discuss the nightclub, only the association Board, of which the Vice President, who had no knowledge of such a meeting, is a member. At the January 19th meeting, I gave any interested person the opportunity to sign a statement indicating their opposition to a nightclub being allowed at the River Bend Shopping Center, and four association members signed such a statement which is also enclosed.

In checking with the Kansas Secretary of State's office, it has been determined that none of the three neighborhood associations signing letters that were attached to the Staff Report were authorized to do business in the State of Kansas at the time each letter was signed and when the letters were presented to the MAPC. The El Pueblo Neighborhood Association's charter was forfeited on September 15, 2008; the 21st Street Business Association's charter was forfeited on July 15, 2008; and the North Riverside Neighborhood Association's charter was forfeited on September 15, 2002.

It appears that the only justification for the support of a nightclub application at this time as opposed to the similar application four years ago is the location of the proposed nightclub within the shopping center. The previous plan called for the nightclub location to be on the east side of the center closer to single family homes, whereas the current plan calls for the nightclub to be on the west side of the center closer to the church and our 230 apartment units. The parking for the current club is at the street across from the church and our apartments, as well as, encompassing the majority of the remaining shopping center parking at the core of the center. The result is that the problems that were identified during the hearings on the application four years ago will now be moved to the other side of the center if this application is approved. The problems are inherent with nightclubs and will not go away. Our concern is not so much what goes on inside the nightclub, but what goes on outside the nightclub. Many of the patrons leaving the club at late hours will be driving the streets through the neighborhood, some in an inebriated condition, some feeling the need to immediately empty their bladder, and, unfortunately, some who will carry their disagreement with another patron into the neighborhood often resulting in fights, gunshots, and sometimes even death. These are some of the reasons nightclubs are not allowed within 200 feet of residential neighborhoods and churches.

There has been no showing in this application of how our neighborhood will be protected from the detrimental effects that will be brought into it by the approval of a nightclub in the River Bend Shopping Center. Nothing has changed in that regard from the application of four years ago. In fact, this application actually makes the situation worse. The application four years ago was for the operation of a nightclub **two** Saturday nights a month. According to City figures, 18.19% of the neighbors within 200 feet of the application area protested the change. I understand the former application immediately followed about seven years of having a nightclub operating without legal authority at the shopping center, and so the detrimental effects of its operation were fresh in the minds of the neighbors and the City.

This current application requests the operation of a nightclub **every** night of the month, and has been protested by 63.10% of the neighbors within 200 feet of the application area (the only reason this is not a higher percentage is that one of the large parcels is owned by the same owner as that of the applicant). The current proposed use is much more intense than four years ago, and has almost three and a half times more neighbors protesting than four years ago. I submit to you that the reason for such an increase in neighborhood protests is a result of the neighborhood having experienced the calm and quiet of living without the detrimental effects of the nightclub for the last four years, and they do not want to see that changed now.

The current Staff Report stated that "this application has generated only one phone call in opposition, possibly demonstrating neighborhood acceptance of this proposal." I did not see any mention in the notice of this application sent to area residents that their opposition should be voiced in the form of a phone call to the planning department. I submit that to indicate that the lack of phone calls in opposition to this application is a misrepresentation to the MAPC of the true

status of the mood of the neighborhood. I also submit to you that the notice that was sent to area residents and land owners was only written in the English language which from my understanding excluded many of them from fully understanding the information that was being disseminated. That is unfair to in an area where many of the residents have limited English proficiency.

In conclusion, it is our opinion that there has been false information distributed to the District Advisory Board and the MAPC in regard to this application that resulted in an incomplete hearing and quite possibly influenced their decision to support the amendment to the River Bend Shopping Center CUP. Additionally, due to the lack of signage indicating zoning matter was being considered at the shopping center, and the English only notice to the neighborhood, it is our opinion that many residents did not get the opportunity to appear and personally relate to these bodies their true feelings about this proposed change, thus preventing these bodies from having complete hearings. We are asking that you deny the request for a CUP amendment to allow a nightclub/drinking establishment at 1580 W. 21st Street based on the basis of the overwhelming number of protests in the area, the misrepresented information, and the failure to post the proper signage for the required amount of time. At the very least if you will not deny this request please hold a public hearing on this application and allow the neighbors to appear before you and tell you of their personal experiences with nightclubs at the shopping center. I understand and appreciate that the council is very busy taking care of our great city and that in the overall picture this is a small issue, however, to those who live in this area the decision you all make concerning this request will have long term effects on their quality of life, their children's quality of life, and all of our property values. Only after hearing their testimonies of the turmoil that this location with the same owner has caused in the past will you truly get a feel for the will of the neighbors and the impact such a nightclub will have on their lives and families.

Thank you for your consideration of these matters.

Regards,

Brandy L. Alcorn

Brandy L. Alcorn, ARM
District Residential Manager,
Weigand-Omega Management Inc.
316-263-2215

January 20, 2009

To Whom it May Concern;

As a Christian Community, we are not in favor of business that involved alcohol or night clubs. Our message to the people is to stop practicing that life style. As a religious community we do not support that kind of business. We do support hispanic business that are aloud by the city such like Clothing Stores, Restaurants or any other business that there is no alcohol involved

Sorry for any misunderstanding but we do not support any negative life style.

Sincerely,
Pastor Juan Farin

God Bless You.

01/19/09

To Whom It May Concern:

It has been brought to my attention as a member of the North Riverside Neighborhood Association that there was a letter recently written endorsement given to the City of Wichita Metropolitan Planning commission by our President and two other members concerning their feelings about Mr. Mario Quiroz and the proposed amendment that would allow for a nightclub/drinking establishment at 1570 W. 21st street north, with a capacity of 300 people. By signing this protest letter I am stating that I am part of the North Riverside Neighborhood Association and that I do not agreed to the proposed amendment and protest having a nightclub/drinking establishment at 1570 W. 21st Street north. This is not an appropriate location for a nightclub/drinking establishment and regardless of anyone's personal feelings about Mr. Quiroz should not be allowed in and would be detrimental to this residential neighborhood.

Name	Address	Phone
Melinda Bradburn	1849 N Payne Ave	316-941-9370
Daniel Bonson	1848 N Payne Ave	316-941-9370
Barbara H Tabata	1754 N Payne Ave	260 6596
Rosanne Carter	1822 N Porter Ave	351-7326

2 FEB 2009

TO THE CITY COUNCIL OF WICHITA

Dear Council Members:

Less than one year ago I moved to 2302 N. Hood which is directly across the street from Frida's. This organization now plans to open a nightclub. This will definitely add noise and congestion to my neighborhood and possibly create an atmosphere for crime.

Since they need approval to change the zoning, please consider the following:

1. Weren't there good reasons for restricted zoning in this neighborhood?
2. What do you envision when you think of a nightclub? Would you want to live next to one?
3. After speaking with former residents of this area, I learned that legal or illegal clubs operated in this shopping center several years ago. During that time there was constant noise, public urinations and gunshots.

Please do not lift the restriction!

Sincerely,

PAGE CONNER
2302 N. Hood
Wichita, Ks 67204

LAW OFFICES OF BLASE & BLASE

Attorneys at Law
2302 North Hood
Wichita, Kansas 67204
Tel: (316) 993-7733

HENRY H. BLASE

ALBERT H. BLASE (1907 - 1988)
ROBERT E. BLASE (1909 - 1988)

February 4, 2009

Mayor Brewer and City Council Members
City of Wichita
455 North Main, 1st Floor
Wichita, KS 67202

Re: CUP2008-52
DP18 Amendment #3

Dear Mayor Brewer and Council Members Fearey,
Gray, Longwell, Schlapp, Skelton, and Williams,

I spoke at the MAPC hearing in opposition to the above referenced CUP amendment. Being mindful of the policy considerations contained in City Council Policy #9, I will limit my comments to new evidence and arguments about the completeness of the prior hearings.

In terms of new evidence, the reason for these comments not being made at the MAPC hearing is the requirement that all comments from interested parties not the applicant be limited to five minutes. With the magnitude of the implications from allowing a nightclub in the River Bend Shopping Center CUP area, it was impossible to convey all information within the five minute time frame.

The first new evidence to the Council is the information that was left out of the Minutes of the MAPC meeting whereat I quoted the comments of Rosalee Bradley, former President of the North Riverside Neighborhood Association, contained in the Minutes of the MAPC meeting hearing the prior nightclub amendment on October 7, 2004. Just before I said, "over consumption of alcohol and consumption of alcohol outside the building . . .", which are reported in the current Minutes, I said, quoting Rosalee Bradley, "my neighborhood has a long history of dealing with fights, gun fights, with people getting killed, disorderly conduct, over consumption . . ." Why would reference to the most egregious conduct be left out of the current Minutes?

At the October 7, 2004, hearing, Gerardo Valenciana played a video he shot from the porch of his house at 2320 North Hood that depicted people urinating in the street and other disorderly conduct as well as the sounds of gunshots. That activity terminated after the illegal nightclub previously operating at the shopping center was shut down over four years ago. The neighborhood does not want it to start up again. Since that video tape is retained in the "permanent record" of the MAPC hearing on the former amendment application, I request that you ask to see it and get a first hand look at what the neighborhood had to suffer when a nightclub operated at the shopping center.

When Emma Jaso re-roofed her house two years ago, she reported to me, the roofers found bullet fragments on her roof that is adjacent to the parking lot to the north of the shopping center. She said that when the nightclub was operating, she could not let small children out of her house in the summertime to play in the yard because of the nightclub activity in the neighborhood. Mrs. Jaso could not attend the DAB meeting since she does not drive at night. Consequently, she calling the planning department to voice her opposition to the nightclub. She told me the from the comments of the planner she spoke with, she understood there would be no use of her going to the MAPC meeting since this application was sure to be approved, and she did not go. She gladly signed a protest petition, and if public comment is allowed at your council meeting, she will definitely appear and impart to you the insight she has gained by living through the prior nightclub experience.

Also in the Minutes of the MAPC hearing on January 22, 2009, it is stated that Jess McNeely reported that at the DAB VI meeting that considered this amendment application, "one neighbor spoke against the request." Jess McNeely was at that DAB meeting. He must have mis-remembered the events of that meeting. I was at that meeting also, and I spoke against the request as did Page Conner, a resident living closest to the proposed nightclub on Hood Street. It is interesting to note also that Terri Dozal, Neighborhood Assistant, District 6, who wrote an Interoffice Memorandum to the MAPC Members, also mis-remembered the speakers at that meeting. She reported that "one member of the public spoke in opposition to the request" without quoting any of the negative points made by the speakers. She then reported that "seven public members spoke in favor of the request" and then listed 5 positive points they made, none of which offered to ameliorate the deleterious effects a nightclub will have on the neighborhood. The memorandum is further misleading by failing to state that two of the "public members" were the agent of the proposed nightclub operator and the proposed nightclub operator. The correct tally of the speakers is that two people who live and work inside the 200 feet protest area spoke against the application, four people who live outside the neighborhood, one of whom lives in Topeka, spoke in favor, and two interested parties, one of whom was paid to speak, spoke in favor of their own application.

The end result of the DAB meeting was that the members were influenced by the alleged support for the application by the Church across the street and the letters from the neighborhood associations. In fact, the Church across the street never ever gave any kind of approval to the application and has signed a protest petition. The letter attempted to be passed off as coming from the Church was signed by a Pastor in another Church who did not know that his letter was being used to promote a nightclub. He has since written a letter stating that he is staunchly opposed to alcohol and nightclubs in any location.

The background information contained in the Staff Report for this application is further misleading in that it states that "in 2004, a different applicant requested an amendment to this same CUP for a drinking establishment and nightclub. . ." It also lists Mario Quiroz as the current applicant. Section V-E.2 and Section V-E.13 each state that the applicant for a CUP and a CUP amendment must be the property owner. Mario Quiroz does not own the subject property. The owner of the property, the applicant, is the same owner who submitted the application in 2004. This is the same owner that allowed an illegal nightclub to operate on his premises for seven years until neighborhood opposition and City action forced it to stop over four years ago. This is the same owner who disrespects the neighborhood by allowing graffiti to adorn the walls of the concrete

block screening wall along almost the entire north property line along 22nd Street between Hood and Somerset. This is the same owner who continues to disrespect the neighborhood by ignoring the requirements of the CUP that state that the length of the property boundary of the parking lot on Hood and Garland Streets be fenced with at least a three foot high fence.

This is the same owner who has apparently subdivided space within the shopping center without the requisite City permits for such reconstruction, as Central Inspection was unable to show me any upon my recent request and appeared to be unaware of the reconstructed space. One of the new spaces now has a lighted sign announcing it as an "Activities Center" in which activities are conducted which appear to be very similar in nature to those suggested to be conducted in the proposed nightclub space. Quite often these activities fill the available parking spaces that the application for the nightclub asserts are allocated to nightclub parking. Where will the Activities Center parking go if the nightclub is approved? Out onto Hood Street or even into the unfenced overflow parking area north of 22nd Street. The City does not appear to have a plan for parking for the Activities Center that allocates a fixed number of parking spaces for the Activities Center use.

Further mis-information conveyed to the DAB and MAPC came from the proposed operator of the proposed nightclub, Mario Quiroz. He stated to the DAB that he had talked to the neighbors. He told the MAPC that "he had the support of the WPD, the surrounding neighborhood associations and the church, and that he has done his homework and talked to people and opened doors in support of his project." First, I am not aware that the WPD would ever be authorized to support any nightclub project, or any other private project for that matter. They may work with an operator to try to improve a bad situation, but I would not go so far as to say they support the project. The fact is, he did not have the support of the Church under any stretch of one's imagination. The neighborhood associations who signed letters apparently did so without advertising any meeting for the purpose of discussing the nightclub and soliciting comments and opinions of actual neighbors. In fact, the person who signed the 21st Street Business Association letter is also the Resident Agent of the El Pueblo Neighborhood Association who also submitted a letter. I have spoken to about twenty residents of the single family houses in the 2300 block of North Hood, and none of them were contacted by Mario Quiroz to inquire as to their views of a nightclub re-opening at the shopping center. Most of them were not even aware that a nightclub was again proposed.

The findings upon which the recommendation in favor of the current application is based are essentially the same as the findings upon which the recommendation opposing the application of four years ago was based. The only real substantive difference is the affirmative statement contained in Finding No. 1, <u>The Zoning, uses and character of the neighborhood</u>, which states:

> "If the request is limited to the proposed conditions, a neighborhood scale nightclub buffered from single-family residences could be compatible with the surrounding neighborhood."

Yet this current finding fails to address the compatibility of a nightclub with the adjacent Church that operates an alcohol rehabilitation program less than 75 feet from the proposed nightclub's parking. And, what happens if the nightclub is not compatible with the surrounding neighborhood?

The following language found in Finding No. 2, <u>The suitability of the subject property for the uses</u>

to which it has been restricted, of the former recommendation was omitted from the current one:

> "Approval of this request would introduce a more intense use that is not appropriate given the application areas proximity to residences (less than 100 feet) and a church (approximately 300 feet), and the parking for the proposed use (adjacent to single-family homes)."

The more intense proposed use in the current application is still not appropriate given its proximity to the Church (less than 100 feet), multi-family living units (less than 100 feet), and single-family homes (less than 275 feet).

In Finding No. 3, Extent to which removal of the restrictions will detrimentally affect nearby property, the language, ". . .which could lead to a loss of enjoyment and value by surrounding properties" was replaced with "[t]he requested CUP amendment would generate traffic at later hours than the current restaurant use." Both of these statements are true, and there was no objective reason to omit the language from the former finding.

Finding No. 4, Relative gain to the public health, safety and welfare as compared to the loss of value or the hardship proposed upon the applicant, contained in the Minutes of the hearing of October 7, 2004, was completly omitted from the current findings. That omitted finding stated,

> "Denial would presumable (sic) cause the applicant an economic loss while continuing some level of protection for the nearby residences and businesses."

There has been no reason stated, nor was there any discussion at the MAPC hearing, concerning the reason for the omission of this finding. It is this level of protection for the nearby residences and businesses that the restriction concerning location of a nightclub within 200 feet of the same was intended to provide. How can a decision now be made to withdraw that protection without some consideration of the effect that withdrawal will have on the people it was intended to protect?

While the Staff Report paid lip service to Objective II.B of the Comprehensive Plan in Finding No. 5, Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies, the strategy that states, "there is a need to evaluate the effectiveness of regulations aimed at reducing or preventing the detrimental impacts of land uses that produce excessive odors, noise or safety hazards upon residential areas" was totally ignored. The portion of that strategy of concern to the neighborhood is the noise and safety hazards a nightclub will create. History has shown that nightclubs create those kinds of problems. Information available at the hearing on the former application, in the Public Services section of the Staff Report, showed a total of 54 police calls to respond to incidents occurring at the shopping center in an 18 month period during which a nightclub operated there. Information about recent police reports at the shopping center was conspicuously missing from the same section of the current Staff Report. Why? I submit that such information would have shown a drastic reduction in police activity at the center since the nightclub operation was closed down. It is precisely that relative peace and tranquility that the neighborhood desires to retain, and the MAPC apparently failed to consider.

In regard to arguments about the completeness of the prior hearings, I would re-assert the points

previously made about mis-information that was disseminated to the DAB and MAPC. In addition, the notification process was flawed. Written notices were sent to area residents written in English. However, many area residents are Hispanic and are not bilingual. The sign that is required to be posted on the subject property for 13 days prior to the MAPC hearing was not posted for the required amount of time. The fact that the sign had been missing was brought to the attention of the agent for the proposed nightclub operator at the DAB meeting, and yet the sign was not replaced prior to the MAPC hearing three days later.

One other glaring defect in the completeness of the hearing is the calculation of area of the proposed amendment. The application for amendment calls for an amendment to DP-18, the River Bend Shopping Center Amended Community Unit Plan. DP-18 consists of four identified parcels. The area calculated for the amendment only includes Parcel 1, Parcel 2 and Parcel 3. Parcel 4, consisting of 67,450 square feet, is left out of the calculation. Consequently, that area surrounding Parcel 4 appears to be left out of the notice area. Also, Parcel 4 is not included in the application area and, therefore, is included in the net area to determine the percentage of protest. The result is a lower percentage protest than actually exists. While these erroneous figures do show that 63.10% of property owners within the 200 feet protested, correct figures would place that percentage at over 88% of property owners within 200 feet, and would include Mrs. Jaso whose property is adjacent to Parcel 4.

At the MAPC hearing on January 22, 2009, Commissioner M.S. Mitchell made the statement that "he doesn't want to see zoning cases decided on a popularity contest and that is exactly what went on [at the DAB meeting]." Yet, by the same token, that same popularity contest standard appears to be exactly why the MAPC voted in favor of this application. All of the letters of support for the application specifically refer to Mario Quiroz and his operation of a restaurant, not a nightclub. In fact, if Mario Quiroz has any experience whatsoever operating a nightclub, that information was never conveyed at the DAB meeting or the MAPC hearing. Nor was he ever asked about his nightclub operation experience. I would suspect that he does not have such experience. Yet the only speaker at the MAPC hearing in favor of the application outside of the proposed operator of the nightclub and his agent, was the President of North Riverside Neighborhood Association, who had also signed one of the letters, and she who stated, ". . . she would like to see this higher class club opened in the neighborhood rather than to wait for the next person to open a 'hip hop' joint." What she evidently fails to understand is that if this application is approved, there is no possible way to stop that "hip hop joint" from operating at the shopping center. Her support of this application, and I suspect the similar support of the other associations, stems from the type of operation Mario Quiroz envisions and has articulated for his nightclub, not the reversion to type of operation that manifested itself in the operation of nightclubs at the shopping center in the past. Yet, there is no condition contained in the recommended approval that would insure that the nightclub operated in this CUP, if approved, be that "high class club".

The limitation imposed in the recommended approval is that the nightclub be attached to and under the same ownership as a restaurant. Such limitation does nothing to insure the character of the nightclub. All that restriction means is that the nightclub is required to maintain separate books from the food sales. That way the food sales, while perhaps only amounting to 10% of the aggregate sales made in the building, would still account for over 50% of the "restaurant" sales so it will still fit within the definition of a "restaurant." The tie to a restaurant does not insure that the

neighborhood will be free from the detrimental effects that a nightclub historically causes.

So, too, the size limitation does not protect and preserve the neighborhood. All it takes is one person to fire a gun to present a safety issue. I have picked up bullet casings from the parking lot at my building across the street from the former nightclub. I do not want to experience that again for myself of the tenants in the office building. One tenant is a former Sheriff's Deputy who is now a real estate agent who told me he did not feel safe conducting business at night when the nightclub was operating. News reports from five years ago state that 10 people cornered 3 police officers outside the former nightclub resulting a crowd of 150 people, many of whom were throwing bottles. Two police officers were hospitalized. How does limiting the number of people in the nightclub to 300 protect the neighborhood?

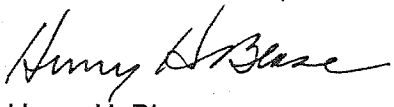
One of the requirements placed on the nightclub in the recommended conditions is that it "shall be responsible to enforce the designated parking area, and shall conform to all other codes and regulations." What happens if it does not do so? What provision is there to rescind the approval for a nightclub in this CUP if the conditions imposed are not followed? Why not impose additional condition(s) that insure the peace and tranquility of the neighborhood? The Wichita-Sedgwick County Uniform Zoning Code at Section V-E.7 and V-E.13 allow the governing body to approve an application with conditions or modifications. If this Council is considering approval of this application, why not impose conditions on the operation of the nightclub, that are applicable regardless of who is actually operating the nightclub, which conditions allow the CUP amendment to be rescinded if the nightclub does not meet the standard. Such conditions would be designed to reduce or prevent the detrimental impacts of a nightclub use that produces excessive noise or safety concerns. There is nothing in the Uniform Zoning Code that would prohibit the imposition of such conditions.

The passage of time has only shown how the neighborhood can improve without a nightclub. It has not shown how the neighborhood has changed to now be suited for a nightclub. A close review of the facts clearly shows that the location of a nightclub anywhere within in the River Bend Shopping Center CUP will be detrimental to the residential and business neighborhood the zoning restrictions were enacted to protect. Zoning runs with the land, not the owner or operator. Please make a decision now to deny this application and protect the character of the neighborhood for the foreseeable future, and not one that will come back to haunt us through untenable living conditions that will result in the deterioration of our neighborhood.

Thank you for your careful attention to this important issue that affects so many people.

Sincerely,

LAW OFFICES OF BLASE & BLASE



Henry H. Blase

HHB/bb

cc: John Schlegel, Director of Planning

Agenda Item No. IV- 2.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: PUD2008-08 – City Planned Unit Development request from SF-5 Single-family Residential ("SF-5") zoning to create PUD #29, The Moussavi Office Park Planned Unit Development; generally located north of Harry Street, between Rock Road and Webb Road. (District II)

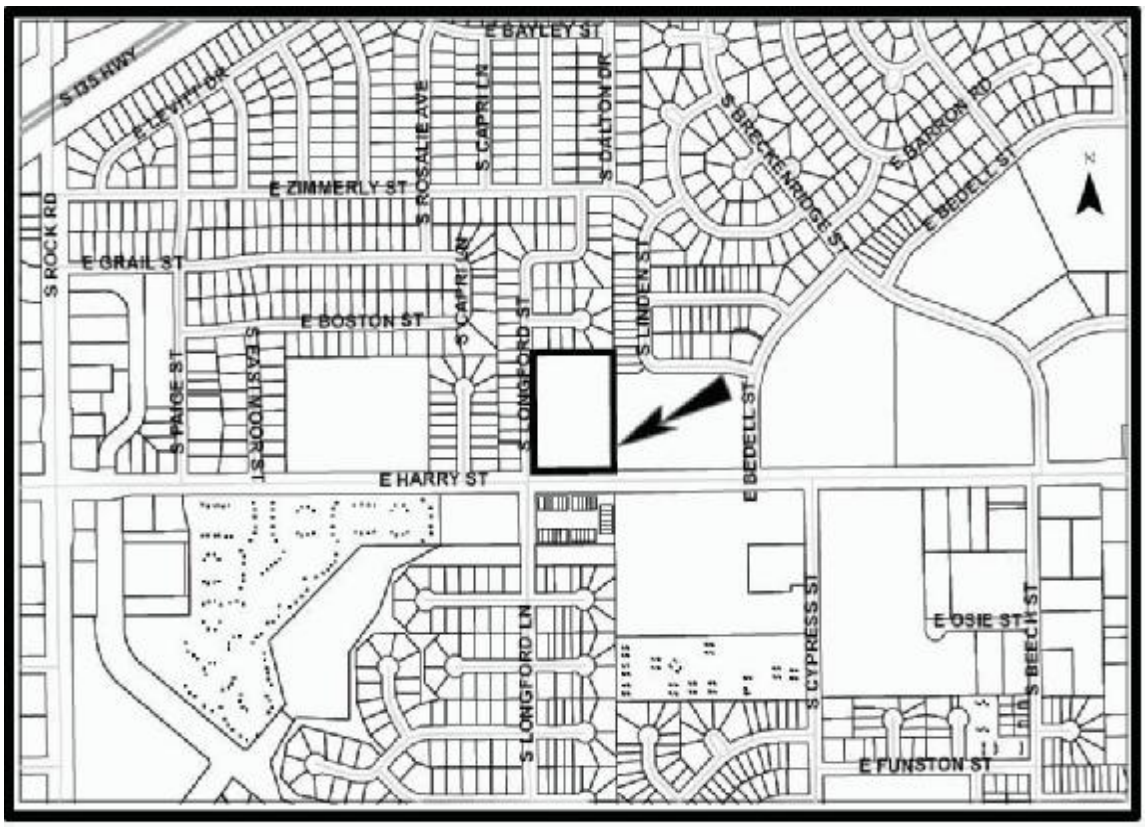
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendation: Approve, subject to platting within one year and subject to conditions.

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

DAB Recommendation: Approve, subject to platting within one year and subject to conditions.



Background: The applicant proposes to create PUD #29, the 4.73-acre Moussavi Office Park Planned Unit Development; see the attached PUD document provided by the applicant. The "PUD" Planned Unit Development special zoning district would replace the current zoning district of SF-5 Single-family Residential ("SF-5") on one parcel. The PUD would permit single-family residential use, two-family residential use, office (general), medical service and convalescent care facility (general). Signs are per the Sign Code (the PUD does not designate which zoning district within the code), with only one 96 square-foot, 16-foot tall sign on Harry Street; off site, portable and variable message signs are prohibited. All lighting is to be shielded away from residential areas with a 15-foot height limit; trash receptacles and roof equipment require screening. Landscaping is required per the Landscape Code; utilities are to be underground. The PUD requires screening, but would waive screening adjacent to multi-family parking and would allow screening to be achieved with evergreen vegetation or berms in accordance with the Zoning Code. Architectural design standards require consistent exterior building materials of brick, stone, or stucco, consistent colors and pitched roofs. Building setbacks are 70 feet from the north property line, 25 feet from the south property line and 15 feet from the east and west property lines. Building heights are limited to 35 feet. A total of six buildings are permitted with a building coverage of 20%, a gross floor area ratio limited to 20% and the entire development not to exceed 28,400 square feet of gross floor area. Access to the site is from Harry Street.

Analysis: This request was heard and approved by the MAPC on December 4, 2008. DAB II recommended denial of the request on December 3, 2008. The request generated a 19.72% protest petition, which allows the recommendation of the MAPC to be approved with a simple majority vote. The applicant withdrew the request before going to City Council and has since significantly revised the PUD request; changes were based on neighbor concerns. The City Council first heard this item on May 5, 2009, and they voted to send the revised request back to the MAPC and DAB for public hearing. The MAPC heard and approved the revised request on May 21, 2009; DAB II heard and approved the request on June 1, 2009.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the PUD subject to platting within one year; place the ordinance on first reading; withhold publication of the ordinance until instructed by planning staff, following the recording of the plat; or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

OCA150006
Published in The Wichita Eagle on July 17, 2009
ORDINANCE NO. 48-361

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. PUD2008-08

Request for zone change from "SF-5" Single-family Residential to "PUD #29" Planned Unit Development on property described as:

The East 378.64 feet of the South 592 feet of the South half of the Southwest Quarter of Section 29, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

Generally located north of Harry Street and east of Longford.

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

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

ADOPTED AT WICHITA, KANSAS, July 14, 2009.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

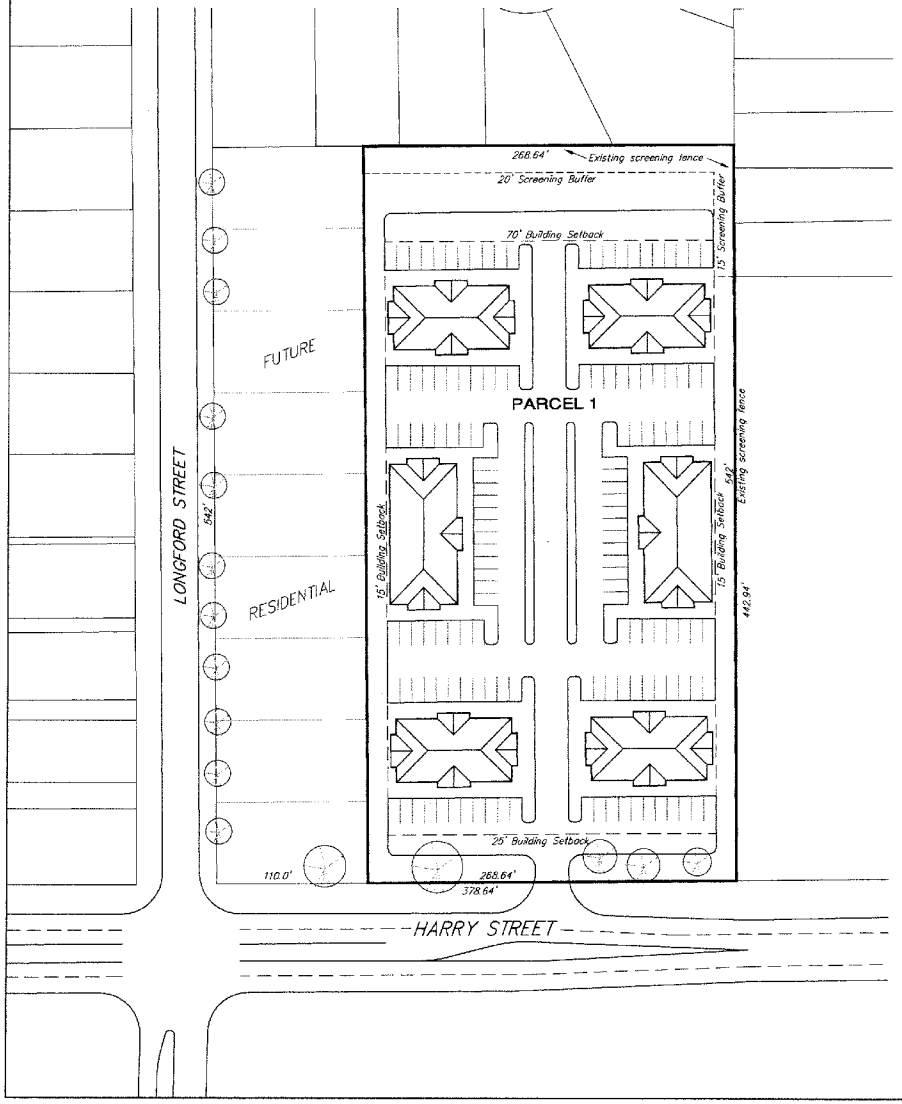
Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

MOUSSAVI OFFICE PARK

PLANNED UNIT DEVELOPMENT

PUD2008-08



GENERAL PROVISIONS:

1. Total Land Area: 146,780 sq. ft. ± or 3.37 acres

   Total Gross Floor Area: 28,400 sq.ft.
   Total Floor Area Ratio: 20 percent

2. Parking shall be provided in accordance with Article IV of the Unified Zoning Code.

3. Setbacks are as indicated on the P.U.D. drawing.

4. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.

5. Signs shall be in accordance with the Sign Code of the City of Wichita, with the following additional requirements:

A. Parcel 1 is permitted the following freestanding signage: One sign with a maximum of 96 sq. ft. of sign area along Harry Street.

B. Portable and off-site signs are not permitted.

C. Interior window display, animated, banner, commercial balloon, commercial flag or pennant, electronic messages, flashing, roof, temporary, and variable message signs shall not be permitted.

D. The ground sign must be monument type and limited to a maximum height of 15 feet.

6. Access shall be limited to one opening to Harry Street and one opening to Longford Street as indicated on the Plan.

9. Parcel 1 shall install similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.).

A. The height of all light poles, including pole base, is limited to 15 feet.

B. All exterior lighting shall be shielded to direct light disbursement in a downward direction.

10. Utilities shall be installed underground on all parcels.

11. Landscaping for this site shall be required as follows:

A. Development of Parcel 1 shall comply with the Landscape Ordinance of the City of Wichita, with the additional requirement that landscaped street yards and parking lot screening and landscaping shall be required along Harry Street.

B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.

C. A financial guarantee for the plant material approved on the landscape plan for that portion of the P.U.D. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.

D. All parcels shall share a similar landscape palette.

12. The screening wall requirement of Sec. III-C.2.b.(2)(d) of the Unified Zoning Code is waived along the south 442.94' feet of the east property line where adjacent to Multi-Family parking lot. Screening may be provided by evergreen vegetation or landscaped earth berms in accordance with the provisions of Sec. IV-B.3. of the Unified Zoning Code. A 20-foot buffer shall be maintained along the north property line and a 15-foot buffer along the north 119.06 feet of the east property line to protect the existing trees. Mature trees within this buffer shall not be removed and may be applied towards the landscape, screening and buffering requirements of the U.Z.C. and Landscape Ordinance.

13. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.

14. Trash receptacles and ground-level mechanical equipment shall be screened from ground-level view with screening walls constructed of materials consistent with the wall materials of the building which the trash receptacle and mechanical equipment supports.

15. All buildings in the P.U.D., shall share uniform architectural character, color, texture, and the same predominate exterior building material consisting of brick, stone or stucco. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent.

Buildings shall be designed with a residential architectural character, including roofs that are mansard, gable or hip in style. Building elevation drawings shall be required for review and approval by the Planning Director prior to the issuance of any building permits to ensure compliance with these provisions.

16. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be placed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.

17. Uses in Parcel 1 shall be limited to the following: Single-Family Residential, Two-Family Residential, Office (General), Medical Service, and Convalescent Care Facility (General).

18. The design layout shown on the plan illustrates only one development concept. Additional design concepts may be permitted, provided they meet all requirements of this plan.

19. A site circulation plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits. The site circulation plan shall ensure pedestrian linkages between buildings and the sidewalk system and shall ensure internal vehicular circulation among developments within the P.U.D., including joint use of ingress/egress openings and ensuring that drive openings are not impacted/blocked by the layout of parking stalls or landscaping.

20. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.

21. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.

22. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

23. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

PARCEL 1

A. Net Area:	146,780 sq. ft. ± or 3.37 acres ±
B. Maximum Building Coverage:	28,400 sq.ft. or 20 percent
C. Maximum Gross Floor Area:	28,400 sq.ft.
D. Floor Area Ratio:	20 percent
E. Maximum Number of Buildings:	Six (6)
F. Maximum building height:	35 feet
G. Setbacks:	See Drawing
H. Access Points:	See Drawing
I. Permitted Uses:	See General Provision #17.

LEGAL DESCRIPTION:

The East 378.64 feet of the South 442 feet of the South 1/2 of the SW 1/4 Sec. 29- Twp. 27-S, R-2E of the 6th P.M., Sedgwick County, Kansas, except the west 110 feet thereof, and except for roads.

REVISIONS:

Filed PUD2008-08:	10-27-2008
Approved by MAPC:	
Revised by Applicant:	04-22-2009
Approved by MAPC:	
Approved by City Council:	

SCALE: 1" = 40'

Baughman
ENGINEERING | SURVEYING | PLANNING
LANDSCAPE ARCHITECTURE

F:\FILENAME\PUD\MOUSSAVI OFFICE PARK\MOUSSAVI OFFICE PARK 110.DWG

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Antione Sherfield, Neighborhood Assistant, District II

SUBJECT: **PUD2008-08: Creation of a Planned Unit Development**

DATE: June 1, 20098

On Monday, June 1, 2009, the District II Advisory Board considered the request to create a Planned Unit Development Plan located North of Harry, between Rock Road and Webb, East of Longford Street.

This request was heard by the MAPC (9-2) on December 4, 2008. DAB II recommended denial of the request (5-3) on December 3, 2008. The request generated a 19.72% protest petition. The applicant withdrew the request before going to City Council and has since significantly revised the PUD request; changes were based on neighbor concerns. The City Council then heard this item on May 5, 2009, and voted to send the revised request back to the MAPC and DAB for public hearing process review.

The applicant proposes to create PUD #29, the 4.73 acre Moussavi Office Park Planned Unit Development. The "PUD" Planned Unit Development special zoning district would replace the current zoning district of SF-5 Single-family Residential ("SF-5") on one parcel. The PUD would permit all uses in the GO General Office ("GO") zoning district, with the following uses prohibited: manufactured home, accessory apartment, cemetery, correctional placement residence, golf course, parking area (commercial), recycling collection station (private), hotel or motel, marine facility, asphalt or concrete plant, and agriculture. Uses that require a Conditional Use in the GO district would require a separate PUD amendment. This leaves the following uses permitted in the PUD: single and multi-family residential (up to 75 dwelling units per acre), assisted living, group residence, church or place of worship, community assembly, convalescent care, daycare, hospital, library, schools, automatic teller machines, bed and breakfast inn, broadcast recording studio, funeral home, medical service, and general office.

Signs are per the Sign Code (the PUD does not designate which zoning district within the code), with only one 96 square-foot, 16-foot tall sign on Harry; off site, portable, and variable message signs are prohibited. All lighting is to be shielded away from residential areas with a 15-foot height limit; trash receptacles and roof equipment require screening. Landscaping is required per the Landscape Code, utilities are to be underground. The PUD requires screening, but would waive screening adjacent to multi-family parking, and would allow screening to be achieved with evergreen vegetation or berms in accordance with the Zoning Code. Architectural design standards require consistent exterior building materials of brick, stone, or stucco, consistent colors, and pitched roofs. Building setbacks are 20 feet from the north and west property lines, 25 feet from the south property line; 15-feet from single-family residential development on the east property line, and 10 feet from multi-family along the east property line. Building heights are limited to 35 feet. A total of eight buildings are permitted with a building coverage of 21%, a gross floor area ratio limited to 25%, and the entire development not to exceed 51,500 square feet of gross floor area. Access points are to be from both Harry and Longford.

North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential ("MF-29") zoned multi-family residences. East of the site are TF-3 Two-family Residential ("TF-3") zoned single and multi-family residences.

CASE HISTORY: The property is unplatted, and developed with three single-family residences and outbuildings.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5, MF-29, CUP DP-79	Multi-family residences
EAST:	TF-3, CUP DP-53	Two and multi-family residences
WEST:	SF-5	Single-family residences

Recommended Action: The **DAB** voted **(6-4)** in favor of the Planning Staff's recommendation.

Citizens attending the meeting had the following concerns.

- Resident purchased home 13 years ago under the impression homes would be built in vacant area
- Residents were assured by original developer that there would be more homes built in vacant area
- Resident stated they would have built in another area had they known homes were not going to be built
- No assurance homes will be built in vacant area
- Increased traffic in the area with office complex
- Concerns that office complex will compromise the integrity of the neighborhood
- Concerned in regard to office complex being too close to existing homes
- Potential lighting from parking structure will disturb residents quality of life

Antione Sherfield
Neighborhood Assistant – District II

EXCERPT OF THE MAY 21, 2009 MAPC HEARING

Case No.: PUD2008-08 – Bijan Moussavi (owner); Robert Kaplan (agent) Request City PUD Planned Unit Development for office use on property described as:

The East 378.64 feet of the South 592 feet of the South half of the Southwest Quarter of Section 29, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas, generally located midway between Rock and Webb Roads, on the northeast corner of Harry and Longford Streets.

BACKGROUND: This request was heard by the MAPC (9-2) on December 4, 2008. DAB II recommended denial of the request (5-3) on December 3, 2008. The request generated a 19.72% protest petition. The applicant withdrew the request before going to City Council and has since significantly revised the PUD request; changes were based on neighbor concerns. The City Council then heard this item on May 5, 2009, and voted to send the revised request back to the MAPC and DAB for public hearing process review. This revised Staff Report is based on the revised PUD request.

The applicant proposes to create PUD #29, the 4.73-acre Moussavi Office Park Planned Unit Development, see the attached PUD document provided by the applicant. The "PUD" Planned Unit Development special zoning district would replace the current zoning district of SF-5 Single-family Residential ("SF-5") on one parcel. The PUD would permit single-family residential use, two-family residential use, office (general), medical service, and convalescent care facility (general). Signs are per the Sign Code (the PUD does not designate which zoning district within the code), with only one 96 square-foot, 16-foot tall sign on Harry; off site, portable, and variable message signs are prohibited. All lighting is to be shielded away from residential areas with a 15-foot height limit; trash receptacles and roof equipment require screening. Landscaping is required per the Landscape Code, utilities are to be underground. The PUD requires screening, but would waive screening adjacent to multi-family parking, and would allow screening to be achieved with evergreen vegetation or berms in accordance with the Zoning Code. Architectural design standards require consistent exterior building materials of brick, stone, or stucco, consistent colors, and pitched roofs. Building setbacks are 70 feet from the north property line, 25 feet from the south property line, and 15-feet from the east and west property lines. Building heights are limited to 35 feet. A total of six buildings are permitted with a building coverage of 20%, a gross floor area ratio limited to 20%, and the entire development not to exceed 28,400 square feet of gross floor area. Access to the site is from Harry.

North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential ("MF-29") zoned multi-family residences. East of the site are TF-3 Two-family Residential ("TF-3") zoned single and multi-family residences.

CASE HISTORY: The property is unplatted, the site is developed with three single-family residences and outbuildings.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5, MF-29, CUP DP-79	Multi-family residences
EAST:	TF-3, CUP DP-53	Two and multi-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: Harry is a five-lane section line arterial street with a 100-foot right-of-way (ROW), and a daily traffic count of 24,592. All municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The"2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential. This category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The commercial location guidelines of the Comprehensive Plan state that commercially-generated traffic should not feed directly onto local residential streets. The office location guidelines of the Comprehensive Plan state that office uses should be located adjacent to arterial streets; that local service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development; and that low density office use can serve as a transitional land use between residential uses and higher intensity uses.

The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

(1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;

(2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;

(3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and

(4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD incorporates architectural standards, building height limits, and building coverage limits that could enhance the quality of the proposed development. The applicant would be required to provide screening which meets the standards of the Zoning Code.

RECOMMENDATION: Several residential neighbors were opposed to the original request, which included access from Longford Street. Revisions to the PUD by the applicant considered the neighborhood concerns. Based on these comments and information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within one year and subject to the following conditions:

1. Amend Provision 5 to state "Signs shall be in accordance with the Sign Code for the NO Neighborhood Office zoning district, with the following additional requirements:"

2. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential ("MF-29") zoned multi-family residences. East of the site are TF-3 Two-family Residential ("TF-3") zoned single and multi-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for single-family residential as it is currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested PUD would affect nearby property with increased traffic, activity, noise and light. The proposed PUD could mitigate these effects provided it meets minimum zoning code standards.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential. This category encompasses all residential development densities and types typically found in the municipality. The office location guidelines of the Comprehensive Plan state that office uses should be located adjacent to arterial streets; that local service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development; and that low density office use can serve as a transitional land use between residential uses and higher intensity uses. The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code.

5. Impact of the proposed development on community facilities: The proposed development would generate more traffic on Harry than the current residential development. However, Harry continues to have adequate capacity, and any traffic increase from this PUD would be minimal.

MCKAY recused himself from this item and left the bench.

JESS MCNEELY, Planning Staff presented the Staff Report. He stated that DAB II is scheduled to re-hear the revised case on June 1, 2009.

FOSTER remarked that he thought item #8 in the Staff Report, which referred to access onto Longford needed to be deleted. He commented that he thought this was a much better plan than the original, especially for the neighbors.

BOB KAPLAN, AGENT FOR THE APPLICANT said although the application had been previously approved by the Commission, he said he and the applicant worked with the Development Review Committee and made substantial changes to the application in an effort to satisfy the concerns of the neighborhood regarding traffic and other issues. He said by adding the nine residential lots to the west, they have reduced the area of the site by 30 percent. He said they are in agreement with the conditions listed; they have increased setbacks; limited access to Harry Street only; and have architectural standards.

HILLMAN asked if the opening on Harry would be right in, right out only.

KAPLAN asked **RUSS EWY, BAUGHMAN COMPANY** to address the traffic plan.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR APPLICANT said the access point onto Harry is practically the only place where it can be located. He said it may be a site design issue with City Traffic Engineering and the City may choose to require right in, right out only.

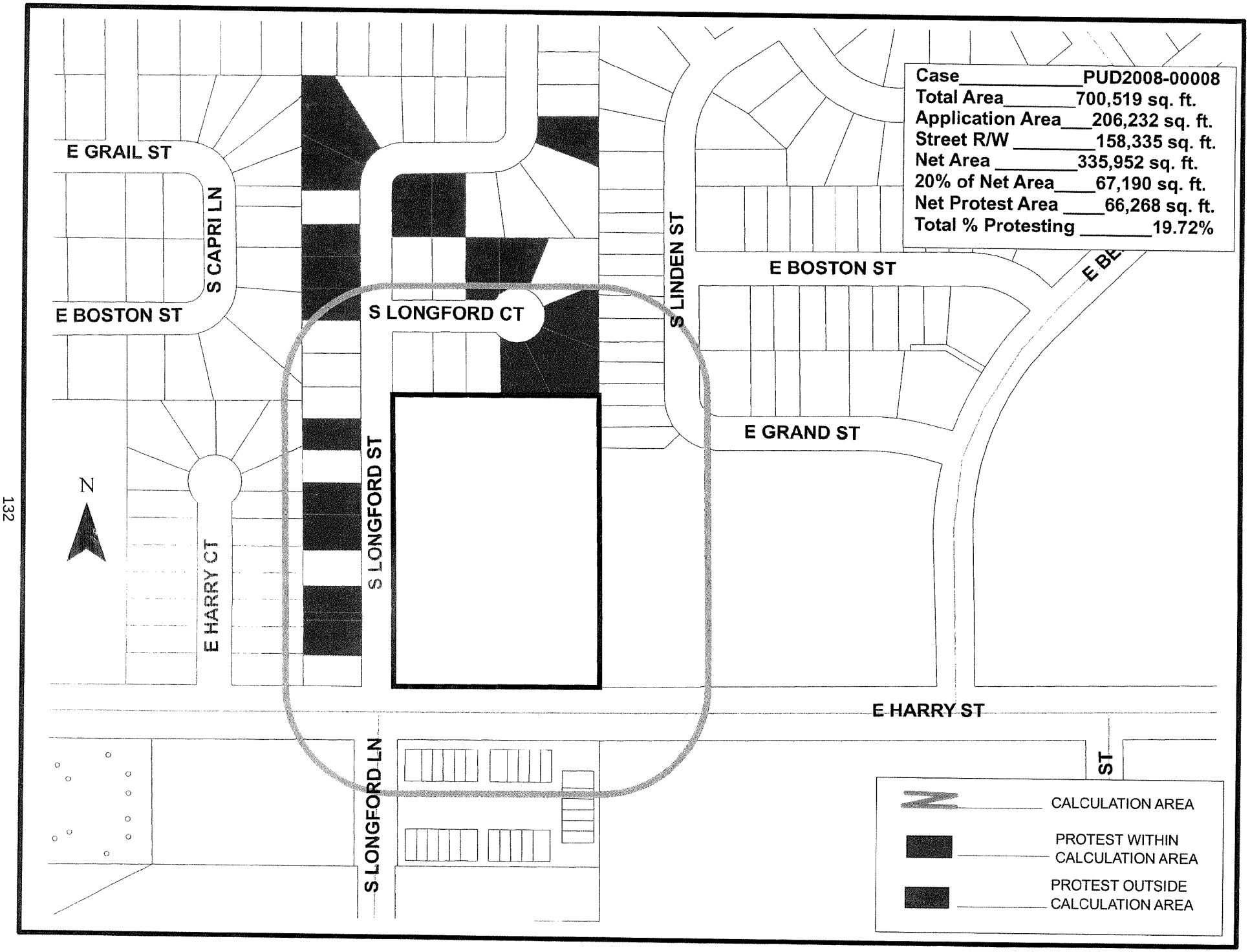
CHUCK SIMON, 1215 S. LONGFORD, HEDGEWOOD HOMEOWNER'S ASSOCIATION, Referred to Golden Rule #4 regarding how long the property had been vacant and said the Crandall family lived on the property since 1939 until the time property was sold. He said he was happy that there would be nine new homes across the street. He also thanked the two Commission members who voted against the original proposal in December. He referred to a PowerPoint presentation, specifically the area around Harry and Webb. He mentioned that the Countryside Office Park was similar to what was being

proposed for their residential neighborhood but that it is located in a more appropriate area for an office park or commercial enterprise. He referred to a sign for the office park that advertised vacancies (29 out of 54 office suites were occupied) and commented that this proposed development may experience the same vacancies. He reviewed the entire residential area surrounding the proposed site, which consisted of single-family homes and some multi-family complexes.

KAPLAN declined rebuttal, but asked if there were any additional questions.

> **MOTION:** To approve subject to staff recommendation.
>
> **MITCHELL** moved **JOHNSON** seconded the motion, and it carried (11-0-1). **MCKAY** abstained.

MCKAY back on the bench.


Case PUD2008-00008
Total Area 700,519 sq. ft.
Application Area 206,232 sq. ft.
Street R/W 158,335 sq. ft.
Net Area 335,952 sq. ft.
20% of Net Area 67,190 sq. ft.
Net Protest Area 66,268 sq. ft.
Total % Protesting 19.72%
E GRAIL ST
S CAPRI LN
E BOSTON ST
S LONGFORD CT
S LINDEN ST
E BOSTON ST
E GRAND ST
N
E HARRY CT
S LONGFORD ST
E HARRY ST
S LONGFORD LN
ST
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

Agenda Item No. IV-3.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: ZON2009-00015 - City zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with a Protective Overlay ("PO"); generally located south of Maple Street and west of Tyler Road. (District V)

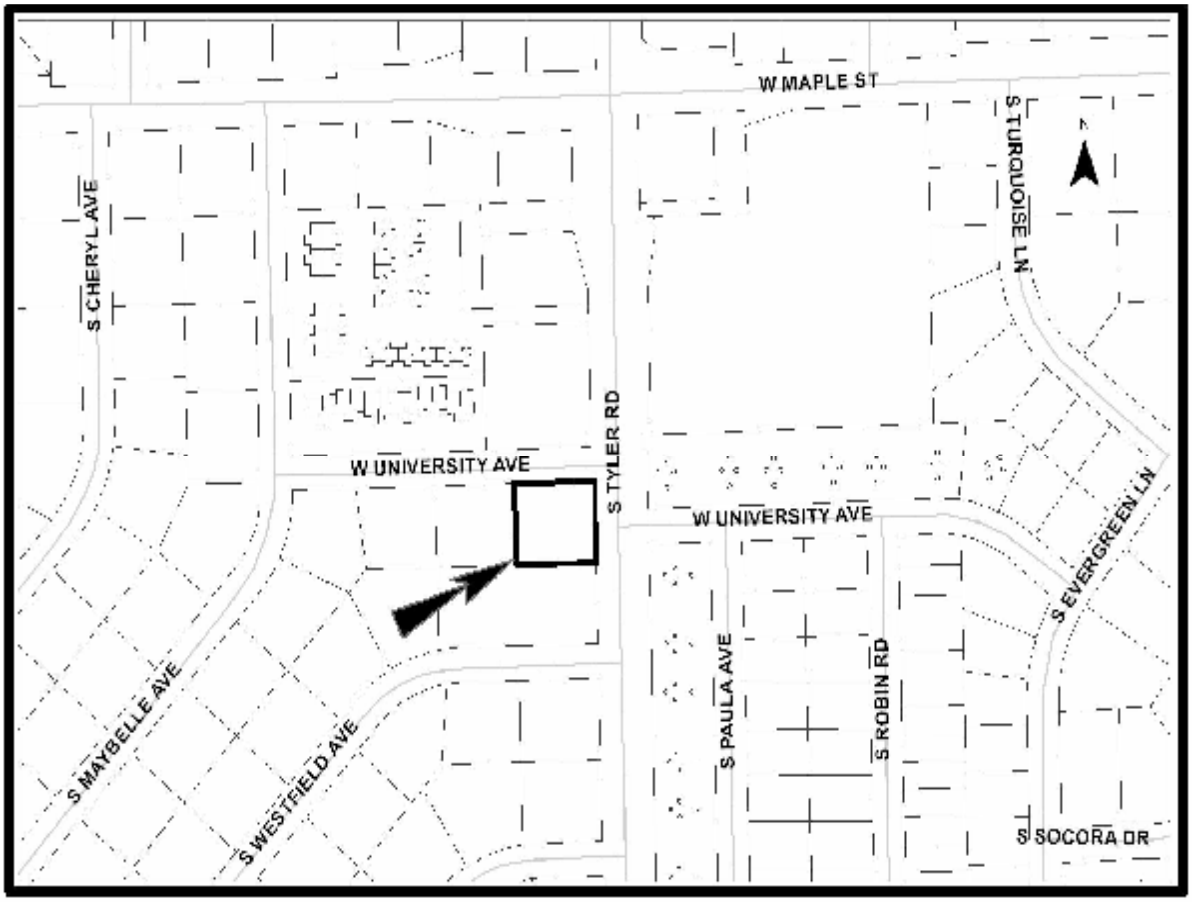
Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Non-Consent)

MAPC Recommendation: Approve unanimously (12-0), subject to the provisions of the Protective Overlay.

MAPD Staff Recommendation: Approve, subject to the provisions of the Protective Overlay.

DAB V Recommendation: Approve unanimously (7-0), subject to the amended provisions of the Protective Overlay.



Background: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC"), with a Protective Overlay (PO) on Lot 1, Block Q, Callahan Addition. The approximately 0.49-acre site (150 feet x 140 feet) is located on the southwest corner of Tyler Road and University Avenue. The site is currently developed with a decommissioned 8,115 square foot, one-story fire station/emergency service building (built 1954-1955), with a total of 10 bay doors facing both Tyler Road and University Avenue. This was an active building until the last few months. Access to the site is off of Tyler Road, a principal arterial, and the residential street University Avenue. The proposed LC zoning with the PO will allow more opportunities for the reuse of this facility.

The surrounding area is characterized by a mixture of single-family, duplex and multi-family residences, some office, public/civic and commercial uses. The properties to the south and west of the subject site are zoned SF-5 and are mostly developed as a single-family subdivision, the Callahan Addition. A church (on two lots) abuts the south side of the subject site. An undeveloped lot, owned by the same church, abuts the west side of the subject site. North of the site, across University Avenue, there is LC zoned (with a CUP overlay) property with the following uses: an open bay, self service car wash, apartments, a day care, small retail and office. East of the site, across Tyler Road, are MF-29 Multi-family Residential ("MF-29") and LC zoned apartments, a bar and TF-3 Duplex ("TF-3") zoned duplexes.

To buffer the abutting and adjacent existing single-family residences from the commercial redevelopment of the site, the applicant has proposed a PO. The proposed PO limits signage, lighting, noise and building height. It also requires a six to eight foot tall cedar fence along the west and south sides of the site and a six foot wide landscape buffer, consisting of the existing landscape, along the south property line; both the landscaping and the screening fence requirement will be activated by redevelopment of the site. If the existing landscape does not meet the minimum requirement of the Landscape Ordinance, it is proposed that there be additional planting of evergreens. Per the Landscape Ordinance, evergreens are to be a minimum of 5 feet in height. The proposed PO also prohibits certain uses that are less compatible with residential development.

The applicant has not addressed the required landscaping on the west, interior side yard, where the subject site abuts an undeveloped SF-5 zoned lot. The west side of the subject site appears to have concrete parking right up to the property line, thus preventing the easy installation of the required landscaping. Any installation of landscaping along the west side would possibly take away the few existing, on-site parking spaces. An exception to the Landscape Ordinance that may apply to this site allows for the waiver of parking lot screening if the applicant is "…renovating a nonresidential building, but the renovation does not increase the value of the property by more than 50%...." or "…does not alter the parking lot." At this point there is no specific redevelopment plan for the building, thus the application of this exception cannot be applied at this time, but could in the future when a new use has been identified. Modification to the Landscape Ordinance can be made by the Planning Director. The BZA can waive the landscape requirements. Landscaping, parking and other code standard considerations are not uncommon on residential sized lots that are developed for nonresidential use.

Analysis: At the MAPC meeting held on June 4, 2009, the MAPC voted (12-0) to approve the requested zoning, subject to the provisions of the PO. There were no protests to the request at the MAPC meeting. At the DAB V meeting held on June 8, 2009, the DAB unanimously (7-0) recommended approval of the requested zoning, with one change to the PO. The DAB recommended that "no LED signs should be permitted." The DAB recommendation is different than what was recommended by the MAPC, thus it will require a 2/3 majority of the Council to approve the request per DAB's recommendation. There were no protests at the DAB meeting and the applicant agreed to the DAB's recommended change. Staff has not received any written protests or calls protesting the request. The MAPC recommended approved of LC zoning, subject to the provisions of PO #232 listed below (the PO listed below does not include the DAB recommendation to prohibit LED signage):

A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or west face of any building that is adjacent to any property that is zoned residential.
B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs

shall be monument-style and limited to 15 feet in height.

C. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.

D. Outdoor speakers and sound amplification systems shall not be permitted.

E. No buildings shall exceed one story in height with a maximum building height of 25 feet.

F. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the south and west property lines of the subject site, where it abuts existing residential zoning, along its south and west sides.

G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.

H. Adjustments or variances to the parking standards can be considered at the time the fire station/emergency service facility is redeveloped, as needed.

I. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #232; place the ordinance establishing the zone change on first reading; or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Attachment: None.

ORDINANCE NO. 48-362

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. ZON2009-00015

Zone change from SF-5 Single-family Residential ("SF-5") to Limited Commercial ("LC") subject to the provisions of Protective Overlay #232 on property described as:

Lot 1, Block Q, Callahan Addition, Wichita, Sedgwick County, Kansas; generally located south of Maple Street, on the southwest corner of the University Street – Tyler Road intersection.

SUBJECT TO APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #232:

J. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or west face of any building that is adjacent to any property that is zoned residential.

K. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style and limited to 15 feet in height. No LED signs.

L. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.

M. Outdoor speakers and sound amplification systems shall not be permitted.

N. No buildings shall exceed one story in height with a maximum building height of 25 feet.

O. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the south and west property lines of the subject site, where it abuts existing residential zoning, along its south and west sides.

P. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.

Q. Adjustments or variances to the parking standards can be considered at the time the fire station/emergency service facility is redeveloped, as needed.

R. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending

machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

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

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

ADOPTED AT WICHITA, KANSAS, July 14, 2009.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Wichita City Council

MAPC Members

FROM: Kelli Glassman, Neighborhood Assistant, District 4

SUBJECT: ZON2009-00015

DATE: June 17, 2009

On Monday, June 8, the District Advisory Board (DAB) for Council District 5 considered a zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with a Protective Overlay ("PO"), generally located south of Maple Street, on the southwest corner of University Street and Tyler Road intersection. The DAB Members were provided the public notice and MAPD staff comments for review.

The Board expressed concern regarding LED signage in proximity to the road and residents in this area. The representative for the applicant, Russ Ewy, was present and stated that his client would not object to including language prohibiting this type of signage.

The Board further acknowledged that the parking designated for this project could result in parking problems for the area. Staff responded that parking could be modified and adjusted at the time of redevelopment to resolve any parking issues.

DAB members voted 7-0 to recommend approval of this request with the addition of prohibiting LED signage.

EXCERPT OF THE JUNE 4, 2009 MAPC HEARING

Case No.: ZON2009-15 - Sedgwick County, c/o Robert Lawrence (owner/applicant), Baughman Company, PA, c/o Phil Meyer (agent) request; City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 1, Block Q, Callahan Addition, Wichita, Sedgwick County, Kansas, generally located south of Maple Street, at the southwest corner of University Street and Tyler Road (401 South Tyler Road.)

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC"), with a Protective Overlay (PO) on Lot 1, Block Q, Callahan Addition. The approximately 0.49-acre site (150 feet {x} 140 feet) is located on the southwest corner of Tyler Road and University Avenue. The site is currently developed with a decommissioned 8,115 - square foot, one-story fire station/emergency service building (built 1954-1955), with a total of 10 bay doors facing both Tyler and University. This was an active building until the last few months. Access to the site is off of Tyler, a principal arterial, and the residential street, University. The proposed LC zoning with the PO will allow more opportunities for the reuse of this facility.

The surrounding area is characterized by a mixture of single-family, duplex and multi-family residences, some office, public/civic and commercial uses. The properties to the south and west of the subject site are zoned SF-5 and are mostly developed as a single-family subdivision; the Callahan Addition. A church (on two lots) abuts the south side of the subject site. An undeveloped lot, owned by the same church, abuts the west side of the subject site. North of the site, across University, there is an LC zoned (with a CUP overlay) open bay, self service car wash, single-story apartments, a day care, small retail and office. East of the site, across Tyler, are MF-29 Multi-family Residential ("MF-29") and LC zoned, 1-3 storey apartments, a bar, and TF-3 Duplex ("TF-3") zoned duplexes.

To buffer the abutting and adjacent existing single-family residences from the commercial redevelopment on the site, the applicant has proposed a Protective Overlay (PO); see attached PO. The proposed PO limits signage, lighting, noise, and building height. It also requires a six – eight foot tall cedar fence along the west and south sides of the site and a six-foot wide landscape buffer, consisting of the existing landscape, along the south property line; both the landscaping and the fence will be activated by redevelopment of the site. If the existing landscape does not meet the minimum requirement of the Landscape Ordinance, it is proposed that there be additional planting of evergreens. Per the Landscape Ordinance, evergreens are to be a minimum of 5 feet in height. The proposed PO also prohibits certain uses that are less compatible with residential development and limits trash and delivery times.
The applicant has not addressed the required landscaping on the west, interior side yard, where the subject site abuts an undeveloped SF-5 zoned lot. The west side of the subject site appears to have concrete parking right up to the property line, thus preventing the easy installation of the required landscaping. Any installation of landscaping along the west side would possibly take away existing, limited on-site parking. An exception to the Landscape Ordinance that may apply to this site is "...renovating a nonresidential building, but the renovation does not increase the value of the property by more than 50%...." or "...does not alter the parking lot." At this point there is no specific redevelopment plan for the building, thus the application of this exception cannot be applied at this time, but could in the future when a new use has been identified. Modification to the Landscape Ordinance can be made by the Planning Director. The BZA can waive the landscape requirements. Landscaping, parking and other code standard considerations are not uncommon on residential sized lots that are developed for nonresidential use.

CASE HISTORY: The subject property is Lot 1, Block Q, Callahan Addition, which was recorded

August 19, 1954. The County fire station was built between 1954 and 1955. The area was annexed into the City between 1971 and 1980.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Self service car wash, apartments, a day care, small retail and office
SOUTH:	SF-5	Single family residences, church
EAST:	MF-29, LC, TF-3	Apartments, bar, duplexes
WEST:	SF-5	Undeveloped lot, single family residences

PUBLIC SERVICES: The subject site has frontage/access to Tyler Road and University Avenue. University is a paved, curbed residential street. Tyler Road is a paved, four-lane, principal arterial. The 2030 Transportation Plan indicates no change to the status of either of these roads. Available traffic counts in the area show approximately 15,604 average trips per day on this section Tyler. Municipal water and sewer services are currently provided to the subject site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as appropriate for "Local Commercial" development. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed PO addresses these considerations. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The corner site does have direct access onto University, a local residential road, with a stop sign located at its intersection with Tyler. The fire station/emergency service facility takes up most of the corner site and what on-site parking there is, is located off of University side, thus traffic generated off of the site will be using University for access. The other existing access is a drive onto Tyler and any vehicles using it probably would have to back onto Tyler, making it the least preferred access, for public safety reasons. Landscaping, parking and other code standard considerations are not uncommon on residential sized lots that are developed for nonresidential use.

RECOMMENDATION: The requested LC zoning does conform to the 2030 Wichita Functional Land Use Guide of the Comprehensive Plan. Considerations for redevelopment of the fire station/emergency service facility include limited area for on-site parking and landscaping on the west side. Adjustments, exceptions, modifications, or variances can be applied for at the time the fire station/emergency service facility is redeveloped. The abutting, undeveloped western, church owned property is shown on the Land Use Guide as being appropriate for "Local Commercial" development, as are the two southern/southwestern church properties; possible rezoning and development/redevelopment of these properties could be part of a later redevelopment of the subject site. The proposed LC zoning would allow for redevelopment of the existing facility either for single-family use (permitted by right in the LC zoning district) or for commercial uses. The alternative without the rezoning would possibly be a long standing vacant building. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay:

A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or west face of any building that is adjacent to any property that is zoned residential.
B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style and limited to 15 feet in height.
C. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles

shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.

D. Outdoor speakers and sound amplification systems shall not be permitted.

E. No buildings shall exceed one story in height with a maximum building height of 25 feet.

F. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the south and east property lines of the subject site, where it abuts existing residential zoning, along its south and west sides.

G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.

H. Adjustments or variances to the parking standards can be considered at the time the fire station/emergency service facility is redeveloped, as needed.

I. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of single-family, duplex and multi-family residences, some office, public/civic and commercial uses. The properties to the south and west of the subject site are zoned SF-5 and are mostly developed as a single-family subdivision; the Callahan Addition. A church (on two lots) abuts the south side of the subject site. An undeveloped lot, owned by the church, abuts the west side of the subject site. North of the site, across University, there is an LC zoned (with a CUP overlay) self service car wash, single-story apartments, a day care, small retail and office. East of the site, across Tyler, are MF-29 and LC zoned 1-3 storey apartments, a bar, and TF-3 zoned duplexes.

2. The suitability of the subject property for the uses to which it has been restricted: The single-family residential sized lot/subject site is zoned SF-5 which accommodates moderate-density, single-family residential development and complementary land uses. The site is currently a decommissioned 8,115- square foot, one-story County fire station/emergency service building (built 1954-1955) that served this area when it was in the County. The fire station/emergency service facility was built prior to County wide zoning (1984) and prior to the publication of the 1958 County – City of Wichita 3-mile ring zoning map. The 1958 map classifies the site as R-1 Suburban Residential, which subsequently became SF-6 Single-family Residential (now SF-5) when the site was annexed into the City. There is no history of a "Use Exception" or a Conditional Use for the fire station/emergency services facility on the site, which would be required under the current UZC. The subject site is located on the southwest corner of University Avenue and Tyler Road, one block south of the arterial intersection of Maple Street and Tyler. The subject site is located south, across University, from a self service, open bay car wash and LC zoning. Proximity to the above mentioned intersection and car wash make the site less attractive for single-family use. The money needed to tear down the fire station/emergency service building and redevelop the site as a single-family residence coupled with the site's location further discourages single-family use. The proposed LC zoning would allow redevelopment of the existing facility either for single-family use (permitted by right in the LC zoning district) or for commercial uses. The alternative without the rezoning would possibly be a long standing vacant building.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the size of the site, a single-family residential sized lot, and the unique structure (fire

station/emergency service) redevelopment of this site could be challenging. Detrimental effects should be minimized by the provisions of the proposed Protective Overlay which would limit signage, lighting, noise, building height and prohibit certain uses that are less compatible with surrounding residential development. Redevelopment of residential sized lots (this lot is not unlike others in the Callahan Addition) that were developed with nonresidential buildings, which in this case are no longer needed, can be challenging, as available space for parking, landscaping, access, etc maybe limited. A vacant building on the site could have more of a negative impact on the area than the redevelopment opportunities for the site offered by the proposed LC zoning.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site is located on the intersection of Tyler Road and University Avenue. Tyler is an arterial road and the corner lot/site has immediate access to it. The proposed PO addresses these considerations.

5. Impact of the proposed development on community facilities: Detrimental impacts on community facilities should be minimal, although there will be an increase in traffic generated from the site if a commercial use locates on the site. Off-site parking (on the street) may be an issue with the site's current size and configuration.

BILL LONGNECKER, Planning Staff presented the Staff Report. He made two corrections to the Report. The first correction was on page two, first paragraph, fourth line from the bottom. He said 21,000-square feet should be 8,115-square feet. The second correction was on page four, provision "I" of the Protective Overlay, and that was "group home" should be removed as a prohibited use.

***JOHNSON** in @1:35 p.m.

MOTION: To approve subject to staff recommendation.

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

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: SUB 2009-19 -- Plat of Ann Walenta Commercial Addition located on the south side of Kellogg and on the east and west sides of Oliver. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: This site, consisting of seven lots on 8.43 acres, is a replat of a portion of Ann Walenta Addition, Kellogg Heights Addition and DeWitt 2nd Addition. A portion of this site has been approved for a zone change (ZON 2008-34) from B Multi-family, TF-3 Two-family and MF-29 Multi-family to LC Limited Commercial. The Oliver Retail Center CUP (CUP 2008-24/DP-261) has also been approved, and a CUP Certificate has been submitted identifying the approved CUP and its special conditions for development on this property.

Analysis: Municipal services are available to serve this site. In accordance with the CUP approval, a Cross-lot Circulation Agreement has been submitted to assure internal vehicular movement between the lots. A Temporary Utility Easement has been provided for utilities that will be relocated.

The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Financial Considerations: None.

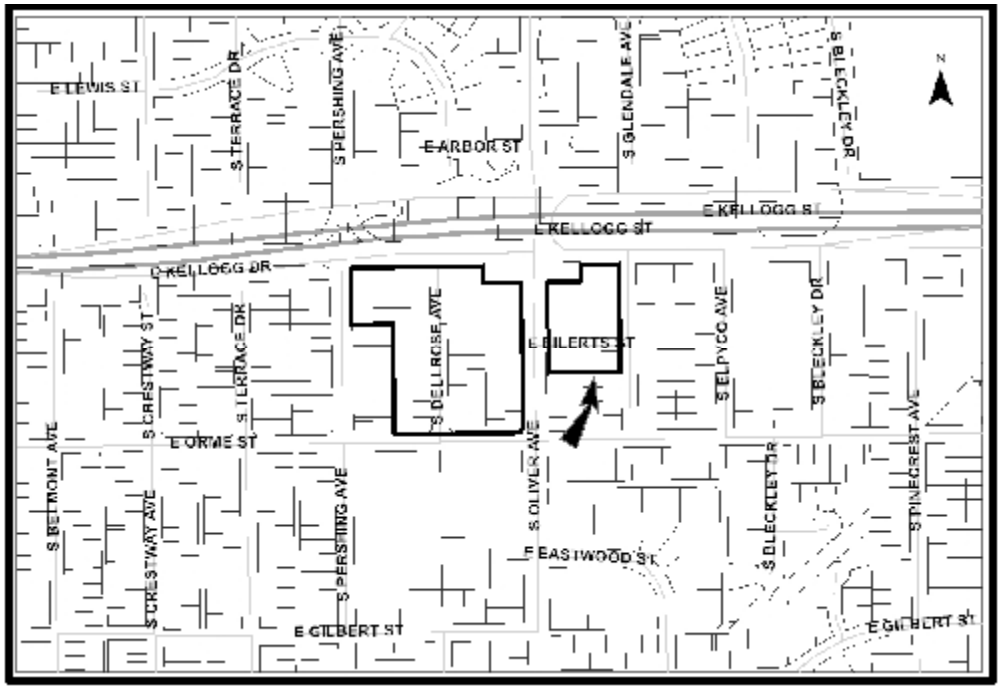
Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Notice of Community Unit Plan, Temporary Utility Easement and Cross-lot Circulation Agreement will be recorded with the Register of Deeds.

The ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and approve first reading of the ordinance.

Attachments: Notice of Community Unit Plan, Temporary Utility Easement, Cross-lot Circulation Agreement and ordinance.


E LEWIS ST
S TERRACE DR
S PERSHING AVE
E ARBOR ST
S GLENDALE AVE
S BLECKLEY DR
N
E KELLOGG ST
E KELLOGG ST
E KELLOGG DR
S CRESTWAY ST
S TERRACE DR
S DELLROSE AVE
E BILERTS ST
S ELPYCO AVE
S BLECKLEY DR
S PINECREST AVE
S BELMONT AVE
E ORME ST
S CRESTWAY AVE
S PERSHING AVE
S OLIVER AVE
S BLECKLEY DR
E EASTWOOD ST
E GILBERT ST
E GILBERT ST

(OCA150004)

ORDINANCE NO. 48-363

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. ZON 2008-34

Zone change requests from:

1) B Multi-family to LC Limited Commercial, for property described as:

The east 100 feet of the south 72.05 feet of Lot 2, Block 2, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas;

2) TF-3 Two-family to LC Limited Commercial, for property described as:

That part of Lots 2 and 5, Block 1, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southwest corner of said Lot 2; thence N00°00’26”W along the west line of said Lot 2, and the southerly most west line of said Lot 5, 331.06 feet; thence S89°59’26”E, 130.25 feet; thence S00°02’08”W, 306.09 feet to a point of curvature of a curve to the right having a radius of 25 feet and an arc length of 39.27 feet; thence along said curve 39.27 feet to a point of tangency on the south line of said Lot 2; thence N89°58’32”W along said south line, 105.01 feet to the place of beginning; and

3) MF-29 Multi-family to LC Limited Commercial, for property described as:

That part of Lot 4, Block 1, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southwest corner of said Lot 4; thence S89°58’32”E along the south line of said Lot 4, 89.00 feet for a place of beginning; thence N00°00’26”W, 71.34 feet; thence S89°59’26”E, 129.00 feet to the east line of said Lot 4; thence S00°00’26”E along said east line 46.36 feet to a point of curvature of a curve to the right having a radius of 25 feet and an arc length of 39.28 feet; thence along said

curve 39.28 feet to a point of tangency on the south line of said Lot 4; thence N89°58'32"W along said south line, 103.99 feet to the place of beginning.

Generally located on the south side of Kellogg and on the east and west sides of Oliver.

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 14th day of July 2009.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

NOTICE OF COMMUNITY UNIT PLAN
(OLIVER RETAIL CENTER) (DP-261)

THIS NOTICE made this 1st day of June, 2009, by Donald Walenta, managing member of S.J. Ram, LC, a Kansas limited liability company, hereinafter called "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of the following-described property:

LOTS 1 – 5, BLOCK 1, LOTS 1 AND 2, BLOCK 2,
ANN WALENTA COMMERCIAL ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS.

and

WHEREAS, Declarant is desirous to file notice that a community unit plan approved by the City of Wichita is on file with the Wichita-Sedgwick Coutny Metropolitan Area Planning Department, located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.

NOW, THEREFORE, the Declarant gives notice that the approved community unit plan (OLIVER RETAILCENTER) (DP-261) has placed restrictions on the use and requirements on the development of the above-described real property. The community unit plan shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to Lots 1 - 5, Block 1, Lots 1 and 2, Block 2, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas.

EXECUTED the day and year first written above.

S.J. Ram, LC, a Kansas limited liability company

Donald Walenta

Donald Walenta, managing member

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

The foregoing instrument was acknowledged before me this 1st day of June 2009, by Donald Walenta, managing member of S.J. Ram, LC, a Kansas limited liability company, owner of Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas.

Seal or Stamp

TODD S. HEPTIG
Notary Public - State of Kansas
My Appt. Expires 6-12-11

Todd S. Heptig, Notary Public
(signature of notary officer)

My appointment expires: 6-12 2011.

SUB 2009-19

f:/docs/office/reqs/cupnot.doc
10/11/95

TEMPORARY UTILITY EASEMENT

THIS EASEMENT made 1st day of June, 2009, by and between Donald Walenta, managing member of S.J. Ram, LC, a Kansas limited liability company, owner of Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas, parties of the first part and the City of Wichita, Sedgwick County, Kansas, party of the second part.

WITNESS: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party, temporary easements for the location of public sanitary sewer and public waterlines within the following-described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

A 20.00 foot Utility Easement, the centerline being described as commencing at the S.E. corner of Lot 2, Block 1, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas; thence N89°58'32"W along the south line of said Lot 2, 96.83 feet for a place of beginning; thence N00°02'20"E, 581.29 feet to a point of termination on the north line of said Lot 2.

A 20.00 foot Utility Easement, the centerline being described as commencing at the S.W. corner of Lot 4, Block 1, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas; thence S89°58'32"E along the south line of said Lot 4, 85.13 feet for a place of beginning; thence N00°00'21"W, 459.26 feet for a point of termination.

A 20.00 foot Utility Easement, the centerline being described as commencing at the N.E. corner of Lot 2, Block 2, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas; thence S00°01'32"W along the east line of said Lot 2, 11.00 feet to a point of intersection of said Lot 2; thence S00°11'46"E along the east line of said Lot 2, 24.02 feet for a place of beginning; thence S89°57'05"W, 129.86 feet; thence N00°03'56"E, 29.46 feet for a point of termination.

And the right is hereby granted the party of the second part to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing said utilities.

These temporary easements will expire upon the acceptance of the removal or abandonment of the utilities by the party of the second part.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

S.J. Ram, LC, a Kansas limited liability company

Donald Walenta

Donald Walenta, managing member

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

The foregoing instrument was acknowledged before me this 2nd day of June 2009, by Donald Walenta, managing member of S.J. Ram, LC, a Kansas limited liability company, owner of Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas.

Seal or Stamp

TODD S. HEPTIG
Notary Public - State of Kansas
My Appt. Expires 6-12-11

Todd S. Heptig, Notary Public
(signature of notary officer)

My appointment expires: 6-12 2011.

SUB 2009-19

CROSS-LOT CIRCULATION AGREEMENT

THIS DECLARATION, made this 1st day of June, 2009 by the undersigned,

WITHNESSETH; That,

WHEREAS, The Declarant is the owner of the following described property:

Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas.

and

WHEREAS, it is desirable to provide a cross-lot circulation agreement for the benefit of the above described property; and

WHEREAS, The Declarant is the owner of parcels of land to be burdened by said agreement and desire hereby to establish cross-lot circulation agreement serving said property.

NOW, THEREFORE, The Declarant hereby declares and establishes the cross-lot circulation agreement, as follows:

1. The Declarant grants to all future owners, their agents, assigns, lessees, customers invitees, licensees, tenants and employees a nonexclusive easement over, through, and around the above described property for driveways, walkways, ingress and egress, parking motor vehicles. All entrances, exits, aisle ways and driveways shall be unobstructed so that vehicular and pedestrian traffic may easily move to and from adjoining lots within the common area and the adjacent streets.

SUB 2009-19

2. The rights herein granted and all provisions hereof shall be deemed covenants that shall run with the land and shall inure to the benefit of and be binding upon the Declarant and their successors and assigns.

IN WITNESS WHEREOF, this Declaration has been executed the date first above written.

S.J. Ram, LC, a Kansas limited liability company

Donald Walenta

Donald Walenta, managing member

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

The foregoing instrument was acknowledged before me this 1st of June

day of June

_____ 2009, by Donald Walenta, managing member of

S.J. Ram, LC, a Kansas limited liability company, owner of Ann Walenta Commercial

Addition, Wichita, Sedgwick County, Kansas.

Seal or Stamp

TODD S. HEPTIG
Notary Public - State of Kansas
My Appt. Expires 6-12-11

Todd S. Heptig, Notary Public
(signature of notary officer)

My appointment expires: 6 - 12 20 11.

Page 2 of 2

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: VAC2008-00022 - Request to vacate a platted easement and a contingent alley; generally located east of Hydraulic Avenue and north of 10th Street. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant, Sedgwick County, is requesting consideration for the vacation of a platted contingent alley and utility easement, which runs west to east, and connects the platted north–south alley north of 10th Street between Kansas Avenue and Minneapolis Avenue. There are utilities, manholes and a sewer line in the platted north–south alley, but not in the described alley/easement. By separate instrument, the applicant will need to provide an east-west dedication of a utility easement to Kansas Avenue to prevent the north-south alley from becoming a dead end alley. The KUMC Addition was recorded with the Register of Deeds on April 3, 1995.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

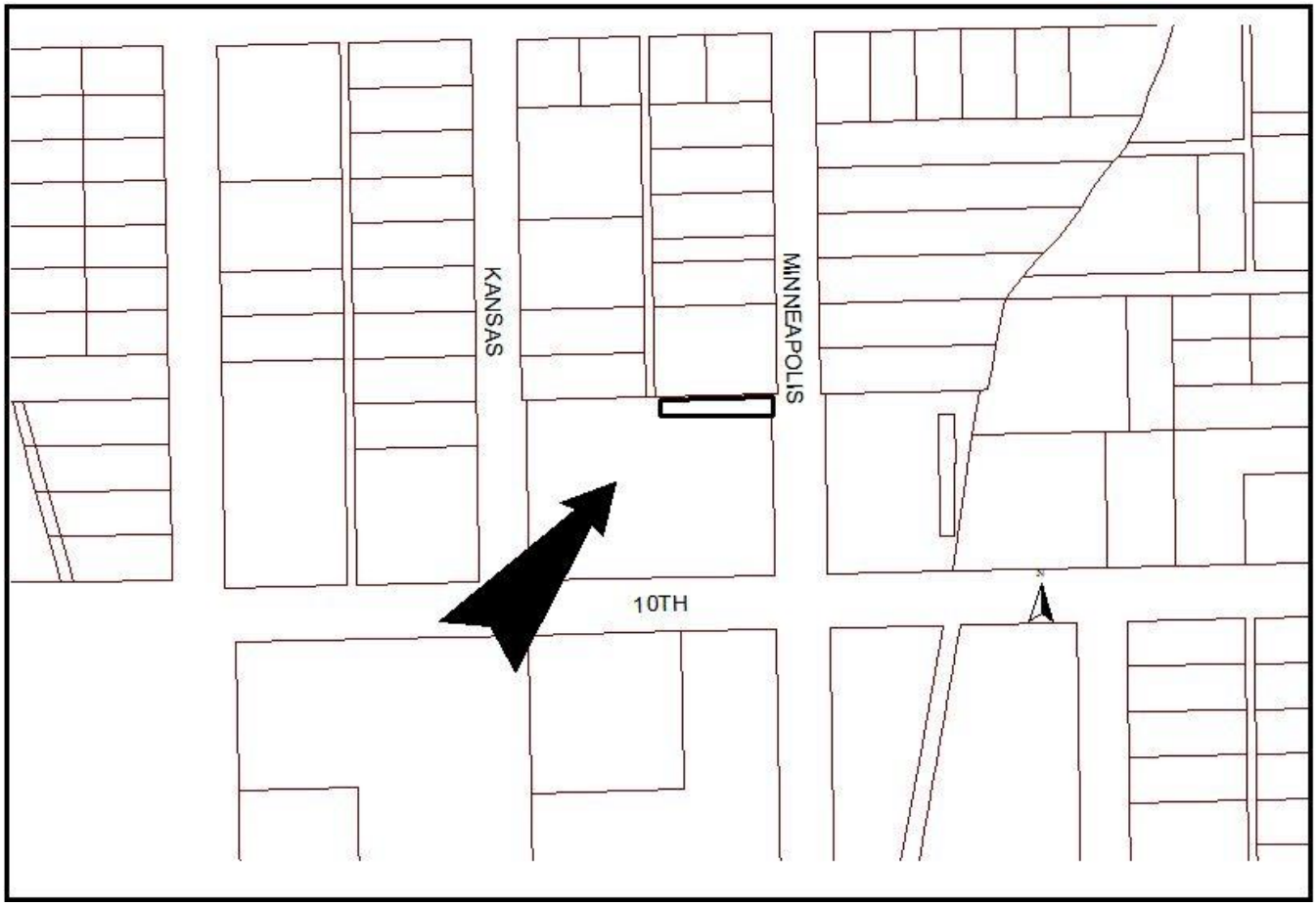
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order and dedications by separate instruments for a public utility easement and a contingent alley will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedications by separate instruments for a public utility easement and a contingent alley.


KANSAS
MINNEAPOLIS
10TH

Agenda Item No. V-3.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: VAC2008-00031 - Request to vacate a portion of platted complete access control; generally located east of Webb Road, on the south side of 21st Street North. (District II)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant proposes one (1) full movement drive and one (1) right-in/right-out drive along the site's 21st Street North frontage. The applicant proposes 200 feet of separation between the two drives. 21st Street is a paved principal arterial, with 4 lanes and center and frontage turn lanes. The 2030 Transportation Plan does not show any changes to the status of this road. There are not any drives located north of the site, across 21st Street. This area is developed with a single-family subdivision. There is a drive into an apartment complex, located approximately 180 feet west of the site's west lot line. There is another drive into an office building located approximately 400 feet east of Cranbrook Street, a residential street that abuts the east side of the site. There are no utilities, public water or sewer located along the site's 21st Street frontage. The Remington Place Addition was recorded with the Register of Deeds on May 9, 2001.

Analysis: The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

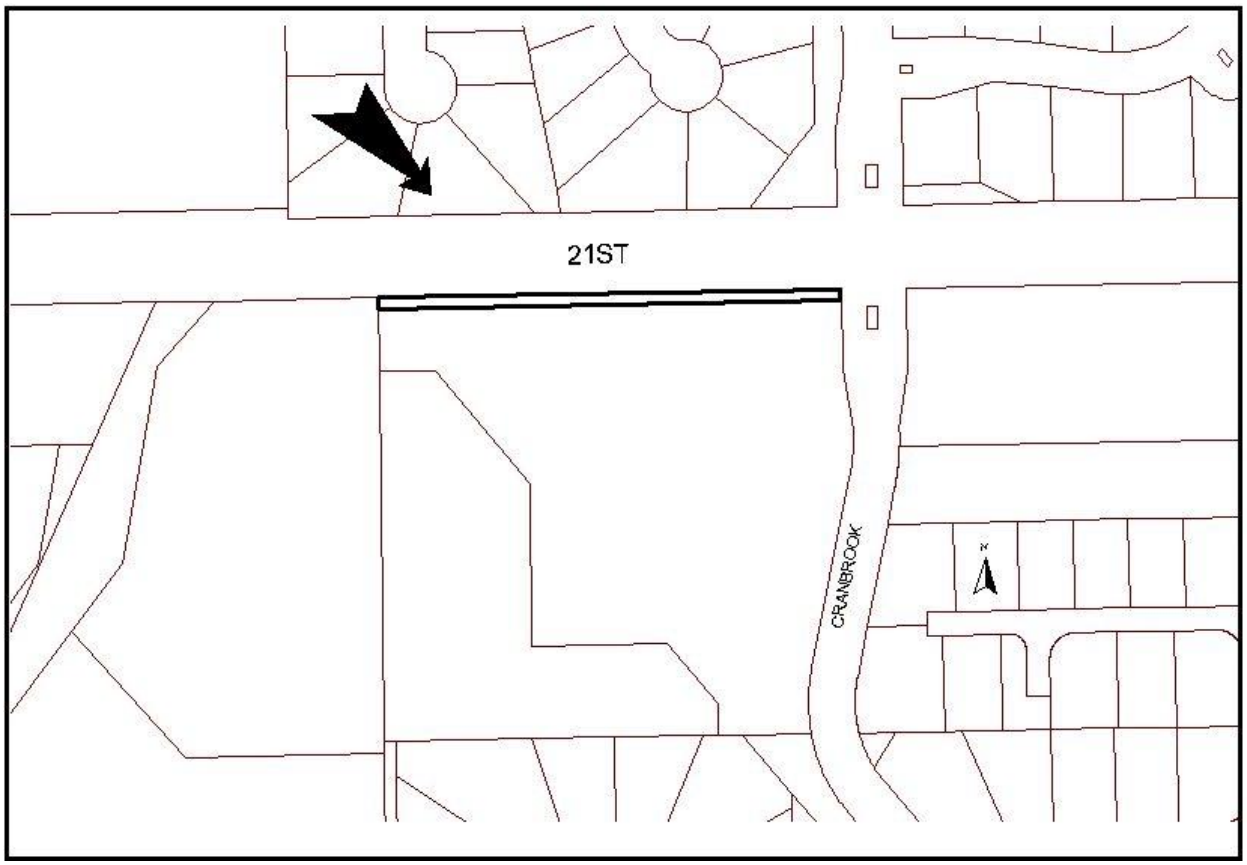
Financial Considerations: Petition for decal lane and drives.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order, dedication by separate instrument of access control will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedication by separate instrument of access control.


21ST
CRANBROOK
N

Agenda Item No. V-4.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: VAC2009-00014 - Request to vacate a portion of platted complete access control; generally located west of Amidon Avenue, on the north side of 21st Street North. (District VI)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant proposes one (1) right–in/right-out only drive along the site's 21st Street North frontage. 21st Street has a full curbed median strip at this location, which prevents full turning movements. The proposed drive is located approximately 285 feet west of the 21st Street and Amidon Avenue intersection. There are three (3) other drives located east of the proposed drive: approximately 115 feet east, 160 feet east and 230 feet east. The applicant proposes to close the drive closest to the intersection of Amidon and 21st Street, which is located right on the northwest corner of the 21st and Amidon intersection, in favor of the proposed drive. The spacing of the existing drives in relation to the proposed drive does not meet current standards of 200 feet of separation, but the elimination of the existing drive located approximately 30 feet west of the intersection is an improvement for this section of 21st Street. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past, staff has recommended modified design criteria, which has been approved by the MAPC. There are no utilities, public sewer or water located in this portion of 21st Street. The Sweet Briar Addition was recorded with the Register of Deeds on June 16, 1965.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

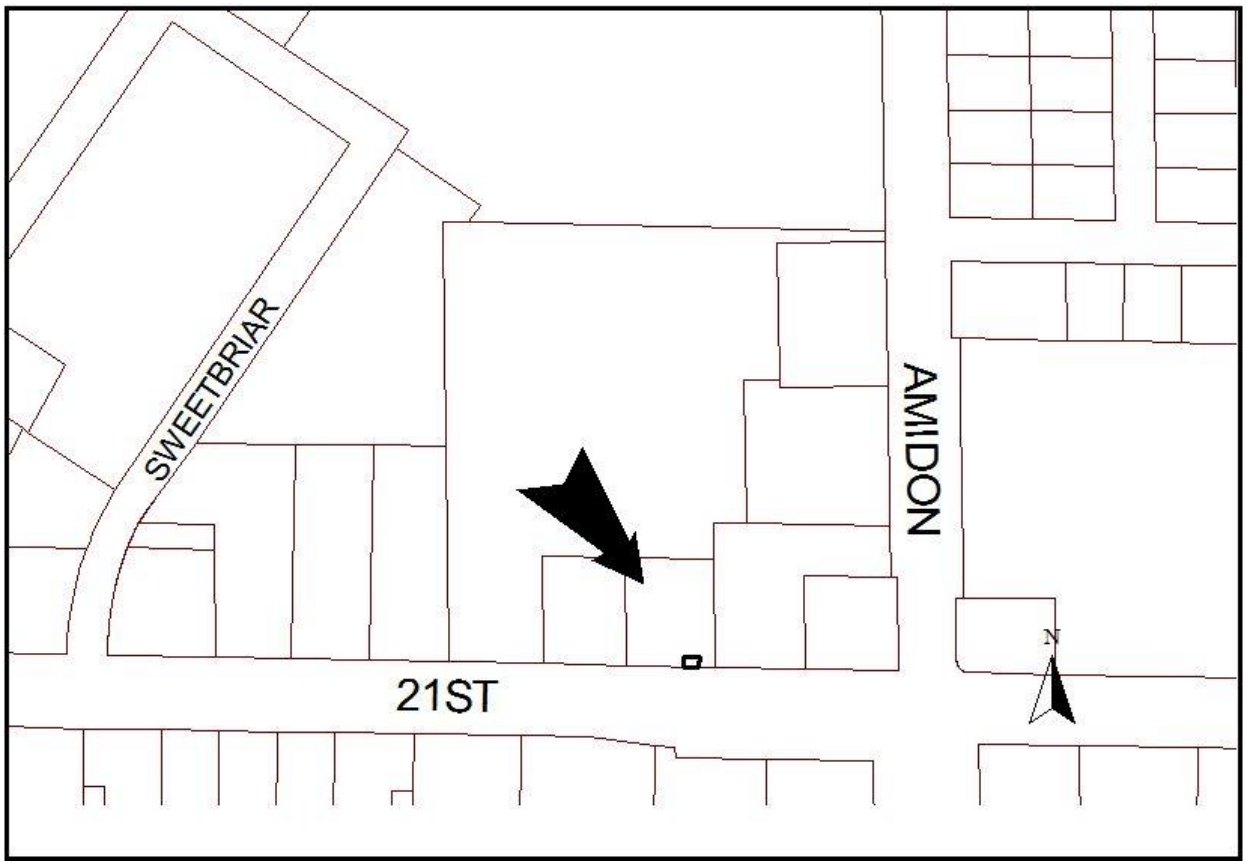
Financial Considerations: Petition for closing of drive and continuation of curb and construction of new drive.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order and dedication by separate instrument for complete access control will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedication by separate instrument for complete access control.


SWEETBRIAR
AMIDON
21ST
N

Agenda Item No. V-5.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: VAC2009-00015 - Request to vacate a platted contingent dedication of street right-of-way, and a portion of street right-of-way; generally located north of K-96 and east of Webb Road. (District II)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The Colonel James Jabara Airport Addition's plattors text described the triangular shaped ground as a contingent dedication of right-of-way (ROW) "…contingent upon the public using such tract of ground as ROW for the northeast circumferential highway (K-96)." The applicant has provided an e-mail from K-DOT and Public Works indicating that they do not need the described contingent dedication of ROW for K-96. The Colonel James Jabara Airport Addition was recorded with the Register of Deeds on August 23, 1983.

The 30-foot wide, 29th Street North half street ROW is the south half of the 29th Street North ROW remaining from previous vacations (V-1679 & V-1701) of the north half of 29th Street. The applicant owns the properties located on both sides of the proposed vacated 29th Street North half-street ROW. The applicant's property is developed as Jabara Airfield. The presence of the active airfield and its close proximity to the undeveloped 29th Street North half-street ROW makes the continuation of 29th Street North unlikely, as indicated by the previous vacations of the north half of 29th Street North. There appears to be no utilities, manholes, water or sewer lines in any of the described ROWs.

Analysis: The MAPC voted (11-0-1) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

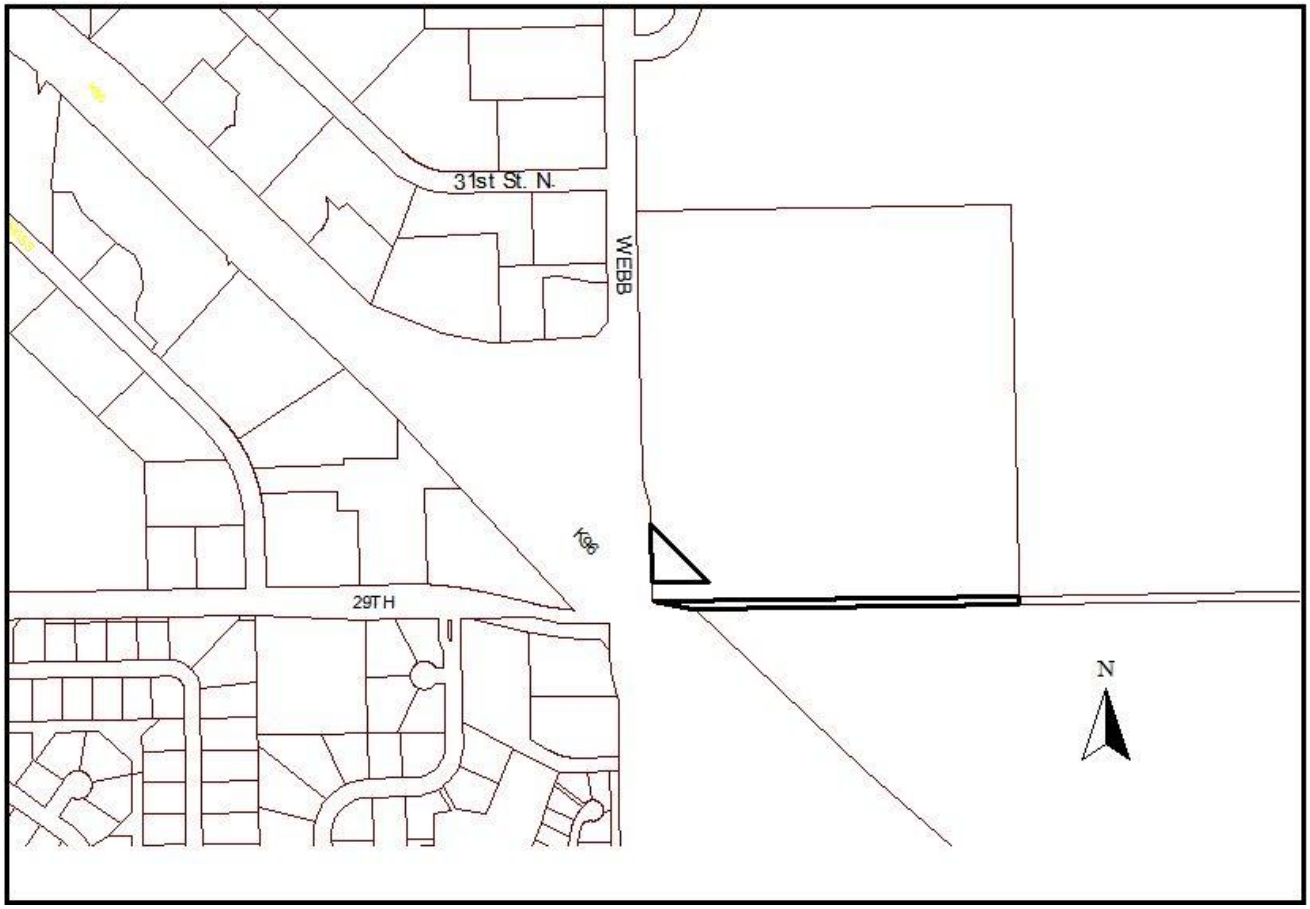
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order and dedication by separate instrument for street right-of-way will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Dedication by separate instrument for public street right-of-way.


31st St. N.
WEBB
29TH
N

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: DED 2009-12 -- Dedication of a Drainage and Utility Easement and DED 2009-13 -- Dedication of Access Control located south of Kellogg and on the west side of 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedications.

Background: These Dedications are associated with Lot Split Case No. SUB 2009-24 (Second East 54 Addition) and are for construction and maintenance of a drainage system and utilities, and for access control along 127th Street East.

Analysis: None.

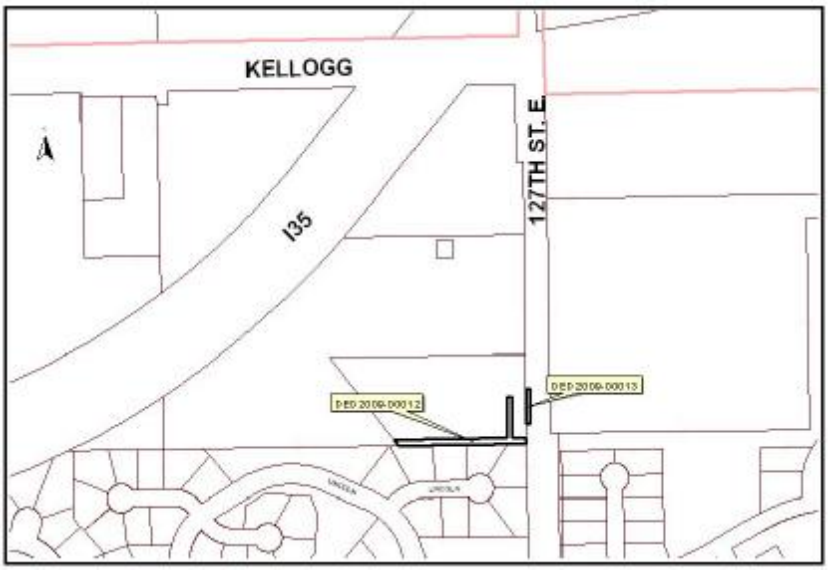
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Dedications have been recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedications.

Attachments: Drainage and Utility Easement Dedication
Access Control Dedication



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29064675
Receipt #: 1719440 Recording Fee: $12.00
Pages Recorded: 2 Authorized By:
Cashier Initials: DH
Date Recorded: 6/2/2009 1:36:45 PM

Sedgwick County
Register of Deeds - Bill Meek
DOC. LM-PG: 29058132
RE-FILED
Receipt #: [redacted] Recording Fee: $8.00
Pages Recorded: 1 Authorized By:
Cashier Initials: KL
Date Recorded: 4/17/2009 4:01:11 PM
[redacted]

DEDICATION OF ACCESS CONTROL

refile to correct Tract B and legal

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, SWSA, LLC, a Kansas limited liability company, being the owner of the following described real estate in Sedgwick County, Kansas, to-wit:

A parcel of land lying in Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, described as:

Tract A - BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING, EXCEPT, The north 200.00 feet of the east 250.00 feet of thereof.

* The north 200.00 feet of the east 250.00 of that part of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, being described as follows:

Tract B - BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING.

Does hereby dedicate all abutters' right of access, ingress and egress to said property from or to 127th Street over and across the above-described real estate to the public; to have and to hold the same forever. It being understood that this conveyance is a covenant running with the land and prohibits all subsequent owners thereof and all members of the public from entering upon said property from 127th Street, except for one opening to Tract A, within the south 70.40 feet of Tract A, and one opening to Tract B, within the north 120.0 feet of Tract B, along 127th Street.

IN WITNESS WHEREOF, this instrument has been executed on the day and year first written above.

SWSA, LLC, a Kansas limited liability company

_____, Sole Member
Fernando Salgado, Sole Member

STATE OF KANSAS, SEDGWICK COUNTY} ss:

Personally appeared before me a notary public in and for the County and State aforesaid Fernando Salgado, Sole Member, SWSA, LLC, a Kansas limited liability company to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15th day of April, 2009. Notary Public: Ann C. Ybarra
Print name below: Ann C. Ybarra

ANN C. YBARRA
Notary Public - State of Kansas
My Appt. Expires 9.15.09

My Appointment Expires: 9.15.09

Ded 2009-13

K:\WP\PROJECT\2009\09080 - SWSA Lot Split\Access Dedication.doc

Sedgwick County
Register of Deeds - Bill Meek
DOC.# M-PG: 29053131
Receipt #: 1715859
Pages Recorded: 1
Cashier Initials: KL
Recording Fee: $8.00
Authorized By:
Date Recorded: 4/17/2009 4:01:10 PM

DRAINAGE & UTILITY EASEMENT

THIS EASEMENT made this 15th day of April, 2009, by SWSA, LLC, a Kansas limited liability company, of the first part and the City of Wichita, Kansas, of the second part.

WITNESSED: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual right of way and easement, for the purpose of constructing, maintaining and repairing drainage systems and utilities, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

BEGINNING at the southeast corner of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, thence along the south line of said Lot 1 on an Kansas coordinate system of 1983 south zone bearing of S89°02'10"W, 450.11 feet; thence N38°34'22"W, 25.25 feet; thence parallel with and 20 feet north of said south line N89°02'10"E, 395.59 feet to a point 70.00 feet west of the east line of said Lot 1; thence parallel with and 70.00 feet west of said east line, N00°44'22"W, 145.00 feet; thence parallel with said south line N89°02'10"E, 20.00 feet; thence S00°44'22"E, 145.00 feet; thence parallel with and 20 feet north of said south line N89°02'10"E, 50.00 feet to said east line; thence along said east line S00°44'22"E, 20.00 feet to the POINT OF BEGINNING.

And said party of the second is hereby granted the right to enter upon said premises at any time for the purposes of constructing, operating, maintaining, relocating, and repairing drainage systems and utilities.

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

SWSA, LLC, a Kansas limited liability company

_____, Sole Member
Fernando Salgado, Sole Member

STATE OF KANSAS, SEDGWICK COUNTY } ss:
Personally appeared before me a notary public in and for the County and State aforesaid Fernando Salgado, Sole Member, SWSA, LLC, a Kansas limited liability company to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15th day of April, 2009.

Notary Public: _____
Print name below: Ann C. Ybarra

My Appointment Expires: 9.15.09

ANN C. YBARRA
Notary Public - State of Kansas
My Appt. Expires 9.15.09

Ded 2009-12

K:\WP\PROJECT\2009\09080 - SWSA Lot Split\Utility Easement sil.doc
Upon Recording mail to:
MKEC Engineering Consultants, Inc.
411 N. Webb Rd.
Wichita, KS 67206

MKEC
ENGINEERING
CONSULTANTS, INC.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: DED 2009-16 -- Dedication of a Utility Easement and DED 2009-17 -- Dedication of a Drainage and Utility Easement located south of 31st Street South and on the west side of Hoover Road. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedications.

Background: The Dedications are associated with Lot Split Case No. SUB 2009-35 (Ecco Industrial 2nd Addition) and are for construction and maintenance of a drainage system and utilities.

Analysis: None.

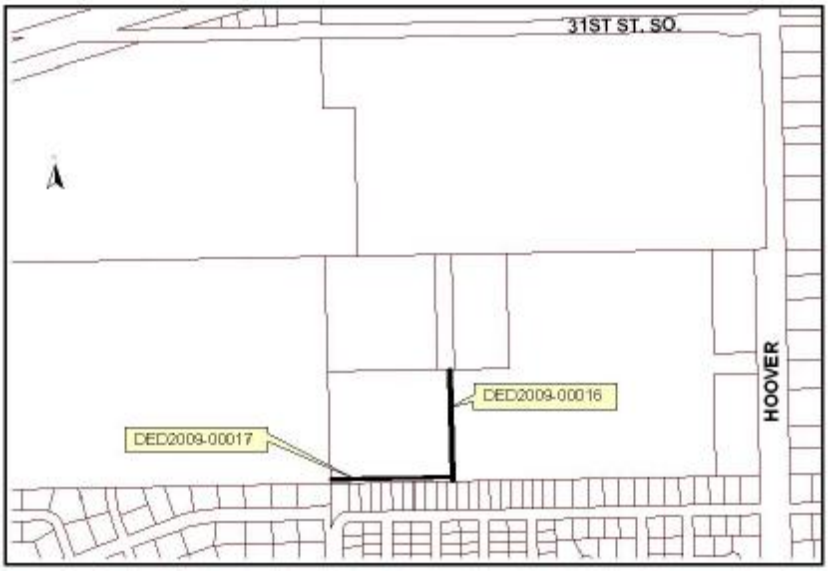
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

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

Recommendations/Actions: It is recommended that the City Council accept the Dedications.

Attachments: Utility Easement
Drainage and Utility Easement



UTILITY EASEMENT

THIS EASEMENT made this 2nd day of June, 2009, by and between Johnson Development, LLC, a Kansas limited liability company, party of the first part, and the City of Wichita, party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party, for the benefit of the public, a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing sewer, all other public utilities, over, along, and under the following-described real estate situated in Sedgwick County, Kansas, to-wit:

(SEE ATTACHED EXHIBIT 'A')

And said second party, for the benefit of the public, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such sewer, all other public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first above written.

Johnson Development, LLC

By: _____
William M. Johnson, Manager

DED 2009-16

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 2nd day of June, 2009, before me, the undersigned, a Notary Public, in and for the County and State aforesaid came William M. Johnson, as Manager of Johnson Development, LLC, a Kansas limited liability company, personally known to me to be the same person who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Karla M. Fimple
Notary Public

(My Appointment Expires: 4-26-13)

KARLA M. FIMPLE
Notary Public - State of Kansas
My Appt. Expires 4-26-13

EXHIBIT 'A'

The east 20.00 feet of the following described tract:

That part of Lot 1, Block A, Ecco Industrial 2nd Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the SW corner of said Lot 1; thence N89°59'45"E along the south line of said Lot 1, 450 feet for a point of beginning; thence continuing N89°59'45"E along the south line of said Lot 1, 280 feet; thence N00°13'30"W parallel with the west line of said Lot 1, 660.05 feet to a point on the centerline of a 120 foot drainage and utility easement as granted in said Ecco Industrial 2nd Addition; thence S89°59'50"W along the centerline of said 120 foot drainage and utility easement, 280 feet; thence S00°13'30"E parallel with the west line of said Lot 1, 660.05 feet to the point of beginning.

DRAINAGE & UTILITY EASEMENT

This EASEMENT made this 2nd day of June, 2009, by and between Johnson Development, LLC, a Kansas Limited Liability Company, of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing a drainage system and all other public utilities over, along, and under the following-described real estate situated in Sedgwick County, Kansas; to wit:

(SEE ATTACHED EXHIBIT 'A')

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing drainage systems and all other public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first above written.

Johnson Development, LLC

By: _____
William M. Johnson, Manager

DED 2009-17

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 2nd day of June, 2009, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came William M. Johnson, as Manager of Johnson Development, LLC, a Kansas limited liability company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Karla M. Fimple
Notary Public

(My Appointment Expires: 4-26-13)

KARLA M. FIMPLE
Notary Public - State of Kansas
My Appt. Expires 4-26-13

EXHIBIT 'A'

The north 10.00 feet of the south 30.00 feet of the following described parcels:

That part of Lot 1, Block A, Ecco Industrial 2nd Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the SW corner of said Lot 1; thence N89°59'45"E along the south line of said Lot 1, 450 feet; thence N00°13'30"W parallel with the west line of said Lot 1, 660.05 feet to a point on the centerline of a 120 foot drainage and utility easement as granted in said Ecco Industrial 2nd Addition; thence S89°59'50"W along the centerline of said 120 foot drainage and utility easement 450 feet to the intersection of said centerline with the west line of said Lot 1; thence S00°13'30"E along the west line of said Lot 1, 660.06 feet to the point of beginning.

and

That part of Lot 1, Block A, Ecco Industrial 2nd Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the SW corner of said Lot 1; thence N89°59'45"E along the south line of said Lot 1, 450 feet for a point of beginning; thence continuing N89°59'45"E along the south line of said Lot 1, 280 feet; thence N00°13'30"W parallel with the west line of said Lot 1, 660.05 feet to a point on the centerline of a 120 foot drainage and utility easement as granted in said Ecco Industrial 2nd Addition; thence S89°59'50"W along the centerline of said 120 foot drainage and utility easement, 280 feet; thence S00°13'30"E parallel with the west line of said Lot 1, 660.05 feet to the point of beginning.

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: ACT 3 Landside Utilities, Phase I, and Mid-Continent Drive Relocation
Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the budget adjustment and supplemental agreement.

Background: The Air Capital Terminal 3 program (ACT 3) [formerly known as the Terminal Area Redevelopment Program (TARP)] is identified in the Airport Capital Improvement Program (CIP). This project will relocate critical utilities to provide a clear construction site for the new terminal building and will relocate Mid-Continent Drive both approaching and in front of the new terminal building site in preparation for the upcoming terminal building project.

It is anticipated this budget adjustment will be the last major change prior to setting the budget for the terminal building and the remainder of the program later this year. The target cost for the entire program still remains at $160 million, including a $10 million reserve.

Analysis: Utilities must be relocated and consolidated to provide continuous services for the terminal area. The project will relocate and consolidate utilities in the way of the upcoming new terminal; construct a vehicle inspection station with security cameras; and relocate the main entrance road to better accommodate the upcoming new terminal, parking garage and parking lot expansion. Staff has prepared Supplemental Agreement No. 8 with HNTB for the Construction Related Services in the amount of $500,968.57. This expense is covered by the budget adjustment.

Financial Considerations: A budget adjustment of $7,900,000 is necessary to include this planned element in the program and it will be funded with a combination of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grant money, Passenger Facility Charges (PFCs) and General Obligation bonds paid for with Airport Revenue. This will bring the total ACT 3 program budget to $38,364,572, adjusted as follows:

	Council Approval	Amount	Project
Initial Budget	7/11/2005	4,700,000	Initial Expenses and DMJM (now AECOM) Contract
Budget Increase	2/7/2006	104,572	TARP Environmental Assessment
Budget Increase	7/18/2006	12,660,000	HNTB Contract
Budget Increase	6/3/2008	7,000,000	Apron Phase I
Budget Increase	10/7/2008	6,000,000	Apron Phase II
Budget Increase	7/7/2009	7,900,000	Landside Utilities, Phase I, Mid-Cont Dr Relocate
Total Budget		$38,364,572	

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow uninterrupted airport services to be provided, and will prepare the site for the future new terminal building.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the project capital budget, the supplemental agreement (pending FAA concurrence) and authorize the necessary signatures.

Attachments: HNTB Supplemental Agreement No. 8.

SUPPLEMENTAL AGREEMENT NO. 8

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

THE WICHITA AIRPORT AUTHORITY, "OWNER",

AND

HNTB CORPORATION, "CONSULTANT",

WITNESSETH:

WHEREAS, there now exists a Contract, dated July 18, 2006, between the two parties covering professional services to be provided by the CONSULTANT in conjunction with the construction of improvements to Wichita Mid-Continent Airport.

WHEREAS, ARTICLE IV, B. of the 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 CONSULTANT provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE I of the referenced Contract is hereby amended to include the following:

A. RESIDENT ENGINEERING SERVICES. Provide Resident Engineering Services for the Landside Utilities Phase 1 and Mid-Continent Drive Relocation component of the PROJECT. Resident Engineering duties will routinely be the responsibility of the ENGINEER's Resident PROJECT Representative.

1. During Construction Provide the Following:

a. Provide personnel acceptable to the OWNER to perform technical observation during construction of the PROJECT, including a full-time Resident Representative, who shall be supervised by the PROJECT Resident Engineer. The Resident Engineer shall be a registered Professional Engineer with qualifications conforming to the Central Region FAA "Standards for Construction Observation", and such supporting staff as may be required. Through continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Representative and his supporting staff, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the work; but

the furnishing of such Resident representation shall not make the ENGINEER responsible for the Contractor's failure to perform the construction work in accordance with the contract documents.

b. Establish construction layout control points including benchmarks and horizontal control points as may be required. Periodically review and check in field the Contractor's staking notes and layout. This includes actual field check of staking.
c. Supervise inspection and OWNER responsible testing. Prepare "Construction Observation Program" and submit same to the OWNER & FAA for concurrence prior to the start of Construction. Arrange for, conduct (or witness), field, laboratory, and shop tests of construction materials as required by the plans and specifications; determine the suitability of materials, and compliance with "Buy American" requirements for materials on the site and brought to the site, to be used in the construction; check the construction activities to determine compliance with the intent of the design; measure, compute, or check quantities of work performed and quantities of material in-place for partial and final payments to the Contractor; and maintain diaries and other project records to document the work.
d. Photograph existing conditions prior to construction beginning on the project and key construction activities throughout the project. In addition photograph key existing and new underground utilities for incorporation into the Record Drawings.
File and document as per FAA requirements.
e. Prepare elementary and supplementary sketches required and conduct preliminary negotiations necessary to resolve "changed" field conditions encountered.
f. Attend all project meetings, develop and provide minutes of project meetings within 7 days after the meeting.
g. Review and forward all construction schedules, material certifications and detailed shop and erection drawings to the ENGINEER's Project Manager. Assist the Project Manager in evaluating the acceptability of all submittals.
h. Review, analyze, and prepare recommendations for laboratory, shop and mill test reports of materials and equipment.
i. Perform on-site Labor Standard Interviews.
j. Review requests for monthly and final payments to the Contractor and forward same to the ENGINEER's Project Manager with recommendations for approval.
k. Provide OWNER specified GPS Unit to locate utilities. Provide project record information, and utility documentation data received from the OWNER'S Staff, to the ENGINEER's Project Manager for preparation of "Record" drawings, and a "Summary of Test Reports" on the completed work. Use GPS Unit in coordination with OWNER's staff for documenting exact location of any existing utilities and all new utilities with the OWNER's Staff including Photo Documentation. GPS Unit to become property of the OWNER.
l. Prepare "Certificates of Completion" for review by the ENGINEER's Project Manager and submit same to the OWNER.
m. Prepare initial drafts and conduct preliminary negotiations for all Change Orders and Supplemental Agreements covering work on the PROJECT. Submit same to the ENGINEER'S Project Manager for review and thenceforth to the OWNER for approval.
n. Review work performed by DBE Contractors for conformance with their Contractual responsibilities.
o. Provide on-site and local transportation for the Resident PROJECT Representative and supporting staff to perform the duties.
p. Provide basic testing equipment and supplies for the Resident PROJECT Representative and supporting staff to perform the duties associated with the OWNER'S quality assurance testing at the frequency and manner set forth in the specifications.

q. Provide special field office equipment including computer, printer, cartridges, copier, some furnishings and all expendable office supplies, except that the on-site field office, including utilities and some furnishings, shall be provided by the OWNER.
r. Receive and prepare recommendations relative to work performed by inspection bureaus and outside commercial testing laboratories for inspection and/or testing of materials or procedures entering into the construction, except that the cost of all such tests and inspections by bureaus and outside commercial testing laboratories, shall be authorized and paid for by the OWNER.
s. Meet with the OWNER as necessary to confer with respect to the duties and project services.

II. TIME OF SERVICES

A. CONSULTANT shall commence work on the PROJECT upon receipt of Authorization to Proceed from the OWNER.

B. Completion of services is dependent upon the Contractor's progress and the time frame set forth in the construction contract documents. The fee(s) included in this Agreement are based on substantial completion of the construction (except final sod installation) within 181 calendar days of issuance of Notice to Proceed to the Contractor,, Final Completion (including sod) within 60 additional days, and delivery of all PROJECT close out items to the OWNER within 45 calendar days following Final Acceptance, exclusive of any delays beyond the control of the CONSULTANT.

III. THE OWNER AGREES

A. To provide a construction office for the CONSULTANT's field personnel assigned to the PROJECT. Provision of a field office shall include all essential utilities and the monthly costs associated therewith.

B. To pay the CONSULTANT in accordance with the provisions of Article IV of this Supplemental Agreement.

IV. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended to include the following:

A. Payment to the CONSULTANT for the performance of the professional services as outlined in this Supplemental Agreement shall be made on the basis of actual costs plus a fixed fee of $2,008.79; the total including reimbursable expenses shall not exceed $500,968.57. Payment to sub-consultants shall also be made on the basis of actual costs plus a fixed fee. Refer to Exhibits SA8-A and SA8-B for a detailed fee schedule.

V. 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 OWNER and the CONSULTANT executes this Supplemental Agreement as of this _____ day of _____, 2009.

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Karen Sublett, City Clerk

By: _____
Carl Brewer, President
"OWNER"

By: _____
Victor White, Director of Airports

ATTEST:

HNTB CORPORATION
715 KIRK DRIVE
KANSAS CITY, MO 64105

By: Phil Hannon

Title: Principal Architect.

By: Becky Cotton

Title: SENOR VICE PRESIDENT

APPROVED AS TO FORM: Gary E Rebenstorf / STC Date: _____
Director of Law

ATTACHMENTS: EXHIBIT SA8-A – HNTB Fee Schedule
EXHIBIT SA8-B – PEC Fee Schedule

RECEIVED
JUN 22 2009
AIRPORT ENGINEERING

Wichita Mid-Continent Airport - Terminal Area Redevelopment Project
Estimated Cost of Consultant's Services
HNTB Architecture 6/19/2009

Additional Construction Phase Services for Landside Utllities Phase 1
and Mid-Continent Drive Relocation
Additional Services Request No. 23
HNTB Project 34912-DS-007

		Hours	Avg Rate	Cost
1.	**Direct Salary Costs**			
	Total Direct Salary Costs	96	47.37	$4,547.44
2.	**Labor and General & Administrative Overhead**			
	Percentage of Direct Salary Costs	196.47%		$8,934.35
3.	**Total Labor Cost - Subtotal of Items 1 and 2**			$13,481.78
4.	**Fixed Fee**	14.90%		$2,008.79
5.	**Subtotal of Items 3 and 4**			$15,490.57
6.	**Direct Non-Salary Expenses**			
	Transportation and Subsistence		646.00	
	Printing and Deliveries		200.00	
	Other Expenses		0.00	
	Total Direct Non-salary Expenses			$846.00
7.	**Subtotal of Items 5 and 6**			$16,336.57
8.	**Subconsultant Costs**			
	Professional Engineering Consultants		484,632.00	
				$484,632.00
	Total Proposed Cost			$500,968.57

Wichita - Terminal Area Redevelopment Program
Architectural Services Request
Estimate of HNTB Architecture Direct Salary Cost and Expenses

6/19/2009

Additional Construction Phase Services for Landside Utilities Phase 1 and Mid-Continent Drive Relocation
Additional Services Request No. 23

	Architecture Principal	Senior Terminal Planner	Project Manager	Senior Project Architect	Project Architect	Architect	Clerical	Totals
HNTB Architecture Services								
Project Management								
Contracts	0	0	8	0	0	0	0	8
Invoicing	0	0	16	0	0	0	4	20
Coordination and misc	0	4	24	0	8	16	16	68
Total Hours	0	4	48	0	8	16	20	96
Direct Labor Rate	101.46	96.26	60.47	54.39	40.70	30.65	22.18	47.37
HNTB Direct Labor Cost	0.00	385.05	2,902.67	0.00	325.60	490.44	443.67	4,547.44

Expenses				
Trips to Wichita	2	trips @	203.00	406.00
Flights to Wichita	0	trips @		0.00
Hotel & Meals	2	days @	120.00	240.00
Travel and Subsistence				646.00
Printing				200.00
Estimated Expenses				846.00

ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
ENGINEERS
WICHITA, KANSAS

PROJECT	LOCATION
Construction of Landside Utilities and Roads Phase 1	Wichita Mid-Continent Airport

WORK ITEM	PROJECT NO.	DATE
Construction Phase Services	FAA AIP PROJ # 3-20-0088-(FUTURE) COW PROJ # 455-361-2	15 June 2009

DESCRIPTION
Resident Engineering Services (based on 180 Calendar Days of Construction)

(I)	SALARY COSTS				
	POSITION TITLE	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
	1. PRINCIPALS	/ hr.	0	$ -	
	2. PROJECT MANAGER	$40.00 / hr.	170	$ 6,800.00	
	3. PROJECT ENGINEER	/ hr.	0	$ -	
	4. DESIGN ENGINEER	$32.00 / hr.	0	$ -	
	5. DESIGN TECHNICIAN	/ hr.	0	$ -	
	6. DRAFTER	/ hr.	0	$ -	
	7. CAD OPERATOR	$29.00 / hr.	80	$ 2,320.00	
	8. SURVEYOR, PARTY CHIEF	$27.50 / hr.	15	$ 412.50	
	9. SURVEYOR, INSTRUMENT MAN	$23.75 / hr.	9	$ 213.75	
	10. SURVEYOR, AIDES	/ hr.	9	$ 150.75	
	11. FIELD ENGINEER	$35.00 / hr.	2,113	$ 73,955.00	
	12. INSPECTOR, SUPERVISOR	/ hr.	0	$ -	
	13. INSPECTOR, TECHNICIAN I	$22.00 / hr.	1,414	$ 31,108.00	
	14. INSPECTOR, TECHNICIAN II	$20.00 / hr.	1,314	$ 26,280.00	
	15. INSPECTOR, TECHNICIAN III	$19.00 / hr.	720	$ 13,680.00	
	16. BATCH PLANT TECHNICIAN	$18.00 / hr.	148	$ 2,664.00	
	17. STENO & CLERICAL	$15.00 / hr.	29	$ 435.00	
	SUBTOTAL		6,021		$ 158,019.00
(II)	OVERHEAD 1.2931 X (I)				$ 204,334.00
(III)	SUBTOTAL [I + II]				$ 362,353.00
(IV)	FIXED FEE 15%				$ 54,353.00
(V)	OTHER EXPENSE	RATE	UNITS	AMOUNT	
	1. OFFICE EQUIPMENT	$450.00 / mo.	6	$ 2,700.00	
	2. TRAVEL PER MILE	$0.60 / mile	16,642	$ 9,984.90	
	3. LAB TESTING	See attached Summary	1	$ 25,271.00	
	4. CELL PHONES (AT COST)	$50.00 / mo	20	$ 1,000.00	
	5. CAD (Record Drawings)	$17.00 / hr.	80	$ 1,360.00	
	6. PRINTING (SPEC. ETC.)	$1,200.00 / ea.	1	$ 1,200.00	
	7. PREMIUM TIME (0.625 X Direct)	$5,081.25 / ea.	1	$ 5,081.25	
	8. GPS	$21,328.72 / ea.	1	$ 21,328.72	
	SUBTOTAL				$ 67,925.87
(VI)	TOTAL FEE NOT TO EXCEED FOR PROJECT (III + IV + V)				$ 484,631.87

MCA LANDSIDE UTILITIES AND ROADS PHASE 1
MATERIALS TESTING SUMMARY

Soils	10,000 cy							
Moisture Density	25 days @		$	60.00	per day	=	$	1,500
Curves	6 each @		$	140.00	per each	=	$	840
PI	6 each @		$	80.00	per each	=	$	480
Lime	17,000 sy	34.00						
Determination	0 each @		$	450.00	per each	=	$	-
Moisture Density	15 days @		$	60.00	per day	=	$	900
Curves	2 each @		$	120.00	per each	=	$	240
PI	0 each @		$	80.00	per each	=	$	-
CLSM								
cylinders	21 each @		$	25.00	per each	=	$	525
bit DL	0 sy	0.00						
Cold Feed	0 each @		$	40.00	per each	=	$	-
Extraction	0 each @		$	30.00	per each	=	$	-
ACC	2,500 tn	5						
sieve	3 each @		$	40.00	per each	=	$	120
Marshall's	9 slugs @		$	30.00	per slug	=	$	270
density	3 each @		$	20.00	per each	=	$	60
thick	3 each @		$	15.00	per each	=	$	45
PCC	20,314 sy	11.95						
beams	325.024 each @		$	40.00	per each	=	$	13,001
Structural								
cylinders	30 each @		$	25.00	per each	=	$	750
Misc.								
Vaccum Test, Mandrell, TV Sanitary Sewer								
	1500 feet		$	2.00	per foot	=	$	3,000
Supervisor Review	30 each @		$	78.00	per each	=	$	2,340
Sieve Analysis	30 each @		$	40.00	per each	=	$	1,200
							$	25,271

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Wichita Mid-Continent Airport
Air Capital Terminal 3 (ACT 3) Apron, Phase II
Supplemental Agreement No. 7, Construction Related Services

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreement.

Background: The Air Capital Terminal 3 program (ACT 3) [formerly known as the Terminal Area Redevelopment Program (TARP)] is identified in the Airport Capital Improvement Program (CIP). The following table depicts the original contract with HNTB and the supplemental agreements to date. HNTB was selected through the Staff Screening Process as the design team to integrate and sequence on a campus-wide basis various related elements of the overall terminal area redevelopment program. The intent was that supplemental agreements would be entered into each time a new element was added, some being funded from budget sources separate from the main Air Capital Terminal 3 (ACT 3) project. Utilizing HNTB for all of these elements ensures consistency and efficiencies between complex related program components regardless of the funding source.

	WAA Approval	Amount	Program Description
Initial Contract	6/18/2006	12,660,000.00	ACT 3 Design Contract with HNTB Team
SA#1	2/7/2008	128,709.00	North Shuttle Lot, Construction Related Services
SA#2	8/5/2008	311,767.00	Apron Phase I, Resident Engineering
SA#3	9/23/2008	53,137.00	Customs Federal Inspection Facilities Design
SA#4	1/27/2009	43,594.00	North Shuttle Lot, Additional Construction Related Services
SA#5	5/12/2009	74,369.00	Interim Customs Construction Related Services (CRS)
SA#6	6/2/2009	42,414.00	East Data Center Design, Bid & CRS
SA#7	7/7/2009	374,018.09	Apron Phase II, Construction Related Services (CRS)
Total Contract		$13,688,008.09	

Analysis: The construction contract for the reconstruction of the Terminal Apron, Phase II has been awarded and a supplemental agreement with HNTB has been prepared to authorize construction related services.

Financial Considerations: The cost of the construction related services is a not-to-exceed amount of $374,018.09 and will be funded 95% through Federal Aviation Administration (FAA) grant money. The Airport's matching portion of 5% will be funded with a combination of Passenger Facility Charges (PFCs) and General Obligation bonds paid for with Airport Revenue.

The current project budget of $38,364,572.00 has been set in separate action by the Airport Authority to cover all project expenses and encumbrances to date, and the resident engineering services included in this supplemental agreement are covered by the current budget. Therefore, no changes to the project budget are required by this action.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through reconstruction of airfield pavements to serve the aviation community, and which will allow the future construction of the new terminal.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreement (pending FAA concurrence) and authorize the necessary signatures.

Attachments: Supplemental agreement No. 7.

SUPPLEMENTAL AGREEMENT NO. 7

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

THE WICHITA AIRPORT AUTHORITY, "OWNER",

AND

HNTB CORPORATION, "CONSULTANT",

WITNESSETH:

WHEREAS, there now exists a Contract, dated July 18, 2006, between the two parties covering professional services to be provided by the CONSULTANT in conjunction with the construction of improvements to Wichita Mid-Continent Airport.

WHEREAS, ARTICLE IV, B. of the 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 CONSULTANT provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE I of the referenced Contract is hereby amended to include the following:

A. <u>DESIGN SERVICES.</u>

1. <u>Prior to Construction Design the following</u>:
   a. Prepare a design layout and details for installation of Surface Painted Holding Position Signs for all airfield pavements at Mid-Continent Airport, as required and specified in FAA Design A.C. 150/5340-1J and Change 2 to same A.C. Layout and details will be issued to the Contractor as a change order. Specification governing this work will be by the original project specification for painting, and no additional specifications are anticipated.
   b. Prepare an independent estimate of construction cost for this additional work for purpose of validating the Contractor's price proposal.

B. CONTRACT ADMINISTRATION. Provide Contract Administration services for the Apron Phase II component of the PROJECT. Contract Administration duties shall routinely be the responsibility of the ENGINEER's Project Manager.

1. During Construction Provide the Following:
   a. Assist in conducting Pre-Construction Conference and development of minutes.
   b. Participate in a "Partnering" Conference, if requested.
   c. Prepare a "Construction Observation Program" and submit same to the OWNER & the FAA for concurrence prior to start of construction.
   d. Prepare estimate forms for periodic payment to the Contractor.
   e. Receive and review Contractor's quality control plan, safety plan, shop drawings, and material certifications. Evaluate Shop Drawings for compliance with "Buy American" Requirements.
   f. Receive and review Contractor falsework and formwork details as may be required by the contract documents. Submittals shall be reviewed with respect to conformance with the requirements of the project specifications and general conformity to the lines, shapes and dimensions detailed in the plans. This task will not include an analysis of the structural adequacy of the formwork or falsework.
   g. Make periodic visits to the PROJECT site to determine Contractor's progress and general character of the work.
   h. Consult with the Resident Representative regarding interpretations or clarifications of the plans and specifications.
   i. Provide ENGINEER's decision in accordance with the contract documents on questions regarding the work.
   j. Review materials field test reports as submitted by the Resident Representative.
   k. Prepare Supplemental Agreements covering modifications or revisions necessitated by field conditions.
   l. Review Change Orders and/or Supplemental Agreements prepared by the Resident Representative.
   m. Conduct Final Inspection of the work.
   n. Issue Certificate of Completion when the PROJECT has been completed.
   o. Meet with OWNER as requested during construction to review progress.

2. After Construction Provide the Following:
   a. Prepare reproducible "Record" drawings of the completed work based on information provided by the Resident PROJECT Representative.
   b. Deliver "Record" drawings to the OWNER in both hard copy and digital form. Digital files shall include only those drawings prepared using AUTO CAD methods and shall be delivered in a format acceptable to the OWNER. Project Specifications shall be delivered in digital file (MS Word) with the "Record" drawings.

C. RESIDENT ENGINEERING SERVICES. Provide Resident Engineering Services for the Apron Phase II component of the PROJECT. Resident Engineering duties will routinely be the responsibility of the ENGINEER's Resident PROJECT Representative.

1. During Construction Provide the Following:
   a. Provide personnel acceptable to the OWNER to perform technical observation during construction of the PROJECT, including a full-time Resident Representative, who shall be supervised by the PROJECT Resident Engineer. The Resident Engineer shall be a registered Professional Engineer with qualifications conforming to the Central Region FAA "Standards for Construction Observation", and such supporting staff as may be required. Through continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Representative and his supporting staff, the ENGINEER will endeavor to provide

further protection for the OWNER against defects and deficiencies in the work; but the furnishing of such Resident representation shall not make the ENGINEER responsible for the Contractor's failure to perform the construction work in accordance with the contract documents.

b. Establish construction layout control points including benchmarks and horizontal control points as may be required. Periodically review and check in field the Contractor's staking notes and layout. This includes actual field check of staking.
c. Supervise inspection and OWNER responsible testing. Prepare "Construction Observation Program" and submit same to the OWNER & FAA for concurrence prior to the start of Construction. Arrange for, conduct (or witness), field, laboratory, and shop tests of construction materials as required by the plans and specifications; determine the suitability of materials, and compliance with "Buy American" requirements for materials on the site and brought to the site, to be used in the construction; check the construction activities to determine compliance with the intent of the design; measure, compute, or check quantities of work performed and quantities of material in-place for partial and final payments to the Contractor; and maintain diaries and other project records to document the work.
d. Photograph existing conditions prior to construction beginning on the project and key construction activities throughout the project. In addition photograph key existing and new underground utilities for incorporation into the Record Drawings.
File and document as per FAA requirements.
e. Prepare elementary and supplementary sketches required and conduct preliminary negotiations necessary to resolve "changed" field conditions encountered.
f. Attend all project meetings, develop and provide minutes of project meetings within 7 days after the meeting.
g. Review and forward all construction schedules, material certifications and detailed shop and erection drawings to the ENGINEER's Project Manager. Assist the Project Manager in evaluating the acceptability of all submittals.
h. Review, analyze, and prepare recommendations for laboratory, shop and mill test reports of materials and equipment.
i. Perform on-site Labor Standard Interviews.
j. Review requests for monthly and final payments to the Contractor and forward same to the ENGINEER's Project Manager with recommendations for approval.
k. Provide project record information, and utility documentation data received from the OWNER'S Staff, to the ENGINEER's Project Manager for preparation of "Record" drawings, and a "Summary of Test Reports" on the completed work. Use GPS Unit in coordination with OWNER's staff for documenting exact location of any existing utilities and all new utilities with the OWNER's Staff including Photo Documentation.
l. Prepare "Certificates of Completion" for review by the ENGINEER's Project Manager and submit same to the OWNER.
m. Prepare initial drafts and conduct preliminary negotiations for all Change Orders and Supplemental Agreements covering work on the PROJECT. Submit same to the ENGINEER'S Project Manager for review and thenceforth to the OWNER for approval.
n. Review work performed by DBE Contractors for conformance with their Contractual responsibilities.
o. Provide on-site and local transportation for the Resident PROJECT Representative and supporting staff to perform the duties.
p. Provide basic testing equipment and supplies for the Resident PROJECT Representative and supporting staff to perform the duties associated with the OWNER'S quality assurance testing at the frequency and manner set forth in the specifications.

q. Provide special field office equipment including computer, printer, cartridges, copier, some furnishings and all expendable office supplies, except that the on-site field office, including utilities and some furnishings, shall be provided by the OWNER.
r. Receive and prepare recommendations relative to work performed by inspection bureaus and outside commercial testing laboratories for inspection and/or testing of materials or procedures entering into the construction, except that the cost of all such tests and inspections by bureaus and outside commercial testing laboratories, shall be authorized and paid for by the OWNER.
s. Meet with the OWNER as necessary to confer with respect to the duties and project services.

II. TIME OF SERVICES

A. CONSULTANT shall commence work on the PROJECT upon receipt of Authorization to Proceed from the OWNER.

B. Completion of services is dependent upon the Contractor's progress and the time frame set forth in the construction contract documents. The fee(s) included in this Agreement are based on substantial completion of the construction within 120 calendar days of issuance of Notice to Proceed to the Contractor, and delivery of all PROJECT close out items to the OWNER within 45 calendar days following Final Acceptance, exclusive of any delays beyond the control of the CONSULTANT.

III. THE OWNER AGREES

A. To provide a construction office for the CONSULTANT's field personnel assigned to the PROJECT. Provision of a field office shall include all essential utilities and the monthly costs associated therewith.

B. To pay the CONSULTANT in accordance with the provisions of Article IV of this Supplemental Agreement.

IV. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended to include the following:

A. Payment to the CONSULTANT for the performance of the professional services as outlined in Sections I.B. and I.C. of this Supplemental Agreement for the Contract Administration and Resident Engineering Services shall be made on the basis of actual costs plus a fixed fee of $1,118.46; the total including reimbursable expenses shall not exceed $364,284.82. Payment to sub-consultants shall also be made on the basis of actual costs plus a fixed fee. Refer to Exhibits SA7-A through SA7-C for a detailed fee schedule.

B. Payment to the CONSULTANT for the performance of the professional services as outlined in Section I.A. of this Supplemental Agreement for the Design Services for Surface Painted Holding Position Signs shall be made on the basis of lump sum for the amount of $9,733.27. Refer to Exhibits SA7-D through SA7-F for a detailed fee schedule.

V. 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 OWNER and the CONSULTANT executes this Supplemental Agreement as of this _____ day of _____, 2009.

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Karen Sublett, City Clerk

By: _____
Carl Brewer, President
"OWNER"

By: _____
Victor White, Director of Airports

ATTEST:

HNTB CORPORATION
715 KIRK DRIVE
KANSAS CITY, MO 64105

By: _____
Title: Principal Architect.

By: _____
Title: SENIOR VICE PRESIDENT

APPROVED AS TO FORM: _____ Date: _____
Director of Law

ATTACHMENTS:
EXHIBIT SA7-A – HNTB Fee Schedule (Contract Admin. / Resident Engineering)
EXHIBIT SA7-B – GLA Fee Schedule (Contract Admin. / Resident Engineering)
EXHIBIT SA7-C – PEC Fee Schedule (Contract Admin. / Resident Engineering)
EXHIBIT SA7-D – HNTB Fee Schedule (Design Airfield Holding Position Marking)
EXHIBIT SA7-E – HNTB Corp Fee Schedule (Design Airfield Holding Position Marking)
EXHIBIT SA7-F – PEC Fee Schedule (Design Airfield Holding Position Marking)

RECEIVED
JUN 22 2009
AIRPORT ENGINEERING

Wichita Mid-Continent Airport - Terminal Area Redevelopment Project
Estimated Cost of Consultant's Services
HNTB Architecture, Inc. 6/19/2009

Additional Construction Phase Services for the New Terminal Apron - Phase 2
Additional Services Request No. 16a
HNTB Project 34912-DS-007

		Hours	Avg Rate	Cost
1.	**Direct Salary Costs**			
	Total Direct Salary Costs	52	48.69	$2,531.94
2.	**Labor and General & Administrative Overhead**			
	Percentage of Direct Salary Costs	196.47%		$4,974.50
3.	**Total Labor Cost - Subtotal of Items 1 and 2**			$7,506.44
4.	**Fixed Fee**	14.90%		$1,118.46
5.	**Subtotal of Items 3 and 4**			$8,624.90
6.	**Direct Non-Salary Expenses**			
	Transportation and Subsistence		0.00	
	Printing and Deliveries		100.00	
	Other Expenses		0.00	
	Total Direct Non-salary Expenses			$100.00
7.	**Subtotal of Items 5 and 6**			$8,724.90
8.	**Subconsultant Costs**			
	Gossen Livingston Associates		3,200.92	
	Professional Engineering Consultants		352,359.00	
				$355,559.92
	Total Proposed Cost			$364,284.82

Wichita - Terminal Area Redevelopment Program
Architectural Services Request
Estimate of HNTB Architecture Direct Salary Cost and Expenses

6/19/2009

Additional Construction Phase Services for the New Terminal Apron - Phase 2
Additional Services Request No. 16a

	Architecture Principal	Senior Terminal Planner	Project Manager	Senior Project Architect	Project Architect	Architect	Clerical	Totals
HNTB Architecture Services								
Contracts	0	0	8	0	0	0	0	8
Invoicing	0	0	8	0	0	0	8	16
Coordination and misc	0	0	20	0	0	0	8	28
Total Hours	0	0	36	0	0	0	16	52
Direct Labor Rate	101.46	96.26	60.47	54.39	40.70	30.65	22.18	48.69
HNTB Direct Labor Cost	0.00	0.00	2,177.00	0.00	0.00	0.00	354.94	2,531.94

Expenses				
Trips to Wichita	0	trips @	203.00	0.00
Flights to Wichita	0	trips @		0.00
Hotel & Meals	0	days @	120.00	0.00
Travel and Subsistence				0.00
Printing				100.00
Estimated Expenses				100.00

Wichita - Terminal Area Redevelopment Program
Architectural Services Request
Estimate of Gossen Livingston Direct Salary Cost and Expenses

6/19/2009

Additional Construction Phase Services for the New Terminal Apron - Phase 2
Additional Services Request No. 16a

	Project Manager	Senior Architect	Architect	Staff/Tech	Clerical	Totals
Respond to RFIs	0	8	0	0	0	8
Periodic Site Observations	0	16	0	0	0	16
	0	0	0	0	0	0
Total Hours	0	24	0	0	0	24
Direct Labor Rate	46.00	37.63	31.36	23.53	20.66	37.63
1. Direct Labor Cost	0.00	903.12	0.00	0.00	0.00	903.12
2. Overhead				174.50%		$1,575.94
3. Total Labor Cost - Subtotal of Items 1 and 2						$2,479.06
4. Fixed Fee				15.00%		$371.86
5. Subtotal of Items 3 and 4						$2,850.92
6. Direct Non-Salary Expenses						
	Total Direct Non-salary Expenses					$350.00
7. Total Proposed Not To Exceed Cost						$3,200.92

ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
ENGINEERS
WICHITA, KANSAS

PROJECT	LOCATION
Construction of New Terminal Apron - Phase 2	Wichita Mid-Continent Airport

WORK ITEM	PROJECT NO.	DATE
Construction Phase Services	FAA AIP PROJ# 3-20-0088-(FUTURE) COW PROJ # 455-361-2	23 April 2009

DESCRIPTION
Contract Administration & Resident Engineering Services

(I)	SALARY COSTS				
	POSITION TITLE	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
	1. PRINCIPALS	/ hr.	0		
	2. PROJECT MANAGER	$40.00 / hr.	129	$ 5,160.00	
	3. PROJECT ENGINEER	/ hr.	0	$ -	
	4. DESIGN ENGINEER (C.A.)	$32.00 / hr.	174	$ 5,568.00	
	5. DESIGN TECHNICIAN (C.A.)	$30.00 / hr.	65	$ 1,950.00	
	6. DRAFTER	/ hr.	0	$ -	
	7. CAD OPERATOR (C.A.)	$29.00 / hr.	40	$ 1,160.00	
	8. SURVEYOR, PARTY CHIEF	$27.50 / hr.	15	$ 412.50	
	9. SURVEYOR, INSTRUMENT MAN	$23.75 / hr.	9	$ 213.75	
	10. SURVEYOR, AIDES	$16.75 / hr.	9	$ 150.75	
	11. FIELD ENGINEER	$35.00 / hr.	1,480	$ 51,800.00	
	12. INSPECTOR, SUPERVISOR	/ hr.	0	$ -	
	13. INSPECTOR, TECHNICIAN I	$22.00 / hr.	1,112	$ 24,464.00	
	14. INSPECTOR, TECHNICIAN II	$20.00 / hr.	1,098	$ 21,960.00	
	15. INSPECTOR, TECHNICIAN III	$19.00 / hr.	479	$ 9,101.00	
	16. BATCH PLANT TECHNICIAN	$18.00 / hr.	20	$ 360.00	
	17. STENO & CLERICAL	$15.00 / hr.	54	$ 810.00	
	SUBTOTAL		4,684		$ 123,110.00
(II)	OVERHEAD 1.2931 X (I)				$ 159,194.00
(III)	SUBTOTAL [I + II]				$ 282,304.00
(IV)	FIXED FEE 15%				$ 42,346.00
(V)	OTHER EXPENSE	RATE	UNITS	AMOUNT	
	1. OFFICE EQUIPMENT	$450.00 month	5	$ 2,250.00	
	2. TRAVEL PER MILE	$0.55 / mile	5,000	$ 2,750.00	
	3. LAB TESTING	$10,810.00 / ea.	1	$ 10,810.00	
	4. CELL PHONES (AT COST)	$50.00 / mo.	10	$ 500.00	
	5. CAD (Utility As Built Drawings)	$17.00 / hr.	40	$ 680.00	
	6. PRINTING (SPEC. ETC.)	$800.00 / ea.	1	$ 800.00	
	7. PREMIUM TIME (0.65 X Direct)	$9,919.00 / ea	1	$ 9,919.00	
	8. OTHER			$ -	
	SUBTOTAL				$ 27,709.00
(VI)	TOTAL NOT TO EXCEED FEE FOR PROJECT (III + IV + V)				$ 352,359.00

MCA TERMINAL APRON PHASE 2
TESTING SUMMARY

		70,492.50		140.985	112.788			
Soils	15,665 cy							
Moisture Density		19 days @	$	60.00	per day	=	$	1,140
Curves		6 each @	$	140.00	per each	=	$	840
PI		6 each @	$	80.00	per each	=	$	480
Lime	29,793 sy	59.59						
Determination		1 each @	$	450.00	per each	=	$	450
Moisture Density		6 days @	$	60.00	per day	=	$	360
Curves		3 each @	$	120.00	per each	=	$	360
PI		5 each @	$	80.00	per each	=	$	400
CLSM								
cylinders		3 each @	$	25.00	per each	=	$	75
bit DL	20,470 sy	9.60						
Cold Feed		15 each @	$	40.00	per each	=	$	600
Extraction		15 each @	$	30.00	per each	=	$	450
ACC	263 tn	0.526						
sieve		3 each @	$	40.00	per each	=	$	120
Marshall's		9 slugs @	$	30.00	per slug	=	$	270
density		3 each @	$	20.00	per each	=	$	60
thick		3 each @	$	15.00	per each	=	$	45
PCC	20,314 sy	11.95						
beams		55 each @	$	40.00	per each	=	$	2,200
Structural								
cylinders		24 each @	$	25.00	per each	=	$	600
Misc.								
Supervisor Review		20 each @	$	78.00	per each	=	$	1,560
Sieve Analysis		20 each @	$	40.00	per each	=	$	800
							$	10,810

MCA TERMINAL APRON PHASE 2
EQUIPMENT COST SUMMARY

Desktop Computer		1 each @	$	325.00	per month =	$	325
	Unit						
	Cables for Network, Printer, Fax, etc.						
	Microsoft 2007						
	Symantex Anit-Virus						
Copier		1 each @	$	50.00	per month =	$	50
	Unit						
	Paper						
	Print Cartridges						
Faximile (Owner Provided)		1 each @	$	25.00	per month =	$	25
	Paper						
	Print Cartridges						
Desk		2 each @	$	10.00	per month =	$	20
Chairs		2 each @	$	15.00	per month =	$	30
						$	450

Wichita Mid-Continent Airport - Terminal Area Redevelopment Project
Estimated Cost of Consultant's Services
HNTB Architecture, Inc. 6/19/2009

Airfield Holding Position Markings
Additional Services Request No. 16b
HNTB Project 34912-DS-007

		Hours	Avg Rate	Cost
1.	**Direct Salary Costs**			
	Total Direct Salary Costs	6	53.88	$323.29
2.	**Labor and General & Administrative Overhead**			
	Percentage of Direct Salary Costs	196.47%		$635.17
3.	**Total Labor Cost - Subtotal of Items 1 and 2**			$958.46
4.	**Fixed Fee**	14.90%		$142.81
5.	**Subtotal of Items 3 and 4**			$1,101.27
6.	**Direct Non-Salary Expenses**			
	Transportation and Subsistence		0.00	
	Printing and Deliveries		100.00	
	Other Expenses		0.00	
	Total Direct Non-salary Expenses			$100.00
7.	**Subtotal of Items 5 and 6**			$1,201.27
8.	**Subconsultant Costs**			
	HNTB Corporation		1,810.00	
	Professional Engineering Consultants		6,722.00	
				$8,532.00
	Total Proposed Cost			$9,733.27

Wichita - Terminal Area Redevelopment Program
Architectural Services Request
Estimate of HNTB Architecture Direct Salary Cost and Expenses

6/19/2009

Airfield Holding Position Markings
Additional Services Request No. 16b

	Architecture Principal	Senior Terminal Planner	Project Manager	Senior Project Architect	Project Architect	Architect	Clerical	Totals
HNTB Architecture Services								
Design, documents, QC	0	0	0	0	2	0	0	2
Project management	0	0	4	0	0	0	0	4
	0	0	0	0	0	0	0	0
Total Hours	0	0	4	0	2	0	0	6
Direct Labor Rate	101.46	96.26	60.47	54.39	40.70	30.65	22.18	53.88
HNTB Direct Labor Cost	0.00	0.00	241.89	0.00	81.40	0.00	0.00	323.29

Expenses				
Trips to Wichita	0	trips @	203.00	0.00
Flights to Wichita	0	trips @		0.00
Hotel & Meals	0	days @	120.00	0.00
Travel and Subsistence				0.00
Printing				100.00
Estimated Expenses				100.00

Wichita Mid-Continent Airport - Terminal Area Redevelopment Project
HNTB - Estimate of Hours and Fees 6/19/09
Airfield Holding Position Markings

HNTB CORP - 075

		Airport Engineer	staff type	staff type	Total Hours	Fee Estimate
	Rates	110.00	0.00	0.00		
Schematic Design Phase						
	Other				0	0.00
	Other				0	0.00
	Total Schematic Design				0	0.00
Design Development Phase						
	QA/QC and misc consulting	8			8	880.00
	Other				0	0.00
	Total Design Development				8	880.00
Construction Documents Phase						
	QA/QC and misc consulting	8			8	880.00
	Other				0	0.00
	Other				0	0.00
	Total Construction Documents				8	880.00
Construction Phase						0
	Other				0	0.00
	Other				0	0.00
	Total Construction Phase				0	0.00
Total Hours and Fee Estimate					16	1,760.00
Estimated Expenses						50.00
Total Fee and Expenses - HNTB Corp - 075						1,810.00

ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
ENGINEERS
WICHITA, KANSAS

PROJECT	LOCATION	
CONSTRUCTION OF NEW TERMINAL APRON - PHASE 2	Wichita Mid-Continent Airport	
WORK ITEM	PROJECT NO.	DATE
Design Services	FAA AIP PROJ # 3-20-0088-(FUTURE) COW PROJ # 455-361-2	13 November 2008

DESCRIPTION
Taxiway Marking Design Services

(I)	SALARY COSTS				
	POSITION TITLE	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
	1. PRINCIPALS	/ hr.	0	$ -	
	2. PROJECT MANAGER	$40.00 / hr.		$ -	
	3. PROJECT ENGINEER	/ hr.	0	$ -	
	4. DESIGN ENGINEER	$32.00 / hr.	42	$ 1,344.00	
	5. DESIGN TECHNICIAN	/ hr.	0	$ -	
	6. DRAFTER	/ hr.	0	$ -	
	7. CAD OPERATOR	$29.00 / hr.	34	$ 986.00	
	8. SURVEYOR, PARTY CHIEF	$27.50 / hr.		$ -	
	9. SURVEYOR, INSTRUMENT MAN	$23.75 / hr.		$ -	
	10. SURVEYOR, AIDES	/ hr.		$ -	
	11. FIELD ENGINEER	$35.00 / hr.		$ -	
	12. INSPECTOR, SUPERVISOR	/ hr.	0	$ -	
	13. INSPECTOR, TECHNICIAN I	$22.00 / hr.		$ -	
	14. INSPECTOR, TECHNICIAN II	$20.00 / hr.		$ -	
	15. INSPECTOR, TECHNICIAN III	$19.00 / hr.		$ -	
	16. BATCH PLANT TECHNICIAN	$18.00 / hr.		$ -	
	17. STENO & CLERICAL	$15.00 / hr.		$ -	
	SUBTOTAL		76		$ 2,330.00
(II)	OVERHEAD 1.2931 X (I)				$ 3,013.00
(III)	SUBTOTAL [I + II]				$ 5,343.00
(IV)	FIXED FEE 15%				$ 801.00
(V)	OTHER EXPENSE	RATE	UNITS	AMOUNT	
	1. OFFICE EQUIPMENT	$450.00 / mo.			
	2. TRAVEL PER MILE	$0.55 / mile			
	3. LAB TESTING	$ 10,810 / LS			
	4. CELL PHONES (AT COST)	$50.00 / mo.			
	5. CAD	$17.00 / hr.	34	$ 578.00	
	6. PRINTING (SPEC. ETC.)	$800.00 / ea.			
	7. PREMIUM TIME (0.625 X Direct)	$7,662.50 / ea.			
	8. OTHER			$ -	
	SUBTOTAL				$ 578.00
(VI)	TOTAL FEE FOR PROJECT (III + IV + V)				$ 6,722.00

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Taxiway G Grant Application
Colonel James Jabara Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the grant application.

Background: On July 11, 2006 the Wichita Airport Authority approved the project for airfield pavements and marking of the Jabara runway. At that time it was noted that a Federal Aviation Administration (FAA) grant would pay 95% of the construction of Taxiway G.

Analysis: The taxiway was constructed to permit future growth north of the fixed base operator's main hangars and line service facility. Funds are now available, and staff has prepared a grant application for submittal to the FAA.

Financial Considerations: A grant application has been prepared in the amount of $1,030,475 for this purpose. The Airport's matching portion of five-percent will be funded with General Obligation bonds paid for with Airport Revenue.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through the continued acceptance of grant funding which facilitates infrastructure improvements to support the aviation community.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the grant application and receipt of funds, and authorize the Director of Airports to sign all the documents related to the grant.

Attachments: Grant application.

Version 7/03

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED 7-7-2009	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY AGENCY	Federal Identifier AIP 3-20-0089-18

1. TYPE OF SUBMISSION

Application	*Pre-application*
☒ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: **Wichita Airport Authority**

Organizational DUNS: **124970641**

Address:

Street: **2173 Air Cargo Road**

City: **Wichita**

County: **Sedgwick**

State: **KS** Zip Code: **67209**

Country: United States

Organizational Unit: Wichita Airport Authority

Department:

Division:

Name and telephone of person to be contacted on matters involving this application (give area code)

Prefix: **Mr.** First Name: **Victor**

Middle Name:

Last Name: **White**

Suffix:

Email: **vwhite@wichita.gov**

Phone Number (give area code): **(316)** 946 - 4700

Fax Number (give area code): **(316)** 946 - 4793

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 4 8 - 6 0 0 0 6 5 3

8. TYPE OF APPLICATION

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) ☐ ☐

Other (specify)

7. TYPE OF APPLICANT (See back of form for Application Types)

Other (Specify)

9. NAME OF FEDERAL AGENCY: **Federal Aviation Administration**

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NO. 2 0 - 1 0 6

TITLE (Name of Program): **Airport Improvement Program**

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: **Construct Taxiway G at Colonel James Jabara Airport**

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*: **Wichita, Sedgwick County, Kansas**

13. PROPOSED PROJECT

Start Date	Ending Date
2006	2009

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project
4th	4th

15. ESTIMATED FUNDING:

a. Federal	$ 978,951.00
b. Applicant	$ 51,524.00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 1,030,475.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE : _____

b. NO. ☒ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes, If "Yes", attach an explanation ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix **Mr**	First Name: **Victor**	Middle Name: **D.**
Last Name: **White**		Suffix:
b. Title: **Director of Airports**		c. Telephone: **316-946-4700**
d. Signature of Authorized Representative:		e. Date Signed: **7-7-2009**

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Standard Form 424 (Rev 9-2003)
Prescribed by OMB Circular A-102

PART II

PROJECT APPROVAL INFORMATION
SECTION A

Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐ Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐ Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐ Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional or other planning approval? ☐ Yes ☒ No	Name of Approving Agency: Date: / /
Item 5. Is the proposal project covered by an approved comprehensive plan? ☐ Yes ☒ No	Check one: State ☐ Local ☐ Regional ☐ Location of Plan:
Item 6. Will the assistance requested serve a Federal installation? ☐ Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐ Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project:
Item 8. Will the assistance requested have an impact or effect on the environment? ☐ Yes ☒ No	See instruction for additional information to be provided
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐ Yes ☒ No	Number of: Individuals: Families: Businesses: Farms:
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐ Yes ☒ No	See instructions for additional information to be provided.

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. - The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

In as far as this is within our power, the Wichita Airport Authority of Wichita, Kansas, will affirmatively work to obtain appropriate zoning by the Wichita Sedgwick County Metropolitan Area Planning commission which has zoning authority to take action to restrict the use of land in the immediate vicinity of Colonel James Jabara Airport. The current zoning ordinance has obstruction zoning prohibiting certain manufacturing facilities, which produce smoke, dust, gaseous fumes, electrical interference or glare impairing the visibility of pilots.

2. Defaults. - The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

NONE

3. Possible Disabilities. - There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

NONE

4. Consistency with Local Plans. – The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

YES

5. Consideration of Local Interest - It has given fair consideration to the interest of communities in or near where the project may be located.

YES

6. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

YES

7. Public Hearings. – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

NA

8. Air and Water Quality Standards. – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II - SECTION C (Continued)

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

NA

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

The Wichita Airport Authority of Wichita, Kansas, has the Fee Simple Title to all land comprising Colonel James Jabara Airport, free and clear of all encumbrances and/or restrictions, subject however, to the leases and/or use agreements

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

NA

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

NA

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART III - BUDGET INFORMATION - CONSTRUCTION

SECTION A - GENERAL

1. Federal Domestic Assistance Catalog No..... 20-106

2. Functional or Other Breakout ..... _____

SECTION B -CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	$ 1,810.02	$	$ 105.30
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees	109,320.85		8,575.00
5. Other Architectural engineering fees			
6. Project inspection fees	151,773.53		19,730.56
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement	1,378,760.50		178,676.00
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)	1,641,664.90		207,086.86
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)	1,641,664.90		207,086.86
17. Less: Ineligible Exclusions	611,190.31		
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)	1,030.474.59		207,086.86
20. Federal Share requested of Line 19 (95%)	978,950.86		196,732.52
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)	978,950.86		196,732.52
23. Grantee share	51,523.73		10,354.34
24. Other shares			
25. Total Project (Lines 22, 23 & 24)	$ 1,030,474.59	$	$ 207,086.86

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a. Design, construction and related expenses for Taxiway F	$ 374,279.60	$
b. Design, construction and related expenses for Airfield Markings*	207,086.86	
c. Design of Airfield Electrical system*	29,823.85	
d.		
e. *See notes below.		
f.		
g. SEE ATTACHED **Totals**	$ 611,190.31	$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	$ 51,523.73
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	51,523.73
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	
28. Other Shares	
a. State	
b. Other	
c. Total Other Shares	
29. TOTAL	$ 51,523.73

SECTION E - REMARKS

***Airfield Electrical and Runway Markings projects were submitted as separate grants. Taxiway F has been deemed ineligible for AIP funding.**

PART IV PROGRAM NARRATIVE (Attach - See Instructions)

DETAIL OF EXPENSES

Work Element	Totals	AIP -15 Runway Markings*	AIP -16 Airfield Electrical*	Ineligible Taxiway F	2010 Eligible Taxiway G
Professional Engineering Consultants					
Design	109,320.85	8,575.00	29,823.85	24,782.00	46,140.00
CRS	151,773.53	19,730.56		36,425.65	95,617.32
Lafarge North America					
Construction	1,352,099.00	178,422.00		327,442.50	846,234.50
CO#1	26,011.00	254.00		6,088.75	19,668.25
CO#2	650.50			-21,064.00	21,714.50
Administrative	1,810.02	105.30		604.70	1,100.02
	1,641,664.90	207,086.86	29,823.85	374,279.60	1,030,474.59

*Runway Markings and Airfield Electrical projects were submitted as separate grants.

PART IV
PROGRAM NARRATIVE
(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION OMB NO. 2120-0569

PROJECT : Construction of Taxiway G

AIRPORT : Colonel James Jabara Airport

1. Objective:

Hangar development adjacent to the future general aviation apron is pending and Taxiway "G" is needed to allow access to the airfield from the development, plus the taxiway will provide a safer route for towed aircraft from the t-hangar to the north and the FBO and existing apron to the south.

2. Benefits Anticipated:

New taxiway will provide a safer environment for airport users.

3. Approach : *(See approved Scope of Work in Final Application)*

Notice to Proceed was issued September 17, 2007. November 30, 2007 is the date of Substantial Completion and February 26, 2009 is considered the date of Final Acceptance (except permanent seeding).

4. Geographic Location:

Wichita, Kansas (see attached map).

5. If Applicable, Provide Additional Information:

N/A

6. Sponsor's Representative: *(include address & telephone number)*

Victor White, A.A.E.
2173 Air Cargo Road
Wichita, KS 67209
316-946-4700

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM
SPONSOR CERTIFICATION

DRUG-FREE WORKPLACE

Wichita Airport Authority	Colonel James Jabara	3-20-0089-18
(Sponsor)	*(Airport)*	*(Project Number)*

Description of Work:
Hangar development adjacent to the future general aviation apron is pending and Taxiway "G" is needed to allow access to the airfield from the development, plus the taxiway will provide a safer route for towed aircraft from the t-hangar to the north and the FBO and existing apron to the south.

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been ~~or will be~~ published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	☒	☐	☐
2. An ongoing drug-free awareness program has been ~~or will be~~ established to inform employees about: **a.** The dangers of drug abuse in the workplace; **b.** The sponsor's policy of maintaining a drug-free workplace; **c.** Any available drug counseling, rehabilitation, and employee assistance programs; and **d.** The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.	☒	☐	☐
3. Each employee to be engaged in the performance of the work has been ~~or will be~~ given a copy of the statement required within item 1 above.	☒	☐	☐
4. Employees have been ~~or will be~~ notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will: **a.** Abide by the terms of the statement; and **b.** Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.	☒	☐	☐

	Yes	No	N/A
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.	☒	☐	☐
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted: **a.** Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or **b.** Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.	☒	☐	☐
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.	☒	☐	☐

I have prepared documentation shown below or attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified below or in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

	Location	**Location**	**Location**
Street Address:	2173 Air Cargo Road		
City:	Wichita		
State:	KS		
Zip code:	67209		

Wichita Airport Authority
Name of Sponsor

Signature of Sponsor's Designated Official Representative

Victor White, A.A.E.
Type Name of Sponsor's Designated Official Representative

Director of Airports
Typed Title of Sponsor's Designated Official Representative

7-7-2009
Date of Signature

STANDARD DOT TITLE VI ASSURANCES

Wichita Airport Authority (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods.

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED 7-7-2009

Wichita Airport Authority
(Sponsor)

By_____
(Signature of Authorized Official)

CONTRACTOR CONTRACTUAL REOUIREMENTS

ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions**. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued Pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

CERTIFICATE OF TITLE
FAA Central Region

To: Manager, Safety and Standards Branch

Subject: Colonel James Jabara Airport

AIP Project No. 3-20-0089-18

This certification is made to satisfy (check **both** if applicable):

☒**Part II Section C.10 of the Grant Application (FAA Form 5100-100) for existing airport property**
☐ **Grant conditions relative to satisfactory title evidence for land being acquired under this project**

The Wichita Airport Authority (hereinafter referred to as the "Sponsor"), pursuant to Section 47105(d) of the Federal Aviation Administration Authorization Act of 1994 (and amendments), hereby certifies that satisfactory property interest to the land indicated herein is vested in the Sponsor, as required by obligations of the referenced Grant Agreement with the Federal Aviation Administration.

The Sponsor hereby certifies that it holds the quality of title described below, as of the date of the attorney's title opinion on which this certification is based.

Parcel Number (Per Exhibit A)	**Quality of Interest** (Fee, Easement*, etc.,)
5	Fee Simple

Parcels must be listed. Avoid simply referencing the Exhibit A Property Map. Attach additional sheets as necessary.

*The Sponsor certifies that grantors of easements constitute all of the owners of the land affected by such easements, and they had such quality of title in and to such land as to enable them to convey the interest purported to be conveyed in and by the easements granted. No other interests or rights exist which are incompatible with or would interfere with the exercise and enjoyment by the Sponsor of the rights and interests conveyed.

Sponsor hereby certifies that the Sponsor or the Sponsor's attorney have reviewed, evaluated and subordinated to airport use where necessary, all encumbrances and that no outstanding encumbrances exist which might affect the maintenance, operation, or development of the airport.

Sponsor further certifies that if defects in the title require correction after acceptance of this Certificate of Title by the FAA, the Sponsor accepts full responsibility for clearing such defects, encumbrances, or exceptions at its own expense.

This Certificate of Title is based upon a current title opinion dated June 11, 1997 by the sponsor's attorney, Gary E. Rebenstorf.

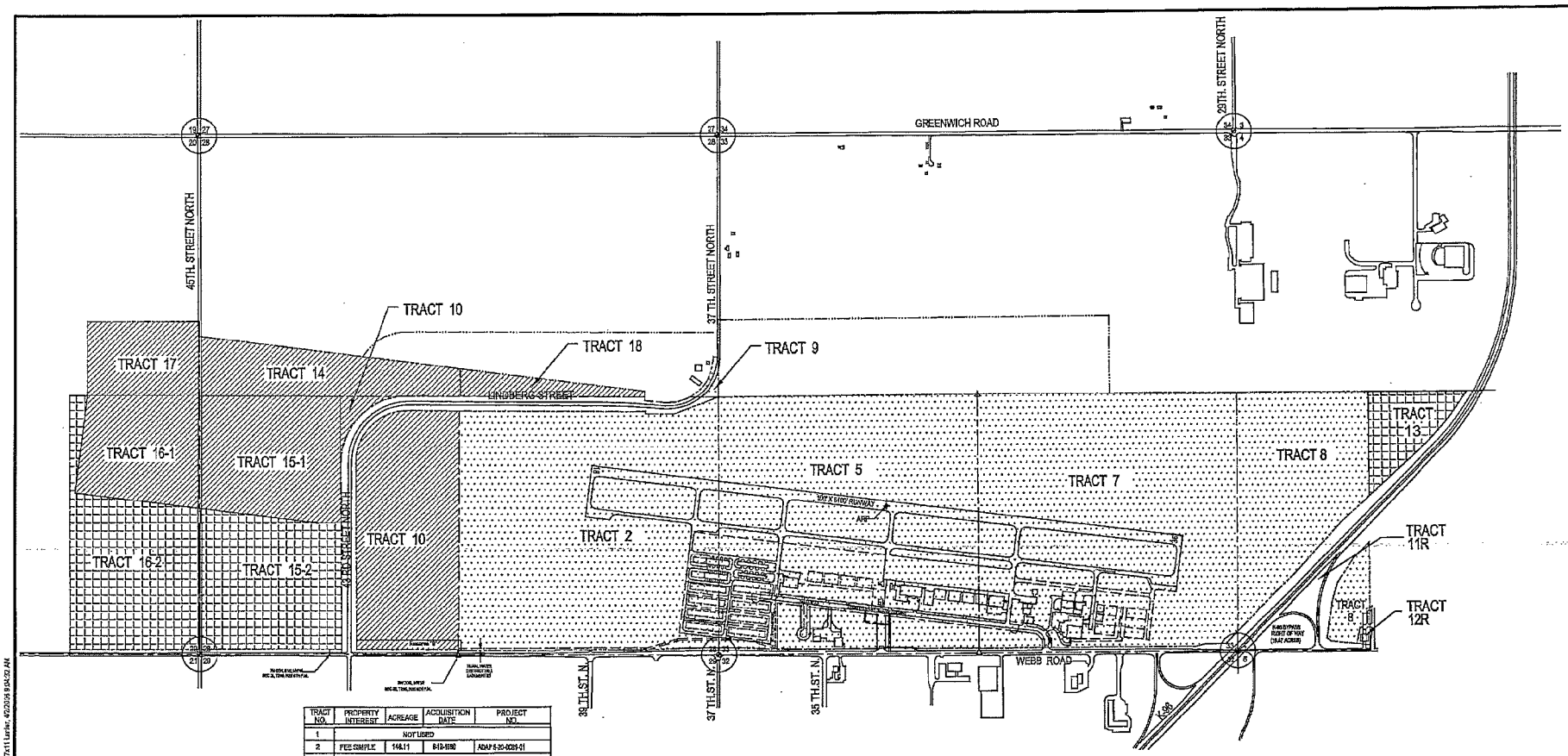
Sponsor certifies that the title opinion referenced above corresponds with the "Exhibit A" airport property map dated July 27, 2006, AIP project number 3-20-0089-18. Although specific title evidence documents are not submitted herewith, copies of deeds and other appropriate evidence of title for the land are on file with the Sponsor and are available for inspection by the FAA.

It is understood that the FAA reserves the right to require additional information at any time.

Wichita Airport Authority
Name of Sponsor

_____ Director of Airports
Signature and Title of Sponsor Official Authorized to Sign Grant Agreement

7-7-2009
Date



TRACT NO.	PROPERTY INTEREST	ACREAGE	ACQUISITION DATE	PROJECT NO.
1	NOT USED			
2	FEE SIMPLE	146.11	8-12-1980	ADAP 5-20-0039-01
3	NOT USED			
4	NOT USED			
5	FEE SIMPLE	158.91	8-12-1980	ADAP 5-20-0039-01
6	NOT USED			
7	FEE SIMPLE	153.05	8-12-1980	ADAP 5-20-0039-01
8	FEE SIMPLE	60.21	8-12-1980	ADAP 5-20-0039-01
9	FEE SIMPLE	0.86	8-12-1980	ADAP 5-20-0039-01
10	FEE SIMPLE	73.04	4-1991	AIP 3-20-0039-98 AIP 3-20-0039-99
11R	K-96 R.O.W	19.47		
12R	FIRE STATION	0.81	SOLD TO THE CITY OF WICHITA	
13	FEE SIMPLE	13.40	8-1997	AIRPORT REVENUES
14	FEE SIMPLE	26.598	5-2003	AIP 3-20-0039-13
15-1	FEE SIMPLE	40.610	11-24-03	AIP FUTURE
15-2	FEE SIMPLE	43.490	11-24-03	AIRPORT REVENUES
16-1	FEE SIMPLE	30.538	12-15-03	AIP FUTURE
16-2	FEE SIMPLE	47.800	12-15-03	AIRPORT REVENUES
17	FEE SIMPLE	20.14	12-23-04	AIP FUTURE
18	FEE SIMPLE	7.448	PENDING	AIP FUTURE

LEGEND

PROPERTY LINE

FUTURE PROPERTY LINE

FEDERAL FUNDS - ADAP

FEDERAL FUNDS - AIP

AIRPORT REVENUE

NORTH

0' 250' 500' 1000'

CITY OF WICHITA

Wichita Airport Authority

EXHIBIT "A"

AIRPORT PROPERTY MAP

COLONEL JAMES JABARA AIRPORT

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

DATE	DR. BY	SCALE	SHEET
7/27/06	H.G.O.	1" = 1000'	1 of 1

D:\Drawings\JABARA\202-Grants\JAB-Master-Plan\Property Map Exhibit A 2006.dwg, 17x11 Letter, 4/2/2006 9:04:32 AM

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.[1]
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11988 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs.
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]

h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person

to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

   b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

   c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

   d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that

property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such

reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved

plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably

operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.

In furtherance of this assurance, the sponsor will have in effect arrangements for-

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations,

aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use

agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-
   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall

be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. Civil Rights. It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure

non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Colonel James Jabara and Mid-Continent Airports Pavement Condition Inventories

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the capital project budgets, grant applications and contract.

Background: The pavement condition inventories are included in the Capital Improvement Program.

Analysis: In order to comply with Federal Aviation Administration (FAA) grant assurances, it is necessary to conduct periodic, in-depth airfield pavement condition inventories following FAA Advisory Circular 150/5380-68.

The Staff Screening and Selection Committee interviewed four firms and selected Applied Pavement Technology, Inc. to provide the professional services for the 2009 evaluation, as well as, the 2012 evaluation.

Financial Considerations: The contract amount for professional services with Applied Pavement Technology, Inc. is $149,385, of which $111,652 is for Mid-Continent Airport and $37,733 is for Colonel James Jabara Airport. For FAA grant purposes, these inventories will be conducted as two projects. The project budget for Mid-Continent is $120,000, and the project budget for Colonel James Jabara is $41,000. The FAA has indicated that grant funding is currently available to us from the FAA Airport Improvement Program (AIP). This project will be paid for with 95% FAA Grant funds and General Obligation bonds paid for with Airport Revenue. The normal FAA procedures will be followed in obtaining the grant funds for this project similar to projects in the past.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through the continued acceptance of grant funding for projects which provide for the protection of the Airport System's infrastructure.

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

Recommendations/Actions: It is recommended the Wichita Airport Authority approve the capital budgets, contract and authorize necessary signatures, as well as authorize the Director of Airports to sign all the documents related to the grants.

Attachments: Applied Pavement Technology, Inc. contract and grant applications.

CONTRACT
for
CONSULTING SERVICES
Between the
WICHITA AIRPORT AUTHORITY

and

APPLIED PAVEMENT TECHNOLOGY, INC.

THIS CONTRACT, made this _____ day of _____, 2009, by and between the WICHITA AIRPORT AUTHORITY, Wichita, Kansas, party of the first part, hereinafter called the "OWNER" and Applied Pavement Technology, Inc. 115 West Main Street, Suite 400, Urbana, Illinois, 61801 party of the second part, hereinafter called the "CONSULTANT".

WITNESSETH: That,

WHEREAS the OWNER is engaged in the operation of Wichita Mid-Continent and Colonel James Jabara Airports; and whereas it is the desire of both parties that the CONSULTANT furnish consulting services in conjunction with the Pavement Condition Inventories (PROJECT); and whereas all of the aforesaid being located within the corporate limits of the City of Wichita, Sedgwick County, Kansas, and

WHEREAS, the OWNER is authorized by law to employ a consultant to provide professional consulting services NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES:

The Scope of Services to be performed by the CONSULTANT shall be as outlined in EXHIBIT A, attached hereto and incorporated herein by reference.

ARTICLE II - THE CONSULTANT AGREES:

A. To provide the professional services, equipment, material and transportation to perform the tasks as outlined in ARTICLE I, SCOPE OF SERVICES.

B. To designate a project manager who will coordinate all work and be the point of contact for communications and to submit qualifications of the proposed project manager to the OWNER in advance of the Notice to Proceed. The OWNER reserves the right to withhold the Notice to Proceed until a qualified project manager is designated. The OWNER shall concur with any changes to this assignment.

C. This Agreement and all subconsultant agreements shall be governed by the laws of the State of Kansas.

D. To submit to the OWNER in a timely manner, editable, electronic files of all surveys, drawings and studies in AutoCAD format and specifications in Microsoft Word.

E. To save and hold OWNER harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by negligent acts, errors or omissions of CONSULTANT, its agents, servants, employees, or subconsultants occurring in the performance of its services under this Agreement.

F. To maintain an acceptable cost accounting system. The CONSULTANT agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts and transcriptions. The CONSULTANT agrees to maintain all books, records and reports required under this Contract for a period of not less than three years after final payment is made and all pending matters are closed.

G. It shall not, participate either directly or indirectly in discrimination prohibited by the non-discrimination requirements of the City of Wichita, Kansas, as set out in EXHIBIT B, and the non-discrimination requirements of the Federal Aviation Administration, as set out in EXHIBIT C, all of which are attached hereto and incorporated herein by reference.

That the CONSULTANT assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The CONSULTANT assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The CONSULTANT assures that it will require that their covered suborganizations provide assurances to the OWNER that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

H. To accept compensation for the work herein described in such amounts and at such periods as hereinafter provided 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 described in EXHIBIT A.

I. To submit billings to the OWNER for the Services performed as required by this Agreement. Billings shall not exceed progress of work as evidenced by deliverables submitted by the CONSULTANT and approved by the OWNER. During the progress of work covered by the Agreement, partial payment requests may be made at intervals of not less than four weeks. The progress billings shall be supported by documentation acceptable to the OWNER, which shall include a record of the percentage completion evidenced by approved deliverables, of the number of days allocated for completion of the work, the number of days that have elapsed, and the number of days that remain to complete the work. Progress billings shall also include copies of subconsultant invoices to the CONSULTANT for the same billing period. Payment to subconsultants, for satisfactory performance, shall be made within 30 days of receipt of payment and no retainage shall be withheld. Any delay or postponement of payment from the referenced time frame may occur only for good cause and following written approval of the OWNER.

J. To complete and deliver plans to the OWNER within the time allotted for the work as stipulated herein; except that the CONSULTANT shall not be responsible or held liable for the time required for reviews for the approving parties or other delays occasioned by the actions or inactions of the OWNER or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT. The schedule is outlined in EXHIBIT F.

K. To covenant and represent to be responsible for the professional and technical accuracy and the coordination of all drawings or other work or material furnished by the CONSULTANT under this Agreement.

CONSULTANT further agrees, covenants and represents that Services furnished by CONSULTANT, its agents, employees and subconsultants under this Agreement shall be free from negligent errors or omissions.

CONSULTANT further agrees, covenants and represents, that all specifications and bid documents prepared in accordance with the work required by this Agreement shall contain a clause that provides the following:

> "Notwithstanding any thing to the contrary contained in these bid documents or the contract to be awarded herein, the OWNER shall not be subject to arbitration and any clause relating to arbitration contained in these bid documents or in the contract to be awarded herein shall be null and void."

L. To procure and maintain such professional liability insurance as will protect the CONSULTANT from damages resulting from negligent acts of the CONSULTANT, its agents, officers, employees and subconsultants. in an amount not less than $3,000,000 per occurrence, subject to deductible of not more than $250,000. The CONSULTANT shall be responsible for payment of all deductible amounts without reimbursement by OWNER. In addition, a Worker'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 Worker's Compensation Law.

Further, a comprehensive general liability policy shall be procured and maintained by the CONSULTANT for the duration of the project that shall be written in a comprehensive form and shall protect CONSULTANT against all claims arising from injuries to persons (other than CONSULTANT'S employees) or damage to property of the OWNER or others arising out of any negligent act or omission of CONSULTANT, its agents, officers, employees, or subconsultants in the performance of CONSULTANT services under this Agreement. The liability limit shall not be less then $500,000 per occurrence for bodily injury, death and property damage. The Wichita Airport Authority, Wichita, Kansas; the City of Wichita; their officers, employees and agents shall be named as additional insureds under the terms of the policy with respect to the names insurer's operations on Wichita Mid-Continent Airport or Colonel James Jabara Airport, whichever is applicable. Satisfactory Certificates of Insurance shall be filed with the OWNER prior to the time CONSULTANT starts any work under this Agreement. The CONSULTANT shall maintain such insurance through the duration of the PROJECT. 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 substantially changed or cancelled.

M. To employ Disadvantaged Business Enterprise (DBE) concerns to the extent possible of 3.985% for Mid-Continent Airport and 2.33% for Colonel James Jabara Airport percent of the eligible federally funded services encumbered by this Agreement and related Supplemental Agreements.

1. Contract Assurance - The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the recipient deems appropriate.

2. Prompt Payment - The prime Consultant agrees to pay each subconsultant under this prime Contract for satisfactory performance of its contract no later than five days from receipt of each payment the prime Consultant receives from the Wichita Airport Authority. The prime Consultant agrees further to return retainage payments to each subconsultant within thirty days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Wichita Airport Authority. This clause applies to both DBE and non-DBE subconsultants.

N. Its agents, employees and subconsultants, shall be subject to any and all applicable rules, regulations, orders and restrictions which are now in effect and which apply to its activities on airport property, including such rules, regulations, orders and/or restrictions that may be adopted, enacted or amended during the term of this Agreement.

O. The CONSULTANT and the OWNER shall not be obligated to resolve any claim or dispute related to this Agreement by arbitration. Any reference to arbitration in any proposal or contract documents is deemed void.

P. All information provided by the OWNER and/or developed for the PROJECT shall be considered confidential and proprietary, and shall not be reproduced, transmitted, used or disclosed by the CONSULTANT without the written consent of OWNER, except as may be necessary for the non-disclosing party to fulfill its obligations hereunder; provided, however, that the limitation shall not apply to any information or portion thereof, which is:

1. Within the public domain at the time of its disclosure.

2. Required to be disclosed by a court of competent jurisdiction or Government order.

3. Approved by the OWNER for publicity.

4. Required to be communicated in connection with filings with governmental bodies having jurisdiction over the design or construction of the PROJECT.

ARTICLE III - THE OWNER AGREES:

A. To furnish all available data pertaining to the PROJECT available to the OWNER. All data shall be considered confidential unless otherwise noted.

B. To pay the CONSULTANT for services in accordance with the requirements of this Agreement within thirty (30) working days from the date of receipt of invoice and upon satisfactory performance of service.

C. To provide the right of entry into secured areas for CONSULTANT'S personnel, subject to all rules and regulations of the OWNER, the Transportation Security Administration and Federal Aviation Administration regarding airfield safety and security.

D. To pay all applicable design phase fees, unless otherwise stated herein.

ARTICLE IV - PAYMENT PROVISIONS:

A. Payment to the CONSULTANT for performance of the specified services shall be on a lump sum basis of $111,652.00 for Mid-Continent Airport and $37,733.00 for Colonel James Jabara Airport for a total lump sum of $149,385.00, as outlined in Chapter 4, Federal Aviation Administration Advisory Circular 150/5100-14D dated September 30 2005, unless otherwise noted herein. The payment provisions are outlined in EXHIBIT D, attached hereto and incorporated herein by reference.

B. If an addition or deduction of work should be necessary, by virtue of a change in the scope of the proposed PROJECT, or by the OWNER'S request for a change in services, the CONSULTANT will be given written notice by the OWNER along with a request for an estimate of the actual costs plus a fixed fee for profit for the change in such services; but 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.

C. Final payment shall not occur until all work is complete and approved by the OWNER.

ARTICLE V - THE PARTIES HERETO MUTUALLY AGREE:

A. TERMINATION OF CONTRACT

1. The right is reserved to the OWNER to terminate this Agreement or any part of the Agreement at any time, upon written notice; PROVIDED, however, that in such case the CONSULTANT 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 CONSULTANT'S actual costs plus a reasonable sum for profit. Upon receipt of such notice, Services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Agreement,

whether completed or in progress, delivered to the OWNER and become the possession of the OWNER.

2. Any violation or breach of the terms of this Agreement on the part of the CONSULTANT or subconsultant(s) may result in the suspension or termination of this Agreement or such other action, which may be necessary to enforce the rights of the parties of this Agreement. In such case, the OWNER may take possession of all materials as may have been accumulated in performing this Agreement, whether completed or in progress and take over the work and prosecute the same to completion, by separate agreement or otherwise, for the account and at the expense of the CONSULTANT. The CONSULTANT shall be liable to the OWNER for those costs associated with the remedy of the breach of terms.

3. The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

B. Deliverables shall become the property of the OWNER upon delivery or termination of the Services in accordance with this Agreement. The OWNER shall not hold the CONSULTANT liable upon the OWNER'S reuse of any part of deliverables, and there shall be no restriction or limitation on their further use by the OWNER. Consultant's seal and name shall not be reproduced on such documents if reused by the OWNER.

C. The Services to be performed by the CONSULTANT under the terms of this Agreement are personal and cannot be assigned sublet or transferred without specific consent of the OWNER.

D. In the event of unavoidable delays in the progress of the work, reasonable extensions in the time will be granted by the OWNER, provided, however, that the CONSULTANT shall request extensions in writing giving the reason therefore.

E. Unless otherwise provided in this Agreement, the CONSULTANT and agents, servants, employees, or sub-consultants 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.

F. 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.

G. Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the CONSULTANT 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. It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damage pursuant to the terms of provisions of this Agreement.

I. The CONSULTANT hereby certifies:

1. It has not employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above CONSULTANT) to solicit or secure this Agreement,

2. It has not agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement,

3. It has not paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if any).

4. By acceptance of this Agreement neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the CONSULTANT or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this Agreement.

5. It agrees to abide by the Foreign Trade Restrictions as set out in EXHIBIT E, attached hereto and incorporated herein by reference. The CONSULTANT acknowledges that this certification is to be furnished to the Federal Aviation Administration, in connection with this agreement involving participation of Airport Improvement Program (AIP) funds and is subject to applicable State and Federal laws, both criminal and civil.

6. It and subconsultant's overhead rates used on this Contract are consistent with Federal cost principles contained in 48 CFR, Part 31, and to provide to the OWNER such certification prior to the execution of this Agreement.

J. All rights to inventions and materials generated under this Agreement are subject to regulations issued by the Federal Aviation Administration and the OWNER of the Federal grant under which this Agreement is executed. Information regarding these rights is available from the Federal Aviation Administration and the OWNER.

K. Lobbying And Influencing Federal Employees

1. No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

IN WITNESS WHEREOF, the OWNER and the CONSULTANT have executed this Agreement as of the date first written above.

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Karen Sublett, City Clerk

By: _____
Victor D. White, Director of Airports

By: _____
Carl Brewer, President
"OWNER"

ATTEST:

Applied Pavement Technology

115 West Main St, Suite 400

Urbana, Illinois 61801

By: Aimee S. Romack-Davis
Title: Corporate Support Specialist

By: Marty J Wade
Title: Programs Director
"CONSULTANT"

APPROVED AS TO FORM: Gary E Rebenstorf
Director of Law
Date: _____

ATTACHMENTS:

EXHIBIT A	Scope of Services
EXHIBIT B	Non-Discrimination and EEO Program
EXHIBIT C	Civil Rights Act
EXHIBITS D & D-1	Payment Provisions
EXHIBIT E	Foreign Trade Restrictions
EXHIBIT F	Schedule

WICHITA AIRPORT AUTHORITY
PAVEMENT CONDITION INVENTORY UPDATE
SCOPE OF SERVICES

Applied Pavement Technology, Inc. (APTech) has teamed with HNTB Corporation (HNTB), Wilson & Company, Inc., Construction Services Group, LLC, and Professional Engineering Consultants, P.A. (PEC) to perform a Pavement Condition Inventory Update at Mid-Continent and Colonel James Jabara Airports for the Wichita Airport Authority (WAA). This project includes the conduct of network-level pavement condition index (PCI) surveys and the development of a 10-Year Capital Improvement Program (CIP) at both airports. It will build on previous updates that have been performed approximately every 3 years, with the most recent update being performed by APTech in 2006.

This document outlines the Scope of Services and deliverables to be provided under this project.

Task 1. Systems Inventory

1a. Kick-Off Meeting

The project will begin with a kick-off meeting with WAA at their office. During this meeting, the final scope of work and schedule will be reviewed. Each deliverable will be discussed in detail, so that everyone leaves the meeting with a clear understanding of the schedule and final products expected from this project. In particular, coordination and timing of the field work activities—including PCI surveys, falling weight deflectometer (FWD) testing, and geotechnical work—will be discussed, and the timing and format for the aerial photography will be finalized.

The quality control procedures to be followed throughout the project will also be presented and discussed, as well as airport access and other security and airport operation issues. During this meeting, a project contact list will be generated and the chain of communication to be used throughout the project will be established. As with all meetings, APTech will take minutes and deliver a formal copy to the WAA's Project Manager for approval within 1 week of the meeting. The collection of work history and traffic information will begin immediately following this meeting.

1b. Work History

Pavement construction, rehabilitation, and maintenance history information will be collected for both Mid-Continent and Colonel James Jabara Airports. For this project, the focus is on any maintenance and rehabilitation work that has been performed since 2006. Because APTech performed the 2006 Pavement Condition Inventory Update, the information up to 2006 is readily available. The following information from the 2006 update will be useful for this study:

- Pavement cross sections and construction history records.
- Pavement Condition Index
  - Composite index.
  - Distress types, severities, and quantities.

  - Cause(s) of deterioration.
  - Pavement deterioration rate.
  - Number of years to reach critical PCI.
- AutoCAD maps showing the pavement sectioning and illustrating the PCI results.
- Aerial photographs.
- Past and projected future traffic loadings.
- FWD testing data and results.
  - Normalized deflections.
  - Pavement layer moduli.
  - Subgrade support conditions.
  - Joint load transfer efficiency.
  - Allowable loads.
  - Structural remaining life.
- Pavement cores and dynamic cone penetrometer (DCP) test results.
- Maintenance and rehabilitation policies.
- Project cost information.

This information will be used to update the pavement sectioning, as well as for other analyses to be performed during this project.

Prior to finalizing the systems inventory information, APTech will provide WAA with a draft summary of the collected information (from both Mid-Continent and Colonel James Jabara Airports) for review and comment. The data will then be preserved in the existing Micro PAVER pavement management databases for each airport.

1c. Traffic

Traffic information will be gathered for both airports for use in the development of rehabilitation strategies and for assisting with prioritization of rehabilitation projects. The types of aircraft traffic data that are needed for such efforts include the aircraft type, landing gear configurations, maximum take-off weights (MTOW), number of annual departures and arrivals, anticipated changes in annual departures and arrivals, and aircraft taxiing patterns. The aircraft traffic flow at Mid-Continent Airport will also be assessed from observations and from conversations with Air Traffic Control (ATC) personnel.

The traffic data collected and analyzed by APTech during the 2006 Pavement Condition Inventory Update will serve as a starting point. However, it is important that the traffic data be as up to date as possible so that it accurately portrays existing and future traffic mixes and patterns. APTech will work closely with WAA to identify traffic patterns and other information that will include observations of traffic (from the control tower if possible) under various traffic patterns.

Deliverables

The following deliverables will be submitted as part of this task:

- Minutes of project kick-off meeting.
- Project contact list.

- Summary of work history records for each pavement section (both airports).
- Summary of aircraft traffic mix (both airports) for approval.

Task 2. Network Definition

Based on the work history findings, the pavement network at both Mid-Continent and Colonel James Jabara Airports will be divided into facilities (branches), features (sections), and sample units in accordance with FAA and ASTM guidelines. The information from the 2006 Pavement Condition Inventory Update will serve as a starting point for defining the network; it will be updated based on the work history information collected under Task 1.

Deliverables

There are no deliverables planned as part of this task.

Task 3. Mapping

All branch, section, and sample unit boundaries will be shown on the airport network definition map. Upon completion of the pavement condition survey task, the network definition map at both airports will be modified to reflect any changes identified in the field. Work history and color-coded PCI maps will also be prepared that show the construction and rehabilitation history of each pavement section and the ranges of PCI conditions across the airports.

Later in the project, a map will be developed that identifies the prioritized list of projects recommended in the 10-Year CIP. Maps will also be prepared showing the PCI of each section with and without the recommended maintenance and rehabilitation projects, which provides a quick comparison of the effect of the proposed funding level.

These maps will be created by overlaying the results on the aerial photographs (Task 4). During the pavement inspections, global positioning system (GPS) coordinates will be obtained such that all maps will be developed using the Kansas State Plane Coordinate System latitude and longitude as requested by WAA.

Deliverables

The following maps will be submitted as part of this task:

- Network definition map.
- Work history map.
- 2009 PCI map.
- FWD testing locations.
- 10-year CIP.
- Projected 2019 PCI following CIP.
- Projected 2019 PCI without any rehabilitation work.

Maps will be submitted for both Mid-Continent and Colonel James Jabara Airports in both electronic format and in hard copy format in the draft and final reports.

Task 4. Aerial Photography

Wilson & Company will produce geo-referenced rectified raster images and hard copy deliverables for Mid-Continent and Colonel James Jabara Airports. The geo-referenced images will be created using new color photography and ground control data suitable to produce deliverables at a 1" = 100' horizontal scale; the hard copy deliverables will be created using higher level photography. The work on this task will follow the sequence outlined below:

- *Quality Control.* The quality of the aerial photography is extremely important to WAA and to the success of this project. Wilson & Company will attend the kick-off meeting to discuss their quality control process and to solicit feedback from WAA to ensure that the final deliverables will be suitable in terms of clarity, resolution, and accuracy. Electronic and/or hard copy images will be submitted to WAA for approval at various stages within the process.
- *Ground Control.* The ground control data shall be established to the NAD83/NAVD88 datum (or preferred coordinate system) and shall be executed by means of ground targets and Airborne GPS. The aerial photography will be geo-referenced using a combination of Airborne GPS (continuously operating receiving station) supplemented with existing ground control points.
- *Aerial Photography.* Two flight altitudes will be used to capture images. The first will be a mid-level flight altitude to create 6-inch pixel resolution orthophotography. Color oblique photographs and higher altitude photography will also be captured for creating the hard-copy deliverables.
- *Data Processing.* The new aerial photography will be reviewed for proper tone and balance and will be digitally scanned on a precision photogrammetric scanner at a resolution of 14 microns. This resolution will produce a 6-inch ground pixel and will be suitable for digital orthophotography production. The scanned images will be exported to a workstation and the aero-triangulation process will be completed. This process will orient individual stereo pairs along with the ground surveyed control coordinates.
- *Digital Orthophotos.* Utilizing the scanned imagery, a digital elevation model will be produced to cover the project area. This digital elevation model will be used to support the orthophoto rectification. The final rectified imagery will hold a ground pixel resolution of 6 inches, suitable for a 1"=100' scale, and will be reviewed to ensure that seams are not visible and images have tonal uniformity.
- *Hard-Copy Image Reproduction.* The captured photography for the production of hard-copies will be digitally scanned and submitted for selection of the preferred images.

Deliverables

The following deliverables for Mid-Continent Airport will be submitted as part of this task:

- Color digital orthophoto mosaic delivered on CD-ROM in a TIFF format with TFW World files, *.dgn, and *.dwg files included for geo-referencing the digital image.
- Digital file of preferred oblique image in a TIFF format (or other preferred digital format).
- Twenty (20) 45" x 45", 1" = 500' scale color prints.

- Eight (8) 25" x 25", 1" = 1000' scale color prints.
- Four (4) 45" x 45" color oblique prints.
- Four (4) 25" x 25" color oblique prints.

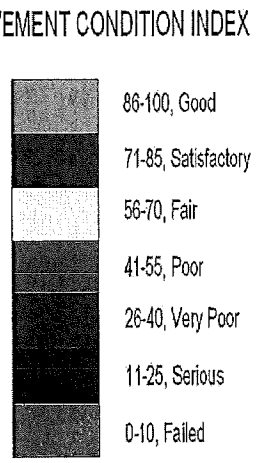
Likewise, the following deliverables for Colonel James Jabara Airport will be submitted as part of this task:

- Color digital orthophoto mosaic delivered on CD-ROM in a TIFF format with TFW World files, *.dgn, and *.dwg files included for geo-referencing the digital image.
- Digital file of preferred oblique image in a TIFF format (or other preferred digital format).
- Twelve (12) 45" x 45", 1" = 400' scale color prints.
- Six (6) 25" x 25", 1" = 800' scale color prints.
- Two (2) 45" x 45" color oblique prints.
- Two (2) 25" x 25" color oblique prints.

Task 5. Pavement Evaluation

The airfield pavements at Mid-Continent and Colonel James Jabara Airports will be evaluated through a visual pavement condition survey to assess the pavement's surface condition. Selected pavement sections at Mid-Continent Airport will undergo further non-destructive testing using a heavy-weight model FWD to assess the pavement's structural integrity.

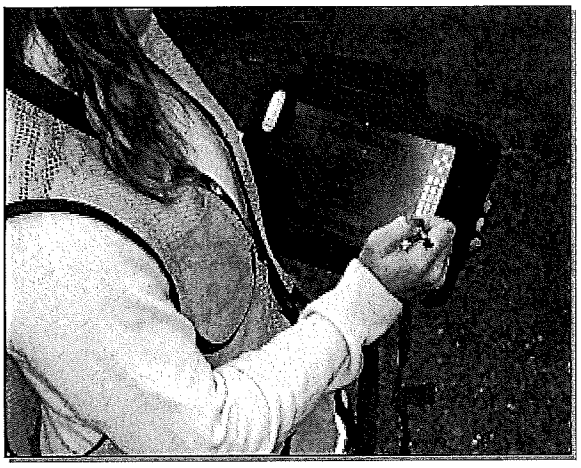
5a. Visual Pavement Condition Evaluation



During the visual condition assessment, the pavements at Mid-Continent and Colonel James Jabara Airports will be inspected using the PCI procedure as described in FAA AC 150/5380-6A and ASTM Standards D5340 and D6433. During the PCI survey, visible signs of deterioration within a selected sample unit will be recorded and analyzed by distress type, severity, and quantity.

While the PCI results give a general indication of the overall pavement condition, the specific maintenance and rehabilitation needs of a pavement may be obscured by such an index. During the PCI inspection, APTech will also identify the specific distresses that are present, report on the possible causes of such distresses, and relate such findings to general categories of treatment. In addition, an extensive photographic log and inspectors' field comments will be maintained. Of course, during the inspections if any area is found that might present a current hazard to aircraft operations, WAA will be notified immediately.

Because the development of pavement repair programs within a 10-year CIP is based on the condition data collected during the project, it is very important that WAA have a thorough understanding of how pavement condition data are collected and what that information means. Therefore, Airport personnel will be encouraged to accompany the field crew during the pavement inspection. Because APTech uses an experienced pavement engineer to lead the field team (not a technician or an engineer without airport PCI experience), team members are able to provide solid training to airport staff and to advise them on the cause(s) of distresses present at their airport and the different maintenance and rehabilitation actions that can be taken to correct them.



Prior to conducting the PCI surveys, a field schedule will be developed to ensure timeliness of the data collection efforts. The field work will be scheduled in coordination with WAA. Critical operation areas where access may be limited will be identified and scheduled during slower traffic periods to maximize the efficiency of inspection and to minimize the impact on airfield operations. It is assumed that all inspections will be conducted during daylight hours.

The inspection team will use pen-based handheld computers to directly enter distress data into MicroPAVER during the PCI inspection. The use of these computers significantly accelerates the processing of the collected data and also increases data accuracy because of the built-in error-checking capabilities. One further advantage of using this technology is that processed PCI data become immediately available upon completion of the pavement inspection, which expands the quality control capabilities.

The results of the condition surveys will be used to calculate PCIs for each pavement section so the relative condition of one section to another can be determined and evaluated. The PCI will be compared with the 2006 results to track the condition of each pavement section over the last 3 years and to determine the rate at which each section is deteriorating. Additionally, the distress information will be analyzed to determine the types of distress present in each pavement section and the primary cause of deterioration (structural, climatic, or other).

5b. Structural Condition Assessment

Nondestructive testing will be performed on selected pavement sections at Mid-Continent Airport to backcalculate the subgrade and pavement layer properties and to determine the structural integrity and load-carrying capacity of the pavement sections. FWD testing will be conducted using APTech's Dynatest Model 8082 heavy-weight FWD, which is capable of simulating aircraft wheel loadings up to 55,000 pounds. FWD testing and analysis will be performed in accordance with FAA AC 150/5370-11A, *Use of Nondestructive Testing in the Evaluation of Airport Pavements.*

APTech will perform FWD testing and analysis on the pavement sections highlighted in Figure 1. These sections primarily include the primary taxi routes for heavy aircraft, which will allow an assessment of the ability of heavy aircraft to land at Mid-Continent Airport. Testing will also be performed on the Terminal Apron and the North Cargo Apron.

A meaningful characterization of pavement properties requires sufficient data be collected. On the runway and taxiway sections identified, testing will be performed in two testing lanes at 100-feet intervals, with one test lane located on either side of the centerline. The test locations between lanes will be offset to provide a more thorough coverage of the pavement. On the apron sections, testing will be performed in two to three lanes at 50-feet intervals, with a minimum of ten locations tested on any section. The proposed testing pattern provides a thorough distribution of test locations throughout the pavement sections and provides sufficient data to accurately evaluate each pavement section.

The FWD equipment is configured for each project to address local conditions. The purpose of the customized configuration is to simulate the actual loading conditions in the field. The following configuration will be used:

- Three-drop test sequence of approximately 20,000, 30,000, and 40,000 lbs.
- Large load plate with an 8.86-in radius.
- Sensors spaced at 0, 12, 24, 36, 48, 60, and 72 inches.

This testing configuration is consistent with that used for the 2006 Pavement Condition Inventory Update, which will allow a direct comparison of the results. All testing work will be scheduled in coordination with WAA. Critical operation areas where access may be limited will be identified and scheduled for inspection during slower traffic periods to maximize the efficiency of inspection and to minimize the impact on airfield operations.

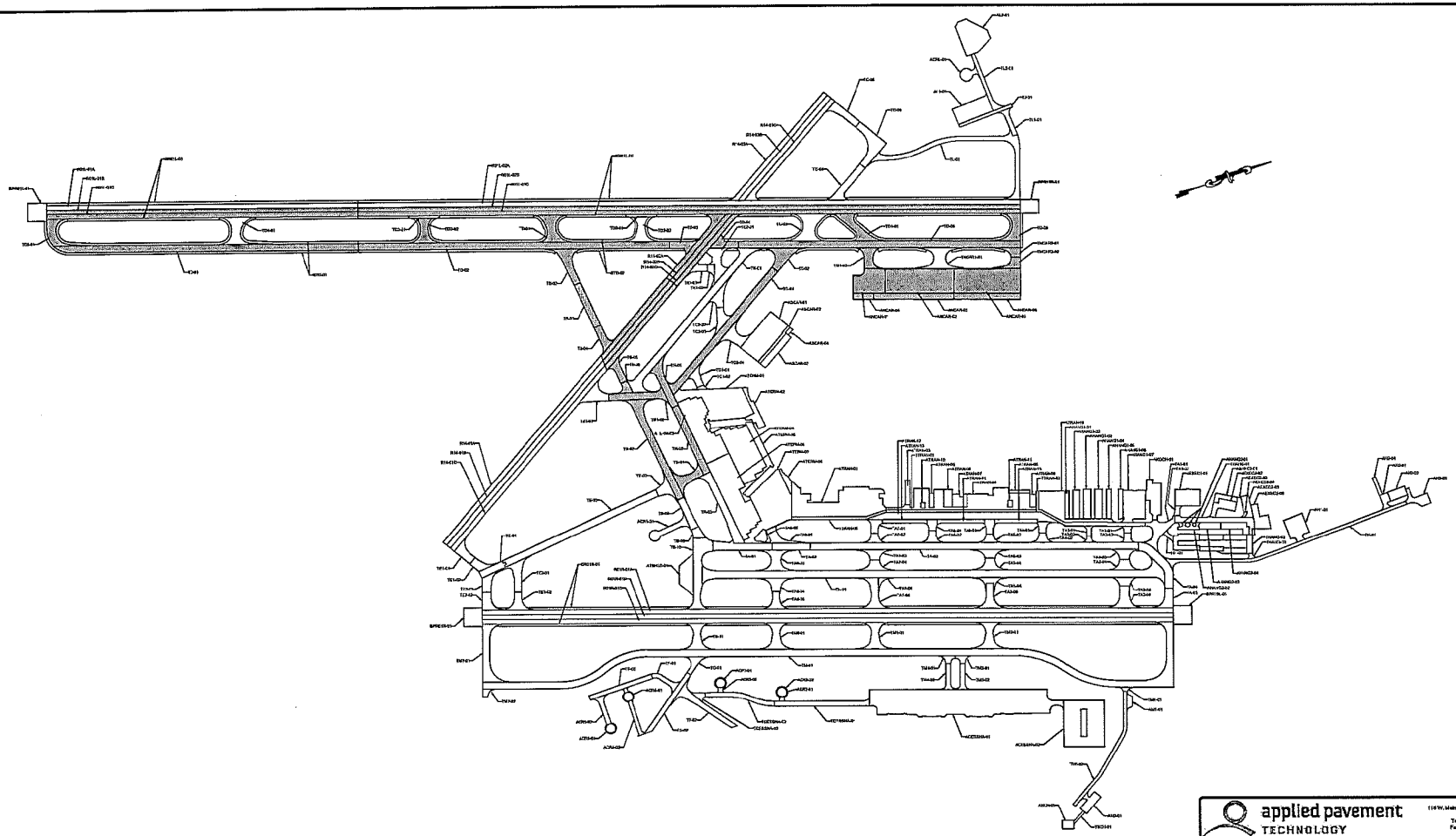
Deliverables

The following deliverables will be submitted as part of this task:

- Schedule for PCI surveys.
- Photographs of distresses with GPS coordinates.
- FWD testing plan.

Task 6. Geotechnical Services

Records drawings, supplemented with core samples as needed, will be obtained to determine the cross section of the pavement sections identified in Figure 1, where FWD testing and subsequent structural analyses are planned. Fifteen cores will be retrieved from these pavement sections. The backcalculation of material properties from FWD data is extremely sensitive to pavement thickness, so it is important to obtain accurate cross section information for this analysis. Core data are available for some sections from the 2006 study and from previous construction projects and can be used to meet the needs of this project. However, core data are not available for every section planned for FWD testing, so additional sampling will be extremely beneficial. APTech will create and submit a coring plan to WAA for approval. The coring information collected during this task, including past records, will be summarized in an appendix of the report.



NOTE:
FWD testing is also proposed on the new Terminal Apron, not shown on map.

LEGEND

BRANCH IDENTIFIER
SECTION IDENTIFIER
RW1S33-R05C02
SECTION BREAK LINE
FWD TESTING AREAS

applied pavement TECHNOLOGY
116 W. Main Street, Suite 400
Urbana, IL 61801
Tel: (217) 398-3977
Fax: (217) 398-4027

AGENCY: WICHITA AIRPORT AUTHORITY			
LOCATION: WICHITA MID-CONTINENT AIRPORT WICHITA, KANSAS			
PAGE TITLE: Proposed FWD Testing Areas			
PROJECT DATE: MARCH 2009	CREATION DATE: MARCH 2009	PROJECT MANAGER: MJW	JOB NUMBER: 2008-118-AM01
DRAWING SCALE: 1:1000	LAST MODIFIED DATE: JUNE 2009	REVISED BY: BEH	DRAWN BY: BEH
FILENAME: Wichita_APMS.dwg		LAYOUT NAME/NUMBER: 2009 FWD	PAGE NUMBER: 6

Deliverables

The following deliverables will be submitted as part of this task:

- Coring plan (to be approved by WAA).
- Appendix summarizing coring results, including information collected during this project and information gathered from previous project records.

Task 7. Micro PAVER Database Update

During this task, the information collected during this study will be entered into the existing MicroPAVER pavement management databases for Mid-Continent and Colonel James Jabara Airports. Both databases will undergo a thorough quality control process to ensure that information stored in the MicroPAVER database is accurate and consistent with the information collected throughout the project. Both databases will also be converted to be compatible with the latest version of MicroPAVER.

Deliverables

The following deliverables will be submitted as part of this task:

- Updated MicroPAVER database for Mid-Continent Airport.
- Updated MicroPAVER database for Colonel James Jabara Airport.

Task 8. MicroPAVER Customization

During this task, APTech will customize the inputs that feed into the MicroPAVER pavement management database to more accurately reflect the conditions and policies under which Mid-Continent and Colonel James Jabara Airports operate (i.e., that inputs will be modified but not the program itself). This information will likely be quite different for the two airports and is capable of handling these differences within the same database.

The customization process will include developing pavement performance models, establishing prioritization guidelines, developing maintenance and rehabilitation policies, and entering unit cost information for maintenance and rehabilitation actions. This information will be specific to each airport, which will permit WAA to use the program to perform realistic analyses and generate realistic capital budgeting outputs. APTech will hold a conference call with WAA to discuss these customization options. Most of the inputs from the 2006 study will likely remain the same, but they will be revisited with WAA to ensure they are still valid.

8a. Performance Model Development

Pavement management involves forecasting needs based on pavement performance predictions. By projecting the rate at which the conditions will change over time, a meaningful economic analysis can be performed to compare the cost of preventive maintenance versus rehabilitation activities. In addition to identifying the most economical type of repair, the optimal time for applying treatments can be estimated. Typically, the optimal repair time is the point at which a gradual rate of deterioration begins to increase at a much faster rate. It is critical to identify this point to avoid higher maintenance and rehabilitation costs caused by excess deterioration.

Many methods for predicting pavement condition are available. MicroPAVER predicts the condition using an advanced modeling technique that involves organizing the pavement network into "families" of pavements that perform in a similar manner. For example, PCC runway pavement sections that have never received an overlay and are subjected to heavy traffic may be grouped into a family. A constrained regression (set to the degree that the user feels is appropriate) is then applied to the data set (pavement age versus PCI) to develop a deterioration curve for that family of pavements. The performance of an individual section can then be predicted using a section's relative position to the family curve that represents it.

At a minimum, it is anticipated that the following factors will be assessed to determine their impact on the performance of the investigated pavements: pavement surface type, pavement use (runway, taxiway, and apron), type of traffic, and volume of traffic. Separate models will be developed for each airport. With the data from this project added to the data sets from previous updates, it is anticipated that more sophisticated and refined models can be developed.

8b. Prioritization Guidelines

Prioritization guidelines within MicroPAVER are used to rank major rehabilitation projects according to the practices of the user when there is not enough funding for all identified projects. Guidelines can be established based on such factors as pavement use (runway, taxiway, or apron) and section rank. APTech will work closely with WAA to establish the prioritization guidelines for Mid-Continent and Colonel James Jabara Airports.

8c. Maintenance Policies

MicroPAVER permits the user to define three types of maintenance policies for each surface type: stop-gap, localized preventive, and global preventive. Stop-gap maintenance policies are applied when major rehabilitation is warranted but not funded. In this case, maintenance actions are limited to those sections where there is a potential safety issue (such as wide cracks or distresses creating possible FOD or hydroplaning situations). Localized preventive maintenance policies are applied to pavements that are in good condition and where preventive maintenance actions (such as crack sealing and joint sealing) have good potential to slow the rate of pavement deterioration. Global preventive maintenance policies are also applied to pavements in good condition; however, they are applied over an entire section area rather than to an individual distress. For example, surface treatments are considered a global preventive maintenance action.

During the customization process, the stop-gap, localized preventive, and global preventive maintenance policies will be established for Mid-Continent and Colonel James Jabara Airports. Each policy will contain the maintenance activity and cost considered applicable for repairing each distress type, amount, and severity. This information will be used in MicroPAVER during the development of maintenance plans. Again, many of the policies from the 2006 study will likely remain the same, but they will be revisited to confirm their reuse.

8d. Unit Cost Information

The unit cost appropriate for the repair of different pavement types at different PCI levels will be entered for Mid-Continent and Colonel James Jabara Airports. This information is used in MicroPAVER during the development of the CIP. Furthermore, the unit cost information for typical maintenance and repair actions (such as patching, crack sealing, joint sealing, surface

treatments, and so on) will be entered. The WAA will provide previous bid documents or other information that can be used to determine local unit costs, including information on new construction, rehabilitation, repair, and maintenance costs.

Deliverables

The following deliverables will be submitted as part of this task:

- Customization document for Mid-Continent Airport.
- Customization document for Colonel James Jabara Airport.

Task 9. Data Analysis

9a. Visual Condition Data Analysis

MicroPAVER will be used to analyze the PCI data. Three aspects of the data will be analyzed for each section at both Mid-Continent and Colonel James Jabara Airports: composite index, cause of deterioration, and rate of deterioration. This information will then be used to estimate the remaining life of each pavement section. These terms are defined below:

- *Composite Index.* The PCI for each section will be calculated. The PCI provides a general sense of the pavement condition and the magnitude of work required to rehabilitate the pavement.
- *Cause of Deterioration.* The types of distress identified during the surveys will be analyzed, which provides insight into the cause of pavement deterioration. Distress types are characterized as load-related (such as corner breaks or mid-panel cracks), climate-related (such as weathering and raveling), and materials-related (such as durability cracking). Understanding the cause of distress allows a treatment to be selected that corrects the cause of deterioration, thus preventing its recurrence.
- *Pavement Deterioration Rate.* The deterioration rate helps identify those pavement sections that are failing faster than normal. Sections exhibiting higher than normal deterioration rates warrant close monitoring and further evaluation.
- *Remaining Life.* One method for estimating remaining life is to examine the pavement performance in terms of PCI. This determination will be made using the performance models developed from the PCI data.

9b. Structural Data Analysis

One of the primary benefits of FWD testing is the ability to use the results to determine the structural condition of the pavement layers and the support of the underlying subgrade. This information, combined with projected traffic loadings, will then be used to estimate the allowable loads and to determine the remaining structural life of each pavement section. FWD testing will be performed on select pavement sections at Mid-Continent Airport, as outlined in Figure 1. APTech will use the FWD data to evaluate the following pavement properties:

- *Normalized Deflections.* Deflection profiles will be plotted to illustrate the maximum deflections (normalized to a standard load and temperature) against the stationing along

the facility. Areas with changes in pavement structural capacity or current condition will be evident from the longitudinal deflection profiles.

- *Layer Modulus Values.* Elastic moduli (E) for each pavement layer and subgrade support values—modulus of subgrade reaction (*k*) for rigid pavements and resilient modulus for flexible pavements—will be determined from backcalculation. APTech will apply appropriate analysis procedures based on the type of pavement being tested.
- *Allowable Loads.* Two approaches will be used to determine the allowable load limits of each tested runway and taxiway pavement section. First, the allowable gross aircraft weight for specific aircraft will be determined using the FAA's pavement design software, FAARFIELD, which is based on the design procedure documented in FAA Advisory Circular 150/5320-6E. Secondly, the Pavement Classification Number (PCN) of each pavement section will be determined in accordance with FAA Advisory Circular 150/5335-5A and will be compared with the Aircraft Classification Number (ACN) of aircraft that are currently in the traffic mix or that may use the airfield in the future. The results will be presented in a table that will allow officials to quickly assess the ability of a specific aircraft to land at the Airport.
- *Structural Remaining Life.* FAARFIELD will also be used to determine the time (in years) until each pavement section reaches the end of its life as defined by an acceptable level of deterioration (cracking on PCC pavements, and rutting or alligator cracking on HMA pavements).

In addition, the results will be used to develop rehabilitation/reconstruction designs for those sections included in the 10-year CIP.

Deliverables

There are no deliverables planned as part of this task. The results of this task will be included in the project report (Task 12).

Task 10. 10-Year Capital Improvement Program

The information compiled during the previous tasks will be used to develop a 10-year CIP outlining the maintenance and rehabilitation activities recommended for Mid-Continent and Colonel James Jabara Airports. Prior to developing this program, APTech will work with WAA to identify the parameters controlling this program (annual budget, inflation rate, and so on). With the incorporation of FWD testing, a more accurate assessment of the pavement's future structural needs will be determined, which will allow for the development of specific rehabilitation designs and realistic cost estimates.

Upon completion of a preliminary plan, APTech will meet with WAA to discuss the plan and to provide modifications to take into account other factors, such as safety requirements, operational concerns, construction feasibility, or projects that are already committed to a given year. By considering these factors, the final program will be a much more realistic reflection of what WAA plans to accomplish in the future.

Deliverables

There are no deliverables planned for this task. The CIP map will be delivered as part of Task 3, and the CIP recommendations will be presented in the project report (Task 12).

Task 11. PCI Training

Training in the airfield PCI procedure and distress identification is a two-step process. The first step consists of a classroom course using color photographs of pavement distresses. This ½-day course will be conducted immediately prior to the PCI inspections. The second step in the training process is field training. During at least one day of the actual inspection, WAA staff being trained in the PCI procedure will accompany the inspection team.

Deliverables

A PCI training manual, which will include a copy of the slide presentation and ASTM specification, will be submitted as part of this task.

Task 12. Report Generation

12a. Project Report

A detailed report will be prepared that provides comprehensive information on the work undertaken, the data collected, and the results of all analyses. The report will also contain a discussion on the future use and update of the APMS. A draft version of the report will be submitted to WAA and FAA for review. The project team will also make a presentation to WAA to summarize the findings and recommendations. The report will then be revised to incorporate WAA's and FAA's comments, and a final report will be submitted. Five hard copies of the draft and final reports and one editable electronic file of the final will be delivered. Separate reports will be submitted for Mid-Continent and Colonel James Jabara Airports.

12b. Executive Summary

An *Executive Summary*, highlighting the key findings and recommendations of the study, will also be prepared. This report will be an 8- to 10-page stand-alone document prepared on glossy paper using full color. It will document the needs of the airport pavement infrastructure in non-technical, easy-to-understand, terms.

Deliverables

The following deliverables will be submitted as part of this task:

- Two (2) copies of draft project report for Mid-Continent Airport.
- Six (6) copies of final project report for Mid-Continent Airport.
- Five (5) copies of draft *Executive Summary* for Mid-Continent Airport.
- Twenty-five (25) copies of final *Executive Summary* for Mid-Continent Airport.
- Electronic editable files of the final report and *Executive Summary* for Mid-Continent Airport.
- Two (2) copies of draft project for Colonel James Jabara Airport.
- Six (6) copies of final project report for Colonel James Jabara Airport.
- Five (5) copies of draft *Executive Summary* for Colonel James Jabara Airport.

- Twenty-five (25) copies of final *Executive Summary* for Colonel James Jabara Airport.
- Electronic editable files of the final report and *Executive Summary* for Colonel James Jabara Airport.

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, Vietnam Era Veteran or Special Disabled Veteran 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 KSA 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 and contracting agency;

4. If the Contractor is fund 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 cancelled, terminated or suspended in whole or in part by the contracting agency;

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

c) Exempted from these requirements is (State of Kansas):

1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds;

2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract;

3. Contracts with the City of Wichita with a cumulative total of five thousand dollars ($5,000) or less during the fiscal year of the City.

d) Provisions 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 observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq. of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, **"disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification",** national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and Equal Employment Opportunity in all employment relations, including but not limited to employment, up 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 Rights and Services Board of the City of Wichita, Kansas, **Civil Rights and Services** 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 in 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, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification",** national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase that is deemed acceptable by the **Wichita Civil Rights and Services Board**;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations and the orders issued by the Board pursuant thereto, and will permit access to books, records and procedures concerning employment relations by the **Civil Rights and Services Board** of said City for the purpose of investigation to ascertain compliance with Non-Discrimination and 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 Board 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 cancelled, terminated or suspended terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor supplier, contractor or subcontractor;

4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination and Equal Employment Opportunity under a decision or order of the **Civil Rights and Services Board** of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be cancelled, terminated or suspended in whole or in part by the City of Wichita, and such other synchronous and remedies may be imposed as provided by law;

5. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsection 1 through 4, inclusively, of this present section in every subcontract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

e) Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.908 of the Code of the City of Wichita, Kansas, shall prior to entering into such contract, purchase order or agreement, submit to the **Civil Rights and Services Board** of the City of Wichita, Kansas, A preliminary report on forms provided by the

Board concerning Non-Discrimination and Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:

a. 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.

b. The provisions of Section 2.12.908 shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons 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) days period from the Federal agency involved.

c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instructions included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.

f) Failure of any contractor, subcontractor, vendor or supplier to report to the **Kansas Human Rights Commission** as required by KSA 1976 Supp. 44-1031, as amended, or to the **Civil Rights and Services Board** of the City of Wichita as required by 2.12.908, of the Code of the City of Wichita, Kansas; or has been found guilty of a violation of the City's Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breech of this contract and said contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.

CIVIL RIGHTS ACT OF 1964, TITLE VI - 49 CFR PART 21
CONTRACTUAL REQUIREMENTS

During the performance of this contract, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations. The CONSULTANT shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The CONSULTANT, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the OWNER or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the OWNER or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this contract, the OWNER shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the CONSULTANT under the contract until the CONSULTANT complies, and/or

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The CONSULTANT shall include the provisions of Paragraphs 1 through 5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as the OWNER or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the OWNER to enter into such litigation to protect the interests of the OWNER and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520
GENERAL CIVIL RIGHTS PROVISIONS

The CONSULTANT assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the CONSULTANT or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal Assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the OWNER or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the OWNER or any transferee retains ownership or possession of the property. In the case of CONSULTANTS, this provision binds the CONSULTANTS from the bid solicitation period through the completion of the contract.

Table 1. Cost Estimate for Mid-Continent Airport

Wichita Pavement Condition Update
Wichita Airport Authority

Applied Pavement Technology, Inc.
June 15, 2009

Name	Title	Estimated Labor Hours Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Total	% Time
David Peshkin	Principal In Charge	1				2				2	1		2	8	1
Monty Wade	Project Manager	12	2	2	4	6	2	2	2	12	6	4	20	74	11
Kyle Potvin	QC Administrator					6		4	2	2				14	2
Gen Long	Senior Engineer	2		2		6	2		2	44	6	16	16	96	14
Francis Nelson	Project Engineer	6	12	4		90	2	16	12	48	20		40	250	36
Ben Holzhausen	FWD/CAD Technician			54		8								62	9
Susanna Kline	Technical Editor												6	6	1
Total Staffing Hours		21	14	62	4	118	6	22	18	108	33	20	84	510	

Name	Title	Estimated Labor Costs Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Total	2009 Base Rate
David Peshkin	Principal In Charge	$68				$136				$136	$68		$136	$544	$67.99
Monty Wade	Project Manager	$630	$105	$105	$210	$315	$105	$105	$105	$630	$315	$210	$1,050	$3,886	$52.51
Kyle Potvin	QC Administrator					$265		$177	$88	$88				$619	$44.23
Gen Long	Senior Engineer	$69		$69		$207	$69		$69	$1,521	$207	$553	$553	$3,318	$34.56
Francis Nelson	Project Engineer	$190	$380	$127		$2,851	$63	$507	$380	$1,521	$634		$1,267	$7,920	$31.68
Ben Holzhausen	FWD/CAD Technician			$1,043		$154								$1,197	$19.31
Susanna Kline	Technical Editor												$110	$110	$18.39
Total APTech Direct Labor (TADL)		$957	$485	$1,344	$210	$3,929	$238	$789	$643	$3,896	$1,224	$763	$3,117	$17,594	
APTech Overhead (OH)	185% of TADL	$1,771	$898	$2,486	$389	$7,270	$439	$1,459	$1,189	$7,207	$2,264	$1,412	$5,766	$32,549	
Total Burdened APTech Labor Costs (TBALC)		$2,728	$1,383	$3,829	$599	$11,199	$677	$2,248	$1,832	$11,103	$3,488	$2,175	$8,883	$50,143	

Other Direct Costs	Estimated Other Direct Costs Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Total	Unit Rate
Materials and Supplies											$75	$500	$575	
Communications and Shipping												$200	$200	
Travel	$555				$3,238						$831	$1,065	$5,690	
FWD Mobilization (@$2.60/mile)					$3,380								$3,380	
FWD Testing (@$1,800/day)					$7,200								$7,200	
Insurance Certificate	$25												$25	
HNTB Corporation	$3,610							$3,610		$1,805			$9,024	
Wilson & Company, Inc.				$11,926									$11,926	
Construction Services Group, LLC					$5,344								$5,344	
Professional Engineering Consultants, P.A.						$5,616							$5,616	
Aerial Enlargements and Prints				$4,824									$4,824	
Total Other Direct Costs (TODC)	$4,190			$16,750	$19,162	$5,616		$3,610		$1,805	$906	$1,765	$53,804	

Overall Cost Summary		Estimated Overall Cost Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Total
Total Burdened APTech Labor Costs (TBALC)		$2,728	$1,383	$3,829	$599	$11,199	$677	$2,248	$1,832	$11,103	$3,488	$2,175	$8,883	$50,143
Total Other Direct Costs (TODC)		$4,190			$16,750	$19,162	$5,616		$3,610		$1,805	$906	$1,765	$53,804
Total Estimated Cost		$6,918	$1,383	$3,829	$17,349	$30,361	$6,293	$2,248	$5,441	$11,103	$5,293	$3,081	$10,648	$103,947
Burdened Labor Fee	10% of TBALC	$273	$138	$383	$60	$1,120	$68	$225	$183	$1,110	$349	$217	$888	$5,014
Other Direct Cost Fee	5% of TODC	$209			$838	$958	$281		$180		$90	$45	$88	$2,690
TOTAL ESTIMATED COST AND FEE		$7,401	$1,521	$4,212	$18,246	$32,439	$6,641	$2,473	$5,805	$12,213	$5,732	$3,343	$11,624	$111,652

EXHIBIT D

Table 2. Cost Estimate for Colonel James Jabara Airport

Wichita Pavement Condition Update
Wichita Airport Authority

Applied Pavement Technology, Inc.
June 15, 2009

Name	Title	Estimated Labor Hours												Total	% Time
		Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12		
David Peshkin	Principal In Charge					1					1		2	4	1
Monty Wade	Project Manager	6	2	2	2	2		1	1	4	4		12	36	5
Kyle Potvin	QC Administrator					3		2	1	2				8	1
Gen Long	Senior Engineer			2					2		2	6	12	24	3
Francis Nelson	Project Engineer	2	8	2		20		8	8	28	10		20	106	15
Ben Holzhausen	FWD/CAD Technician			24										24	3
Susanna Kline	Technical Editor												2	2	0
Total Staffing Hours		8	10	30	2	26		11	12	34	17	6	48	204	

Name	Title	Estimated Labor Costs												Total	2009 Base Rate
		Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12		
David Peshkin	Principal In Charge					$68					$68		$136	$272	$67.99
Monty Wade	Project Manager	$315	$105	$105	$105	$105		$53	$53	$210	$210		$630	$1,890	$52.51
Kyle Potvin	QC Administrator					$133		$88	$44	$88				$354	$44.23
Gen Long	Senior Engineer			$69					$69		$69	$207	$415	$829	$34.56
Francis Nelson	Project Engineer	$63	$253	$63		$634		$253	$253	$887	$317		$634	$3,358	$31.68
Ben Holzhausen	FWD/CAD Technician			$463										$463	$19.31
Susanna Kline	Technical Editor												$37	$37	$18.39
Total APTech Direct Labor (TADL)		$378	$358	$701	$105	$939		$394	$419	$1,186	$664	$207	$1,851	$7,204	
APTech Overhead (OH)	185% of TADL	$700	$663	$1,297	$194	$1,738		$730	$776	$2,193	$1,228	$384	$3,425	$13,327	
Total Burdened APTech Labor Costs (TBALC)		$1,078	$1,022	$1,998	$299	$2,677		$1,124	$1,195	$3,379	$1,892	$591	$5,276	$20,531	

Other Direct Costs	Estimated Other Direct Costs												Total	Unit Rate
	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12		
Materials and Supplies												$300	$300	
Communications and Shipping												$150	$150	
Travel	$185				$566						$277	$355	$1,384	
FWD Mobilization														
FWD Testing														
Insurance Certificate														
HNTB Corporation	$1,203							$1,203		$602			$3,008	
Wilson & Company, Inc.				$5,874									$5,874	
Construction Services Group, LLC					$1,336								$1,336	
Professional Engineering Consultants, P.A.														
Aerial Enlargements and Prints				$2,376									$2,376	
Total Other Direct Costs (TODC)	$1,388			$8,250	$1,902			$1,203		$602	$277	$805	$14,428	

Overall Cost Summary	Estimated Overall Cost												Total
	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	
Total Burdened APTech Labor Costs (TBALC)	$1,078	$1,022	$1,998	$299	$2,677		$1,124	$1,195	$3,379	$1,892	$591	$5,276	$20,531
Total Other Direct Costs (TODC)	$1,388			$8,250	$1,902			$1,203		$602	$277	$805	$14,428
Total Estimated Cost	$2,467	$1,022	$1,998	$8,549	$4,579		$1,124	$2,398	$3,379	$2,494	$868	$6,081	$34,959
Burdened Labor Fee 10% of TBALC	$108	$102	$200	$30	$268		$112	$120	$338	$189	$59	$528	$2,053
Other Direct Cost Fee 5% of TODC	$69			$413	$95			$60		$30	$14	$40	$721
TOTAL ESTIMATED COST AND FEE	$2,644	$1,124	$2,197	$8,992	$4,942		$1,236	$2,578	$3,717	$2,713	$941	$6,649	$37,733

FOREIGN TRADE RESTRICTIONS

(1) The CONSULTANT or SUBCONSULTANT, by submission of an offer and/or execution of a contract, certifies that it:

(a) is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

(b) has not knowingly entered into any contract or subcontract for this project with a contractor that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;

(c) has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

(2) Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a CONSULTANT knowingly procures or subcontracts for the supply of any product or service of a foreign country on the said list for use on the project, the Federal Aviation Administration may direct, through the sponsor, cancellation of the contract at no cost to the Government.

(3) Further, the CONSULTANT agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The CONSULTANT may rely upon the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

(4) The CONSULTANT shall provide immediate written notice to the sponsor if the CONSULTANT learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide immediate written notice to the CONSULTANT, if at any time it learns that its certification was erroneous by reason of changed circumstances.

(5) This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the CONSULTANT or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct, through the sponsor cancellation of the contract or subcontract for default at no cost to the Government.

(6) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a CONSULTANT is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(7) This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Exhibit X: Project Schedule

Airfield Pavement Condition Inventory Update
Wichita Mid-Continent and Colonel James Jabara Airports

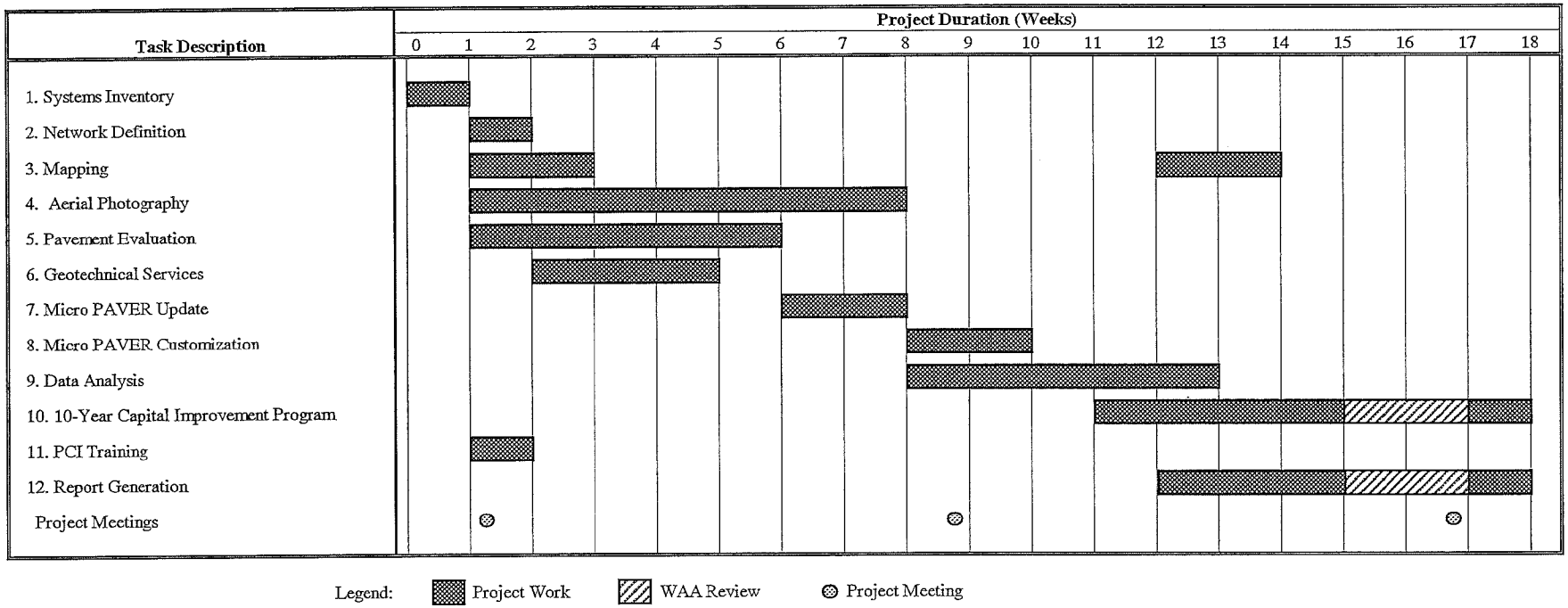


EXHIBIT F

(Certified Current 5/10/07)

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: 7-7-2009		Applicant Identifier: N/A
3. DATE RECEIVED BY STATE: N/A		State Application Identifier: N/A
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier: AIP 3-20-0089-17

1. TYPE OF SUBMISSION:

Application
- ☐ Construction
- ☒ Non-Construction

Preapplication
- ☐ Construction
- ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: **Wichita Airport Authority**

Organizational DUNS: **124970641**

Address:
Street: **2173 Air Cargo Road**

City: **Wichita**

County: **Sedgwick**

State: **Kansas** Zip Code: **67209**

Country: **USA**

Organizational Unit: **Wichita Airport Authority**

Department:

Division:

Name and telephone number of person to be contacted on matters involving this application (give area code)

Prefix: **Mr.** First Name: **Victor**

Middle Name:

Last Name: **White**

Suffix:

Email: **vwhite@wichita.gov**

Phone number (give area code): **(316) 946-4700**

FAX number (give area code): **(316) 946-4793**

6. EMPLOYER IDENTIFICATION NUMBER *EIN*): 4 8 - 6 0 0 0 6 5 3

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es):
(See back of form for description of letters)

Other *(specify)*

7. TYPE OF APPLICANT: (See back of form for Application Types)

C

Other (specify)

9. NAME OF FEDERAL AGENCY
Federal Aviation Administration

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER
2 0 - 1 0 6

TITLE: **Airport Improvement Program**

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Pavement Condition Inventory for Colonel James Jabara Airport:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:
Wichita, Sedgwick County, Kansas

13. PROPOSED PROJECT

Start Date	Ending Date
7/2009	9/2010

14. CONGRESSIONAL DISTRICTS OF

a. Applicant	b. Project
4th	4th

15. ESTIMATED FUNDING

a. Federal	$	28,983 .00
b. Applicant	$	12,017 .00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program income	$	.00
g. TOTAL	$	41,000 .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS

a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE:

b. No. ☒ PROGRAM IS NOT COVERED BY E. O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes" attach an explanation ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix **Mr.** First Name **Victor** Middle Name

Last Name **White** Suffix

b. Title **Director of Airports** c. Telephone number (give area code) **(316) 946-4700**

d. Signature of Authorized Representative e. Date Signed **7-7-2009**

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

PART II
PROJECT APPROVAL INFORMATION

Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional or other planning approval? ☐Yes ☒ No	Name of Approving Agency: Date: / /
Item 5. Is the proposed project covered by an approved comprehensive plan? ☐Yes ☒ No	Check one: State ☐ Local ☐ Regional ☐ Location of Plan:
Item 6. Will the assistance requested serve a Federal installation? ☐Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project:
Item 8. Will the assistance requested have an impact or effect on the environment? ☐Yes ☒ No	See instruction for additional information to be provided
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐Yes ☒ No	Number of: Individuals. _____. Families. _____. Businesses. _____. Farms. _____.
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐Yes ☒ No	See instructions for additional information to be provided.

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function Or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. AIP	20-106	$ NA	$ NA	$ 28,983.00	$ 12,017.00	$ 41,000.00
2.						
3.						
4.						
5. TOTALS		$	$	$ 28,983.00	$ 12,017.00	$ 41,000.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total
	AIP 95% (1)	Ineligible (2)	WAA 5% (3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies	1,679.00		88.00		1,767.00
f. Contractual	27,304.00	8,992.00	1,437.00		37,733.00
g. Construction					
h. Other Photo Framing		1,500.00			1,500.00
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$ 28,983.00	$ 10,492.00	$ 1,525.00	$	$ 41,000.00
l. Program Income	$	$	$	$	$

SECTION C - NON-FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8. AIP	$ 12,017.00	$ NA	$ NA	$ 12,017.00
9.				
10.				
11.				
12. TOTALS	$ 12,017.00	$	$	$ 12,017.00

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional sheets if necessary)

21 Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV
PROGRAM NARRATIVE
(Suggested Format)

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION OMB NO. 2120-0569

PROJECT : Pavement Condition Inventory

AIRPORT : Colonel James Jabara Airport

1. Objective:

Perform pavement condition inventory as a component of the Sponsor's airfield pavement maintenance management program.

2. Benefits Anticipated:

Documentation of priorties to focus Sponsor's maintenance and replacement funds.

3. Approach : *(See approved Scope of Work in Final Application)*

See attached scope of services (when available).

4. Geographic Location:

Wichita, Kansas (see attached map)

5. If Applicable, Provide Additional Information:

N/A

6. Sponsor's Representative: *(include address & telephone number)*

John Oswald
2173 Air Cargo Road
Wichita, KS 67209
316-946-4715

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM
SPONSOR CERTIFICATION

DRUG-FREE WORKPLACE
PAVEMENT CONDITION INVENTORY

Wichita Airport Authority	Colonel James Jabara Airport	AIP 3-20-0089-17
(Sponsor)	*(Airport)*	*(Project Number)*

Perform pavement condition inventory as a component of the Sponsor's airfield pavement maintenance management program.

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been ~~(will be)~~ published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	☒	☐	☐
2. An ongoing drug-free awareness program has been ~~(will be)~~ established to inform employees about: **a.** The dangers of drug abuse in the workplace; **b.** The sponsor's policy of maintaining a drug-free workplace; **c.** Any available drug counseling, rehabilitation, and employee assistance programs; and **d.** The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.	☒	☐	☐
3. Each employee to be engaged in the performance of the work has been ~~(will be)~~ given a copy of the statement required within item 1 above.	☒	☐	☐
4. Employees have been ~~(will be)~~ notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will: **a.** Abide by the terms of the statement; and **b.** Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.	☒	☐	☐
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.	☒	☐	☐

	Yes	No	N/A
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:			
a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or	☒	☐	☐
b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.			
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.	☒	☐	☐

I have prepared documentation attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

Wichita Airport Authority
(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

Victor White
(Typed Name of Sponsor's Designated Official Representative)

Director of Airports
(Typed Title of Sponsor's Designated Official Representative)

July 7, 2009
(Date)

STANDARD DOT TITLE VI ASSURANCES

Wichita Airport Authority (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods.

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED 7-7-2009

Wichita Airport Authority
(Sponsor)

By_____
(Signature of Authorized Official)

CONTRACTOR CONTRACTUAL REOUIREMENTS

ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions**. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued Pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.[1]
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11988 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs.
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]

h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person

to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

   b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

   c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

   d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that

property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such

reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved

plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably

operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.

In furtherance of this assurance, the sponsor will have in effect arrangements for-

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations,

aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use

agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-
   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall

be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure

non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date

(Certified Current 5/10/07)

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	7-7-2009
Applicant Identifier	N/A
3. DATE RECEIVED BY STATE	N/A
State Application Identifier	N/A
4. DATE RECEIVED BY FEDERAL AGENCY	
Federal Identifier	AIP 3-20-0088-58

1. TYPE OF SUBMISSION:

Application
- ☐ Construction
- ☒ Non-Construction

Preapplication
- ☐ Construction
- ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: **Wichita Airport Authority**

Organizational DUNS: **124970641**

Address:
Street: **2173 Air Cargo Road**

City: **Wichita**

County: **Sedgwick**

State: **Kansas** Zip Code: **67209**

Country : **USA**

Organizational Unit: Wichita Airport Authority

Department:

Division:

Name and telephone number of person to be contacted on matters involving this application (give area code)

Prefix: **Mr.** First Name: **Victor**

Middle Name:

Last Name: **White**

Suffix:

Email: **vwhite@wichita.gov**

Phone number (give area code): **(316) 946-4700**

FAX number (give area code): **(316) 946-4793**

6. EMPLOYER IDENTIFICATION NUMBER *EIN*):

4 8 - 6 0 0 0 6 5 3

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es):
(See back of form for description of letters)

Other *(specify)*

7. TYPE OF APPLICANT: (See back of form for Application Types)

C

Other (specify)

9. NAME OF FEDERAL AGENCY
Federal Aviation Administration

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER

2 0 - 1 0 6

TITLE: **Airport Improvement Program**

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Pavement Condition Inventory for Wichita Mid-Continent :

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:
Wichita, Sedgwick County, Kansas

13. PROPOSED PROJECT

Start Date	Ending Date
7/2009	9/2010

14. CONGRESSIONAL DISTRICTS OF

a. Applicant	b. Project
4th	4th

15. ESTIMATED FUNDING

a. Federal	$	95,242 .00
b. Applicant	$	24,758 .00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program income	$	.00
g. TOTAL	$	120,000 .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS

a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE:

b. No. ☒ PROGRAM IS NOT COVERED BY E. O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes" attach an explanation ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix **Mr.** First Name **Victor** Middle Name

Last Name **White** Suffix

b. Title **Director of Airports**

c. Telephone number (give area code) **(316) 946-4700**

d. Signature of Authorized Representative

e. Date Signed **7-7-2009**

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

PART II
PROJECT APPROVAL INFORMATION

Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional or other planning approval? ☐Yes ☒ No	Name of Approving Agency: Date: / /
Item 5. Is the proposed project covered by an approved comprehensive plan? ☐Yes ☒ No	Check one: State ☐ Local ☐ Regional ☐ Location of Plan:
Item 6. Will the assistance requested serve a Federal installation? ☐Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project:
Item 8. Will the assistance requested have an impact or effect on the environment? ☐Yes ☒ No	See instruction for additional information to be provided
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐Yes ☒ No	Number of: Individuals. ____. Families. ____. Businesses. ____. Farms. ____.
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐Yes ☒ No	See instructions for additional information to be provided.

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function Or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. AIP	20-106	$ NA	$ NA	$ 95,242.00	$ 24,758.00	$ 120,000.00
2.						
3.						
4.						
5. TOTALS		$	$	$ 95,242.00	$ 24,758.00	$ 120,000.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total
	AIP 95% (1)	Ineligible (2)	WAA 5% (3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies	6,506.00		342.00		6,848.00
f. Contractual	88,736.00	18,246.00	4,670.00		111,652.00
g. Construction					
h. Other Photo Framing		1,500.00			1,500.00
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$ 95,242.00	$ 19,746.00	$ 5,012.00	$	$ 120,000.00
l. Program Income	$	$	$	$	$

SECTION C - NON-FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8. AIP	$ 24,758.00	$ NA	$ NA	$ 24,758.00
9.				
10.				
11.				
12. TOTALS	$ 24,758.00	$	$	$ 24,758.00

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional sheets if necessary)

21 Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV
PROGRAM NARRATIVE
(Suggested Format)

PROJECT : Pavement Condition Inventory

AIRPORT : Wichita Mid-Continent

1. Objective:

Perform pavement condition inventory as a component of the Sponsor's airfield pavement maintenance management program.

2. Benefits Anticipated:

Documentation of priorties to focus Sponsor's maintenance and replacement funds.

3. Approach : *(See approved Scope of Work in Final Application)*

See attached scope of services (when available).

4. Geographic Location:

Wichita, Kansas (see attached map)

5. If Applicable, Provide Additional Information:

N/A

6. Sponsor's Representative: *(include address & telephone number)*

John Oswald
2173 Air Cargo Road
Wichita, KS 67209
316-946-4715

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM
SPONSOR CERTIFICATION

DRUG-FREE WORKPLACE

PAVEMENT CONDITION INVENTORY

Wichita Airport Authority	Mid-Continent Airport	AIP 3-20-0088-58
(Sponsor)	*(Airport)*	*(Project Number)*

Perform pavement condition inventory as a component of the Sponsor's airfield pavement maintenance management program.

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been ~~(will be)~~ published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	☒	☐	☐
2. An ongoing drug-free awareness program has been ~~(will be)~~ established to inform employees about: **a.** The dangers of drug abuse in the workplace; **b.** The sponsor's policy of maintaining a drug-free workplace; **c.** Any available drug counseling, rehabilitation, and employee assistance programs; and **d.** The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.	☒	☐	☐
3. Each employee to be engaged in the performance of the work has been ~~(will be)~~ given a copy of the statement required within item 1 above.	☒	☐	☐
4. Employees have been ~~(will be)~~ notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will: **a.** Abide by the terms of the statement; and **b.** Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.	☒	☐	☐
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.	☒	☐	☐

	Yes	No	N/A
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:			
a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or	☒	☐	☐
b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.			
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.	☒	☐	☐

I have prepared documentation attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

Wichita Airport Authority
(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

Victor White
(Typed Name of Sponsor's Designated Official Representative)

Director of Airports
(Typed Title of Sponsor's Designated Official Representative)

July 7, 2009
(Date)

STANDARD DOT TITLE VI ASSURANCES

Wichita Airport Authority (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods.

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED 7-7-2009

Wichita Airport Authority
(Sponsor)

By_____
(Signature of Authorized Official)

CONTRACTOR CONTRACTUAL REOUIREMENTS

ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions**. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued Pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.[1]
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11988 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs.
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]

h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person

to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

   b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

   c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

   d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that

property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such

reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved

plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably

operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.
In furtherance of this assurance, the sponsor will have in effect arrangements for-

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations,

aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use

agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-
   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall

be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure

non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date

City of Wichita
City Council Meeting
July 7, 2009

TO:	Wichita Airport Authority
SUBJECT:	ARFF Class II Rapid Intervention Vehicle Acquisition Wichita Mid-Continent Airport
INITIATED BY:	Department of Airports
AGENDA:	Wichita Airport Authority (Consent)

Recommendation: Initiate the project, approve the budget and grant application.

Background: The Capital Improvement Program includes a project to purchase airfield fire fighting equipment. A formal bid occurred to purchase a new Class II Airfield Rescue and Fire Fighting (ARFF) vehicle to replace a 12-year old ARFF Rapid Intervention Vehicle which will be sold in accordance with the Federal Aviation Administration (FAA) guidelines.

Analysis: Reliability of this equipment is critical in order to adequately provide airfield rescue and fire fighting capabilities. The new equipment will operate more reliably, efficiently and economically to better meet Airport emergency response needs.

Financial Considerations: Five FAA-approved bidders obtained bid packages and four of them attended the pre-bid meeting. However, only Oskhosh Truck Corporation submitted a bid, reportedly due to the fast turn-around for bidding and manufacturing of the vehicle that is required due to the use of federal stimulus funds. The FAA has approved purchasing the truck from the sole bidder. Cost of the equipment is $329,314, which will be 100% funded through the Federal Aviation Administration (FAA) with American Recovery and Reinvestment Act (ARRA) funding. A project budget is requested in the amount of $335,000 to cover the equipment and related expenses.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through providing a safe aviation environment for users of Mid-Continent Airport.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the capital project budget and grant application and authorize the Director of Airports to sign all the documents related to the grant.

Attachments: ARFF Vehicle grant application.

Version 7/03

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: 7-7-2009	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY AGENCY	Federal Identifier: AIP 3-20-0088-59

1. TYPE OF SUBMISSION

Application
- ☐ Construction
- ☒ Non-Construction

Pre-application
- ☐ Construction
- ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: **Wichita Airport Authority**

Organizational DUNS: **124970641**

Address:

Street: **2173 Air Cargo Road**

City: **Wichita**

County: **Sedgwick**

State: **KS** Zip Code: **67209**

Country: United States

Organizational Unit: Wichita Airport Authority

Department:

Division:

Name and telephone of person to be contacted on matters involving this application (give area code)

Prefix: **Mr.** First Name: **Victor**

Middle Name:

Last Name: **White**

Suffix:

Email: **vwhite@wichita.gov**

Phone Number (give area code): **(316)** 946 - 4700

Fax Number (give area code): **(316)** 946 - **1898**

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 4 8 - 6 0 0 0 6 5 3

8. TYPE OF APPLICATION

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) ☐ ☐

Other (specify)

7. TYPE OF APPLICANT (See back of form for Application Types)

Other (Specify)

9. NAME OF FEDERAL AGENCY: **Federal Aviation Administration**

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NO. 2 0 - 1 0 6

TITLE (Name of Program): **Airport Improvement Program**

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: **Class II ARFF Rapid Intervention Vehicle**

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*: **Wichita, Sedgwick County, Kansas**

13. PROPOSED PROJECT

Start Date: **2009** Ending Date: **2009**

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant: **4th** b. Project: **4th**

15. ESTIMATED FUNDING:

a. Federal	$ 335,000.00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 335,000.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE : _____

b. NO. ☒ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes, If "Yes", attach an explanation ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix **Mr** First Name: **Victor** Middle Name: **D.**

Last Name: **White** Suffix:

b. Title: **Director of Airports** c. Telephone: **316-946-4700**

d. Signature of Authorized Representative: e. Date Signed: **7-7-2009**

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Standard Form 424 (Rev 9-2003)
Prescribed by OMB Circular A-102

PART II

PROJECT APPROVAL INFORMATION
SECTION A

Item 1. Does this assistance request require State, local, regional, or other priority rating? ☐ Yes ☒ No	Name of Governing Body: Priority:
Item 2. Does this assistance request require State, or local advisory, educational or health clearances? ☐ Yes ☒ No	Name of Agency or Board: (Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐ Yes ☒ No	(Attach Comments)
Item 4. Does this assistance request require State, local, regional or other planning approval? ☐ Yes ☒ No	Name of Approving Agency: Date: / /
Item 5. Is the proposal project covered by an approved comprehensive plan? ☐ Yes ☒ No	Check one: State ☐ Local ☐ Regional ☐ Location of Plan:
Item 6. Will the assistance requested serve a Federal installation? ☐ Yes ☒ No	Name of Federal Installation: Federal Population benefiting from Project:
Item 7. Will the assistance requested be on Federal land or installation? ☐ Yes ☒ No	Name of Federal Installation: Location of Federal Land: Percent of Project:
Item 8. Will the assistance requested have an impact or effect on the environment? ☐ Yes ☒ No	See instruction for additional information to be provided
Item 9. Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐ Yes ☒ No	Number of: Individuals: Families: Businesses: Farms:
Item 10. Is there other related Federal assistance on this project previous, pending, or anticipated? ☐ Yes ☒ No	See instructions for additional information to be provided.

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. - The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

N/A

2. Defaults. - The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

NONE

3. Possible Disabilities. - There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

NONE

4. Consistency with Local Plans. – The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

YES

5. Consideration of Local Interest - It has given fair consideration to the interest of communities in or near where the project may be located.

YES

6. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

YES

7. Public Hearings. – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

N/A

8. Air and Water Quality Standards. – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II - SECTION C (Continued)

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

NA

10. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

NA

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

NA

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART III - BUDGET INFORMATION - CONSTRUCTION

SECTION A - GENERAL

1. Federal Domestic Assistance Catalog No. _____

2. Functional or Other Breakout _____

SECTION B -CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	$ 5,686.00	$	$ 5,686.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other Architectural engineering fees			
6. Project Resident Engineering fees			
6A. Project Construction Related Service fees			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment	329,314.00		329,314.00
13. Miscellaneous			
14. Total (Lines 1 through 13)	335,000.00		335,000.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)	335,000.00		335,000.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)	335,000.00		335,000.00
20. Federal Share requested of Line 19 (100%)	335,000.00		335,000.00
21. Eligible costs not currently under			
22. Total Federal grant requested (lines 20 & 21)	335,000.00		335,000.00
23. Grantee share	00.00		00.00
24. Other shares			
25. Total Project (Lines 22, 23 & 24)	$ 335,000.00	$	335,000.00

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	$	$
b.		
c.		
d.		
e.		
f.		
g. **Totals**	$	$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	
28. Other Shares	
a. State	
b. Other	
c. Total Other Shares	
29. TOTAL	$

SECTION E - REMARKS

Grant utilizes ARRA money at 100% funding level.

PART IV PROGRAM NARRATIVE (Attach - See Instructions)

PART IV
PROGRAM NARRATIVE
(Suggested Format)

PROJECT : ARFF Class II Rapid Intervention Vehicle

AIRPORT : Mid-Continent Airport

1. Objective:

Purchase of one (1) ARFF Class 2 Rapid Intervention Vehicle (RIV) meeting the requirements of FAR Part 139.317(a), and AC 150/5220-10D Guide Specification for Aircraft Rescue and Fire Fighting Vehicles. Water/foam capacity of not less than 300/40 gallons, and dry chemical capacity of not less than 500 lbs. Performance requirements shall follow the NFPA 414 performance requirements, and Federal Motor Vehicle Safety Standards. This vehicle would replace the existing 1997 model Ford F-Super Duty ARFF RIV purchased in that year with federal AIP funds. Current vehicle proposed for replacement is twelve (12) years old.

2. Benefits Anticipated:

The new equipment will operate more reliably, efficiently and economically to better meet Airport emergency medical and fire fighting needs.

3. Approach : *(See approved Scope of Work in Final Application)*

Substantial completion of the entire project is scheduled for 210 calendar days with a tentative Notice To Proceed around June 15, 2009.

4. Geographic Location:

Wichita, Kansas (see attached map).

5. If Applicable, Provide Additional Information:

N/A

6. Sponsor's Representative: *(include address & telephone number)*

Victor White, A.A.E.
2173 Air Cargo Road
Wichita, KS 67209
316-946-4700

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM
SPONSOR CERTIFICATION

DRUG-FREE WORKPLACE

Wichita Airport Authority	Mid-Continent	3-20-0088-59
(Sponsor)	*(Airport)*	*(Project Number)*

Description of Work:
One (1) ARFF Class 2 Rapid Intervention Vehicle (RIV) meeting the requirements of FAR Part 139.317(a), and AC 150/5220-10D Guide Specification for Aircraft Rescue and Fire Fighting Vehicles. Water/foam capacity of not less than 300/40 gallons, and dry chemical capacity of not less than 500 lbs. Performance requirements shall follow the NFPA 414 performance requirements, and Federal Motor Vehicle Safety Standards. This vehicle would replace the existing 1997 model Ford F-Super Duty ARFF RIV purchased in that year with federal AIP funds. Current vehicle proposed for replacement is twelve (12) years old.

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been ~~or will be~~ published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	☒	☐	☐
2. An ongoing drug-free awareness program has been ~~or will be~~ established to inform employees about: **a.** The dangers of drug abuse in the workplace; **b.** The sponsor's policy of maintaining a drug-free workplace; **c.** Any available drug counseling, rehabilitation, and employee assistance programs; and **d.** The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.	☒	☐	☐
3. Each employee to be engaged in the performance of the work has been ~~or will be~~ given a copy of the statement required within item 1 above.	☒	☐	☐
4. Employees have been ~~or will be~~ notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will: **a.** Abide by the terms of the statement; and **b.** Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.	☒	☐	☐

	Yes	No	N/A
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.	☒	☐	☐
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:			
a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or	☒	☐	☐
b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.			
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.	☒	☐	☐

I have prepared documentation shown below or attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified below or in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

	Location	**Location**	**Location**
Street Address:	2173 Air Cargo Road		
City:	Wichita		
State:	KS		
Zip code:	67209		

Wichita Airport Authority
Name of Sponsor

Signature of Sponsor's Designated Official Representative

Victor White, A.A.E.
Type Name of Sponsor's Designated Official Representative

Director of Airports
Typed Title of Sponsor's Designated Official Representative

7-7-2009
Date of Signature

STANDARD DOT TITLE VI ASSURANCES

Wichita Airport Authority (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:

(a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and

(b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods.

(a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or

(b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED 7-7-2009

Wichita Airport Authority
(Sponsor)

By_____
(Signature of Authorized Official)

CONTRACTOR CONTRACTUAL REOUIREMENTS

ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination**. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports**. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

   a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

   b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions**. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued Pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]

e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.[1]
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11988 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs.
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]

h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person

to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

   b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

   c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

   d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that

property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such

reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved

plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably

operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.

In furtherance of this assurance, the sponsor will have in effect arrangements for-

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations,

aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use

agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-

   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall

be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure

non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date

Attachment 1
Airport Sponsor Certifications

The Sponsor hereby certifies to the following:

1. The funding request contained in this grant application is based upon competitive bids that were received on *May 15, 2009* and the associated bid tabulation is hereby attached to this certification.

2. The Sponsor hereby acknowledges FAA's need to approve and issue, as appropriate, any waiver to the Buy American Preference Requirement (BAPR) (49 USC 50101). Additionally, the Sponsor understands that any waiver request issued to the BAPR under the American Recovery and Reinvestment Act of 2009 requires specific information related to the waiver request, if granted, to be published in a Federal Register Notice. Accordingly, so as to not delay the processing of the subsequent Grant Offer and resulting contract documents between the Sponsor and the lowest responsible bidder, attached hereto are all Request for Waiver to the BAPR necessary to complete this project.

3. The Sponsor further certifies that it will issue a Notice to Proceed to the contractor (or equipment supplier in the case of equipment acquisition) within 30 days of acceptance of a Grant Offer.

4. Pursuant to Title XV, Subtitle A, section 1511 of the American Recovery and Reinvestment Act (Pub. L. 111-5 (Feb. 17, 2009) ("ARRA"), I Carl Brewer, hereby certify that the infrastructure investment funded by ARRA has received the full review and vetting required by law and that I accept responsibility that such investment is an appropriate use of taxpayer dollars. I further certify that the specific information required by section 1511 concerning each such investment (a description of the investment, the estimated total cost, and the amount of ARRA funds to used) is enclosed or is provided on the http://portal/UrbanDevelopment/EconomicStimulus/Pages/default.aspx website, available to the public at http://www.wichita.gov/government/stimulus and linked to Recovery.gov.

I understand that the Sponsor making application for ARRA funding may not receive ARRA infrastructure investment funding unless this certification is made and posted.

** In accordance with section 1511 of ARRA, the Certifying Official may be either the Governor, mayor, or other chief executive, as appropriate.*

Wichita Airport Authority
(Name of Sponsor)

(SEAL)

(Signature of Sponsor's Designated Official Representative – Must be Governor, Mayor or Chief Executive)

By: Carl Brewer
(Typed Name of Sponsor's Designated Official Representative)

Title: President
(Typed Title of Sponsor's Designated Official Representative)

Attest:

CERTIFICATE OF SPONSOR'S ATTORNEY

I _____, acting as Attorney for the Sponsor do hereby certify:
That in my opinion the Sponsor is empowered to certify to the above representations under the laws of the State of Kansas. Further, I have examined representations and documentation as attached and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State.

Dated at this ____ day of _____200__.

By; _____
(Signature of Sponsor's Attorney

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement for
1761 and 1801 Airport Road Parking Lot Improvements
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: The Federal Aviation Administration (FAA) currently leases facilities located at 1761 and 1801 Airport Road on Wichita Mid-Continent Airport. The FAA is desirous of improvements to the parking lots at each of these facilities. The project was approved by the Wichita Airport Authority on November 16, 2004.

Analysis: As it is the lessor's responsibility to provide an adequate quality of parking facilities, the parking lots at both leaseholds are in poor condition and reconstruction is the viable alternative to restore the pavement. Staff has prepared a supplemental agreement with Certified Engineering Consultants for design, surveying and construction engineering services.

Financial Considerations: The supplemental agreement in the amount of $73,280 is included in the current budget of $1,240,000 and will be funded with General Obligation Bonds paid for with airport revenue.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow tenant development.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement.

SUPPLEMENTAL AGREEMENT #1

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

THE WICHITA AIRPORT AUTHORITY, "OWNER"

AND

CERTIFIED ENGINEERING DESIGN. P.A., "CONSULTANT"

WITNESSETH:

WHEREAS, there now exists a Contract dated January 11, 2005 between the two parties covering engineering services to be provided by the CONSULTANT in conjunction with the construction of improvements to 1761 and 1801 Airport Road Parking Lots Reconstruction.

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 CONSULTANT provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE 1 of the referenced contract is hereby amended to include the following:

a) Additional design services, including landscaping, surveying and utility extensions.

b) Construction related services as defined in the Contract, Phase III.

B. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended as follows:

Payment to the CONSULTANT for the performance of the professional services as outlined in this Supplemental Agreement shall be made on the basis of the fee specified herein:

a) Lump sum of $26,768.00
b) Not-to-Exceed amount of $46,512.00 to be invoiced for actual labor and expenses up to the maximum amount.

Refer to Exhibits A and A-1 for detailed fee schedules.

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 OWNER and the CONSULTANT have executed this Supplemental Agreement as of this _____ day of 2009.

ATTEST:

By:_____
Karen Sublett, City Clerk

By:_____
Victor White, Director of Airports

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Carl Brewer, President
"OWNER"

ATTEST:
Certified Engineering Design, P.A.
810 W. Douglas, Suite C
Wichita, KS 67203
"CONSULTANT"

By: _____

Title: Project Engineer

By: _____

Title: President

APPROVED AS TO FORM: _____ Date:_____
Director of Law

EXHIBIT A
CERTIFIED ENGINEERING DESIGN, P.A.
DESIGN FEE FOR WICHITA AIRPORT AUTHORITY
FAA & AFSS OFFICE BUILDINGS PARKING LOT RECONSTRUCTION
MID-CONTINENT AIRPORT, WICHITA, KS
May 11, 2009

	PRINCIPAL	PROJ. ENG.	ENG. TECH.	SURVEY CREW	TOTALS
ITEM					
		12			
DESIGN & PLAN REVIEW MEETINGS					
		220			
PLAN REVISIONS					
		40			
UTILITY PLAN COORDINATION					
	20	8			
SPECIFICATIONS					
	20	280	0	0	300
TOTAL HOURS					
	$27.27	$27.27	$18.18	$45.46	
RATE PER HOUR					
	$545	$7,636	$0	$0	$8,181
TOTAL HOURLY COSTS					
				1.25	$10,226
OVERHEAD					
					$2,761
FIXED FEE(15%)					
					$500
PRINTING					
					$3,100
RICE FOSTER LANDSCAPE FEE					
					$2,000
GARBER SURVEYING SERVICE FEEGARBER SURVEYING SERVICE FEEGARBER SURVEYING SERVICE FEE					
					$26,768
TOTAL					
COMPLETION DATE 5-15-09COMPLETION DATE 5-15-09COMPLETION DATE 5-15-09COMPLETION DATE 5-15-09					
TOTAL LUMP SUM FEE =					$26,768

EXHIBIT A-1
CERTIFIED ENGINEERING DESIGN, P.A.
CALCULATION OF FEE FOR CONSTRUCTION ENGINEERING SERVICES
FOR FAA AND AFSS PARKING LOT IMPROVEMENTS AT
MID-CONTINENT AIRPORT, WICHITA, KS
May 12, 2009

	ENGINEER	INSPECTOR	ENG. TECH.	SURVEY CREW	TOTALS
ITEM					
		860			
CONSTRUCTION INSPECTION					
(Est. Hours=120 cal. Days/7days per week=17.14 weeksx5 working days perweek=86 days x 10 hour days=860 hours)					
	80				
PROFESSIONAL ENGINEER					
	8		40		
AS-BUILT PLANS					
	88	860	40	0	988
TOTAL HOURS					
	$27.27	$15.91	$34.10	$43.18	
RATE PER HOUR					
	$2,400	$13,683	$1,364	$0	$17,446
TOTAL HOURLY COSTS					
				1.25	$21,808
OVERHEAD					
					$5,888
FIXED FEE(15%)					
					$870
MILEAGE(1,500@$0.58/MILE)					
					$500
RICE FOSTER LANDSCAPE INSP. FEE					
					$46,512
TOTAL					
TOTAL FEE(NOT TO EXCEED) =					$46,512

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement No. 5 – Professional Insurance Management
2120 Airport Road, Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreement.

Background: Professional Insurance Management (PIM) leases the majority of an office facility located at 2120 Airport Road. The company is interested in leasing a small area encompassing 174 sq. ft. to be used for storage.

Analysis: Current rates have been established by an appraisal conducted by the Martens Companies. It is recommended that, based upon the type of space to be leased, a rental rate of $5.00 per sq. ft. be assessed.

Financial Considerations: Annual revenue to the Airport Authority is $870 per year. This is in addition to $52,790 generated from the lease with Professional Insurance Management for the remainder of the building.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which allow the Airport to serve its users and to continue its operation on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement; and authorize the necessary signatures.

Attachment: Supplemental Agreement No. 5.

SUPPLEMENTAL AGREEMENT NO. 5

By and Between

THE WICHITA AIRPORT AUTHORITY

And

PROFESSIONAL INSURANCE MANAGEMENT, INC.

For

Facility Rental – 2120 Airport Road
Wichita Mid-Continent Airport

THIS SUPPLEMENTAL AGREEMENT NO. 5, made and entered into this July 7, 2009 by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the "LESSOR"; and PROFESSIONAL INSURANCE MANAGEMENT, INC., hereinafter referred to as the "LESSEE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an agreement dated April 15, 1991 for use of the facility located at 2120 Airport Road for aviation-related purposes in connection with its business of providing an aviation insurance brokerage firm; and

WHEREAS, the original agreement has been modified by letters of extension and Supplemental Agreement Nos. 1 through 4, with the most recent supplement dated June 5, 2007; and

WHEREAS, the Lessor and Lessee are now desirous of entering into this Supplemental Agreement No. 5 for the purpose of modifying the leased premises.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1. **Premises.** Lessor agrees to lease to Lessee 174 sq. ft. of storage space on the first floor, as reflected on Exhibit "A", attached hereto and made a part hereof.

This space shall be in addition to the leased premises reflected in Paragraphs 1, “Premises”, of the original agreement and Supplemental Agreement No. 2.

2. Rental. Rental for use of the 174 sq. ft. shall commence July 1, 2009 and shall be at the rate of Five Dollars per sq. ft. per year. This rental will result in an annual payment of $870 or $72.50 per month, due on the first day of each month during the term of this Agreement.

3. Other Terms. It is understood and agreed that except as modified herein all other terms and conditions of the original agreement and supplements shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____

Title _____

By _____

Title _____

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

PROFESSIONAL INSURANCE MANAGEMENT

By _____

Title _____

By _____

Title _____

"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

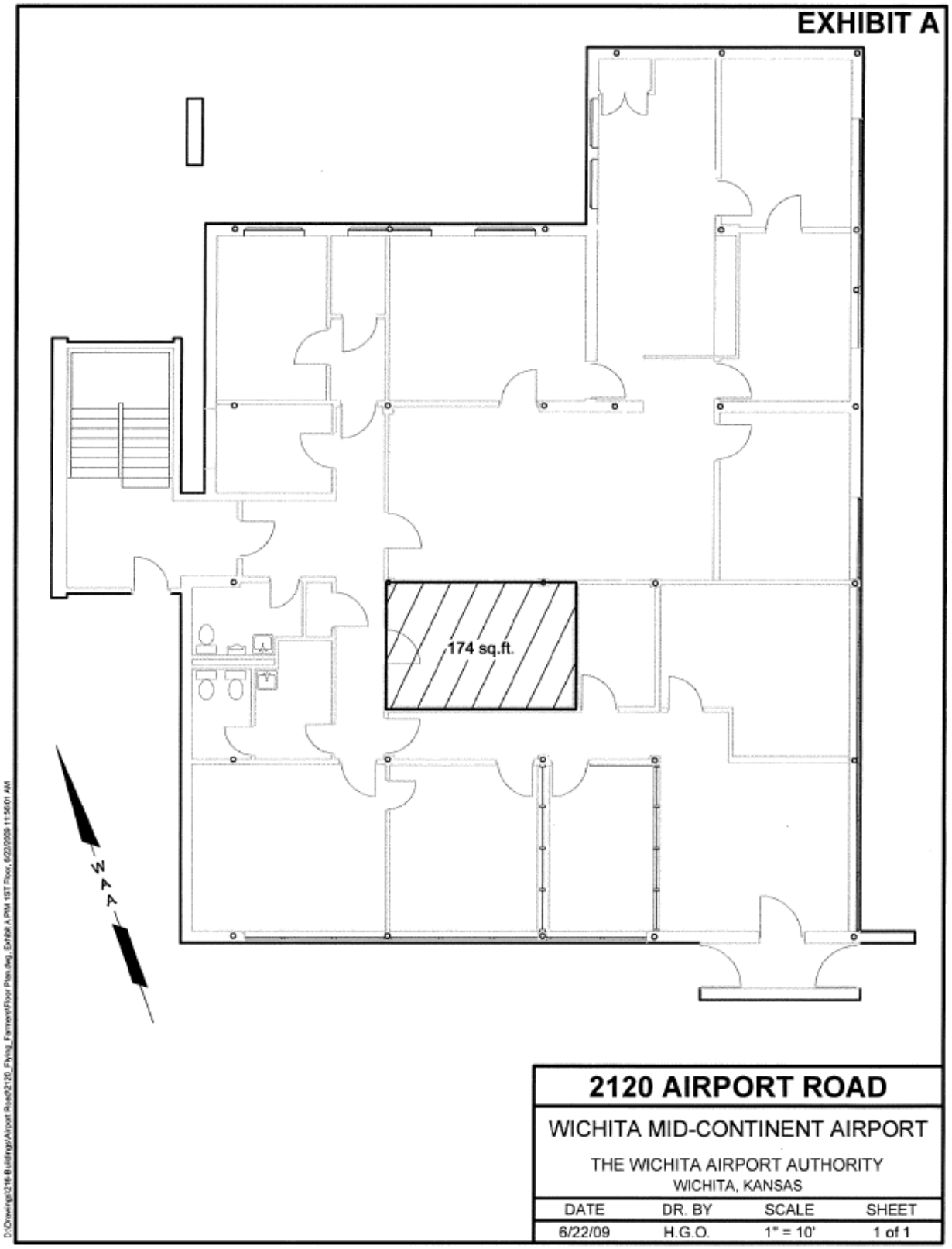


EXHIBIT A
174 sq.ft.
W
A
A
2120 AIRPORT ROAD
WICHITA MID-CONTINENT AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
SHEET
6/22/09
H.G.O.
1" = 10'
1 of 1

City of Wichita
City Council Meeting
July 7, 2009

TO: Wichita Airport Authority

SUBJECT: Federal Aviation Administration – Lease No. DTFASW-10-L-00042
1761 Airport Road – Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the lease.

Background: During the latter part of 1983, in reaction to the FAA's decision to consolidate its network of 317 flight service stations into 61 "super" automated flight service stations, the Wichita Airport Authority responded to a Solicitation for Offer to house one of the proposed automated flight service stations in Wichita. As a successful proponent, the WAA offered the use of a 14,677 sq. ft. facility at no cost to the FAA in order to maintain the operation in Wichita, and to take advantage of the economic impact created by its location in the community. The FAA assumed utility and janitorial costs, and the WAA developed a rate for charging the FAA for various maintenance items. That agreement expired on September 30, 2006 and a new agreement was entered into for use of the facility for a three-year period.

Analysis: During the term of the 2006 lease, services provided by the FAA's automated flight service station were discontinued from the Wichita facility. Provisions in the agreement allowed the FAA to cancel the agreement by providing the WAA with a 90-day written notice, or to reduce space as necessary. Based upon the FAA's current needs, they are desirous of leasing 4,185 sq. ft. in the 14,677 sq. ft. facility to house an Airway Facilities unit. The term of the agreement is June 1, 2009 through September 30, 2015; however, the agreement may be terminated by the FAA after September 30, 2010 by providing a 90-day written notice.

Financial Considerations: Revenue to the WAA is $54,252.36 per year. This includes a rental/maintenance rate of $13.76/sq. ft. for office space and a rental/maintenance rate of $9.82/sq. ft. for telco/equipment rooms.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating lease agreements which allow the WAA to continue its operations on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the lease and authorize the necessary signatures.

Attachments: Lease agreement.

Minutes of the regular meeting dated June 22, 2009, were read and on motion approved.

Bids were opened June 26, 2009, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/BUILDINGS DIVISION: Asbestos Abatement

Enviro Remediation, Inc.	-	$ 17,200.00	Award Bid and Contract
F & H Insulation, Inc.	-		Award Contract

AIRPORT/ENGINEERING DIVISION: Airfield Rescue and Fire Fighting Vehicles

Oshkosh Truck Corp.	-	$327,514.00	Base Bid
	-	$ 1,800.00	Option1

WATER UTILITIES DEPARTMENT/PRODUCTION & PUMPING DIVISION: Tubular Steel Poles

Defer one week

On motion the Board recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL JULY 7, 2009

a. Lateral 2, Main 21 Four Mile Creek Sewer to serve Sierra Hills 2nd Addition (north of Pawnee, west of 143rd Street East) (468-84516/744292/480981) Traffic to be maintained using flagpersons & barricades. (District II) - $105,000.00

b. PRELIMINARY ESTIMATE of the cost of Grand Mere Court adjacent to Lots 9 through 12, Block 1 to serve Belle Terre South 2nd Addition (north of Kellogg, west of 159th Street East). (472-84502/766135/490-153) (District II).

Agenda Item No. XII-4a.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Meridian Improvement, 71st Street South to 47th Street South (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the bonding ordinance.

Background: On August 17, 2007, the City Council approved a joint funding agreement with Haysville, Sedgwick County and the Kansas Department of Transportation to improve Meridian, from 71st Street South in Haysville to 47th Street South in Wichita. The current estimate of the City's share of the project cost is $330,000. A bonding ordinance has been prepared to provide permanent financing of the City's cost. The project is currently under construction.

Analysis: The project consists of widening Meridian to four lanes, constructing a storm water sewer system and providing sidewalk on the east side of Meridian. A portion of the project south of 47th is in the Wichita city limits.

Financial Considerations: The budget in the 2007-2016 Capital Improvement Program is $500,000. The funding source is General Obligation bonds.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving an important transportation route.

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

Recommendation/Action: It is recommended that the City Council place the ordinance on first reading and authorize the signing of state/federal agreements as required.

Attachment: CIP sheet and Ordinance.

132019

First Published in the Wichita Eagle July 17, 2009

ORDINANCE NO. 48-365

AN ORDINANCE DECLARING **MERIDIAN, FROM ¾ MILE SOUTH OF 47TH STREET SOUTH TO 47TH STREET SOUTH (472-84839)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. l2-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. l2-685 et seq., and

WHEREAS, K.S.A. l2-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. l2-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

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

SECTION l. That **Meridian, from ¾ mile south of 47th Street South to 47th Street South (472-84839)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. l2-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to the **Meridian, from ¾ mile south of 47th Street South to 47th Street South (472-84839)** as a main trafficway in the following particulars:

The design, design of a roadway, acquisition of right-of-way, installation of traffic signals, relocation of utilities and landscaping, as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be **Five Hundred Thousand Dollars ($500,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under

the provisions of K.S.A. l2-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 14th day of July, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	Meridian, 71st St South - 47th St South

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$500,000			$500,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Bike Path				
Totals	$500,000			$500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84839

13. Recommendation: Approve the project and ordinance

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Item No. XII-4b.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in Gray's 6th Addition and an unplatted tract (south of MacArthur, west of Hoover) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will provide a sanitary sewer for a new residential development.

Financial Considerations: The petition totals $40,512. The funding source is special assessments.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for residential development.

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

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

Attachments: Map, CIP sheet, petition and resolution.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-190

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 532, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF MACARTHUR, WEST OF HOOVER) 468-84617 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 532, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF MACARTHUR, WEST OF HOOVER) 468-84617 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 532, Southwest Interceptor Sewer (south of MacArthur, west of Hoover) 468-84617.

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

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Thirty-Four Thousand Dollars ($34,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after June 1, 2009 exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Six Thousand Five Hundred Twelve Dollars ($6,512).

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

GRAY'S 6TH ADDITION
Lot 1, Block A

UNPLATTED TRACT
The part of the NE1/4 Section 15, T28s, R1W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the northeast corner of said NE1/4; thence west along the north line of said NE1/4, 362.00 feet; thence south parallel with the east line of said NE1/4, 360.00 feet; thence east parallel with the north line of said NE1/4, 362.00 feet to a point on the east line of said NE1/4; thence north along the east line of said NE1/4, 360.00 feet to the point of beginning.

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1, Block A, GRAYS' 6TH ADDITION shall pay 4/10 of the total cost payable by the improvement district, and that the UNPLATTED TRACT shall pay 6/10 of the total cost payable by the improvement district.

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

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

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

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

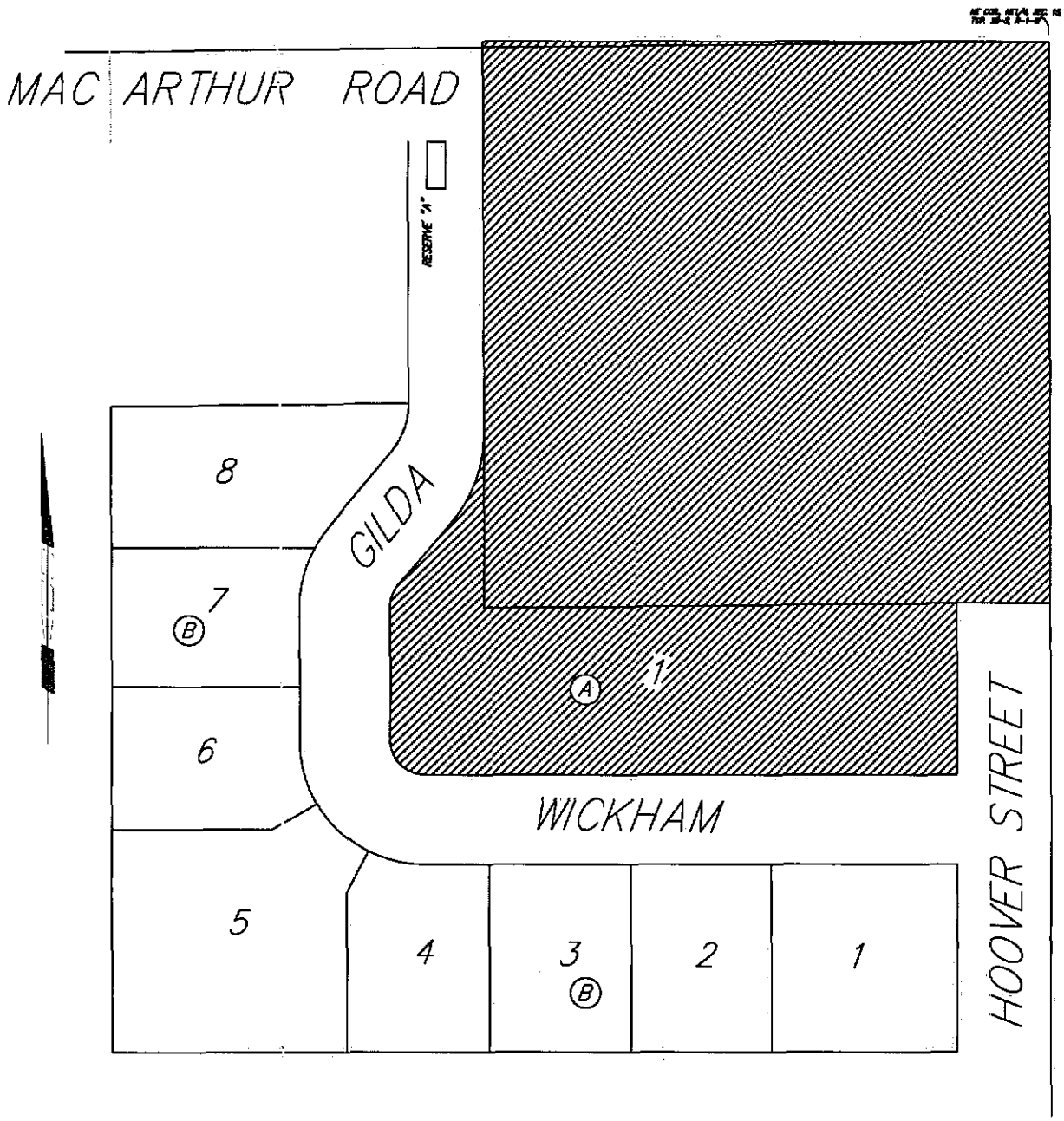
_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

GRAY'S 6TH ADDITION



BENEFIT DISTRICT

(ACTUAL ALIGNMENT TO BE DETERMINED BY DESIGN ENGINEER)

Wichita All-America City 1999

THE CITY OF WICHITA

CITY ENGINEER'S OFFICE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	Sanitary Sewer for Gray's 6th Addition and unplatted tract

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		$40,512		$40,512
Sidewalk				
Water				
Other				
Totals		$40,512		$40,512
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

* Sanitary Sewer Utility

Lateral 532, SWI

468-84617

13. Recommendation: Approve the Petition and Adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

SANITARY SEWER PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

Lateral 532, SWI

GRAY'S 6TH ADDITION
Lot 1, Block A

UNPLATTED TRACT

That part of the NE1/4 of Section 15, T28s, R1W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the northeast corner of said NE1/4; thence west along the north line of said NE1/4, 362.00 feet; thence south parallel with the east line of said NE1/4, 360.00 feet; thence east parallel with the north line of said NE1/4, 362.00 feet to a point on the east line of said NE1/4; thence north along the east line of said NE1/4, 360.00 feet to the point of beginning.

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

468-84617

(a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(South of MacArthur, West of Hoover)

(b) That the estimated and probable cost of the foregoing improvements being Thirty Four Thousand Dollars ($34,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after June 1, 2009.

(c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Six Thousand Five Hundred and Twelve Dollars ($6,512).

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

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the

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

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

That Lot 1, Block A, Gray's 6th Addition shall pay 4/10 of the total cost payable by the improvement district, and that the Unplatted Tract shall pay 6/10 of the total cost payable by the improvement district.

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

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

(b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

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

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (a) both a majority of owners of record, and the owners of record of more than half the area liable for assessments outside the corporate limits of the City of Wichita, Kansas, and also (b) either (I) a majority of the resident owners of record or (II) the resident owners of record of more than one-half of the area liable for assessment within the corporate limits of the City of Wichita, Kansas, or (III) the owners of record (whether resident or not) of more than one-half the area liable for assessment within the corporate limits of the City of Wichita, Kansas.

Petitions for projects which are partially within the corporate limits of Wichita shall be commenced only upon a petition found sufficient by the provisions of K.S.A. 12-6a04, except that for the purpose of determining the sufficiency of the signatures to such petitions, only that

area which is outside the corporate limits of Wichita shall be considered to constitute the proposed improvement district.

5. The owners of land covered hereunder outside the corporate limits of Wichita do hereby petition, consent to and request annexation of such lands by The City at such time as it determines appropriate (as contemplated in K.S.A. 12-519 et. Seq.). Until such time as the annexation occurs, the owners covenant and agree they will not seek incorporation as a separate city nor annexation to any other city, land or any part thereof. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
IMPROVEMENT DISTRICT		
GRAY'S 6TH ADDITION Lot 1, Block A	X	6/9/09
UNPLATTED TRACT	X	6/9-09

AFFIDAVIT

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

Chris Bohm
Name

924 N. Main
Address

264-8008
Telephone number

Sworn to and subscribed before me this 9 day of June, 2009.

Deputy City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Petition to design improvements to the K-96/Greenwich Interchange (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Approve the petition.

Background: The owner of undeveloped property adjacent to the interchange of K-96 Freeway and Greenwich has submitted a petition to design improvements to the interchange. The signature on the petition represents 100% of the improvement district. It is the owner's expectation that proceeding with the design at this time may expedite construction at a future date.

Analysis: Currently, access is limited to east bound traffic on K-96 to Greenwich and west bound traffic from Greenwich to K-96. The proposed improvement would add ramps to provide full access at the interchange.

Financial Considerations: The petition budget is $500,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow at a freeway interchange.

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

Recommendations/Actions: It is recommended that the City Council approve the petition, adopt the resolution, authorize the Staff Screening & Selection Committee to select a design engineer and authorize the necessary signatures.

Attachments: Map, CIP sheet, resolution and petition.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-191

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING INTERCHANGE IMPROVEMENTS ON K-96 HIGHWAY AND GREENWICH ROAD TO PROVIDE A WESTBOUND EXIT RAMP FROM K-96 HIGHWAY ONTO GREENWICH ROAD AND AN EASTBOUND ENTRANCE RAMP FROM GREENWICH ROAD ONTO K-96 HIGHWAY 472-84832 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING INTERCHANGE IMPROVEMENTS ON K-96 HIGHWAY AND GREENWICH ROAD TO PROVIDE A WESTBOUND EXIT RAMP FROM K-96 HIGHWAY ONTO GREENWICH ROAD AND AN EASTBOUND ENTRANCE RAMP FROM GREENWICH ROAD ONTO K-96 HIGHWAY 472-84832 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing interchange improvements on K-96 Highway and Greenwich Road to provide a westbound exit ramp from K-96 Highway onto Greenwich Road and an eastbound entrance ramp from Greenwich Road onto K-96 Highway 472-84832. Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to Five Hundred Thousand Dollars ($500,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design of this project.

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

UNPLATTED TRACT

Parcel #1:
The South Half of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT the following tracts:

Tract 1:
A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the Southwest corner of said Northwest Quarter, thence East 223 feet, thence North 150 feet, thence West 223 feet, thence South 150 feet to the point of beginning.

Tract 2:
That part of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning 150 feet North of the Southwest corner thereof; thence North along the West line of said Northwest Quarter 7.0 feet;

thence East parallel with the South line of said Northwest Quarter, 223.0 feet; thence South parallel with the West line of said Northwest Quarter, 7.0 feet; thence West parallel with the South line of said Northwest Quarter, 223.0 feet to the point of beginning.

Tract 3:
The West 60 feet of the South Half of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, as dedicated in Doc#/Flm-Pg: 28739057

Parcel #2:
A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the Southwest corner of said Northwest Quarter, thence East 223 feet, thence North 150 feet, thence West 223 feet, thence South 150 feet to the point of beginning, except the West 60 feet thereof as dedicated in Doc#/Flm-Pg: 28739057

Parcel #3:
That part of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning 150 feet North of the Southwest corner thereof; thence North along the West line of said Northwest Quarter 7.0 feet; thence East parallel with the South line of said Northwest Quarter, 223.0 feet; thence South parallel with the West line of said Northwest Quarter, 7.0 feet; thence West parallel with the South line of said Northwest Quarter, 223.0 feet to the point of beginning, except the West 60 feet thereof as dedicated in Doc#/Flm-Pg: 28739057

Parcel #4:
A tract of land in the Southwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas more particularly described as follows: Commencing at the Northwest corner of the Southwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, thence N89º 07'30"E along the North line of said Southwest Quarter, a distance of 50.00 feet to the point of beginning; thence bearing N89º 07'30"E along the North line of said Southwest Quarter, a distance of 2,597.70 feet to the Northeast corner of said Southwest Quarter: thence bearing S00º 35'35"E along the East line of said Southwest Quarter, a distance of 1,815.28 feet to the intersection of the North Right of Way of K-96 Highway; thence along the North Right-of-Way of the K-96 Highway the following courses and distances; N24º 08'08"W a distance of 532.89 feet to the Point of Curvature of a curve to the left with a radius of 2,039.86 feet and a chord distance of 1,696.46 feet bearing N48º12'42"W; thence along said curve to the left through a central angle of 49º 08'34", an arc distance of 1,749.60 feet; thence bearing N73º 44'11"W a distance 322.28 feet; thence bearing N85º 58'54"W, a distance of 301.62 feet; thence bearing S89º 49' 11"W, a distance of 522.46 feet; thence bearing N0º43'07"W, parallel with the West line of said Southwest Quarter a distance of 49.03 feet to the Point of Beginning.

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

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

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

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

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

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

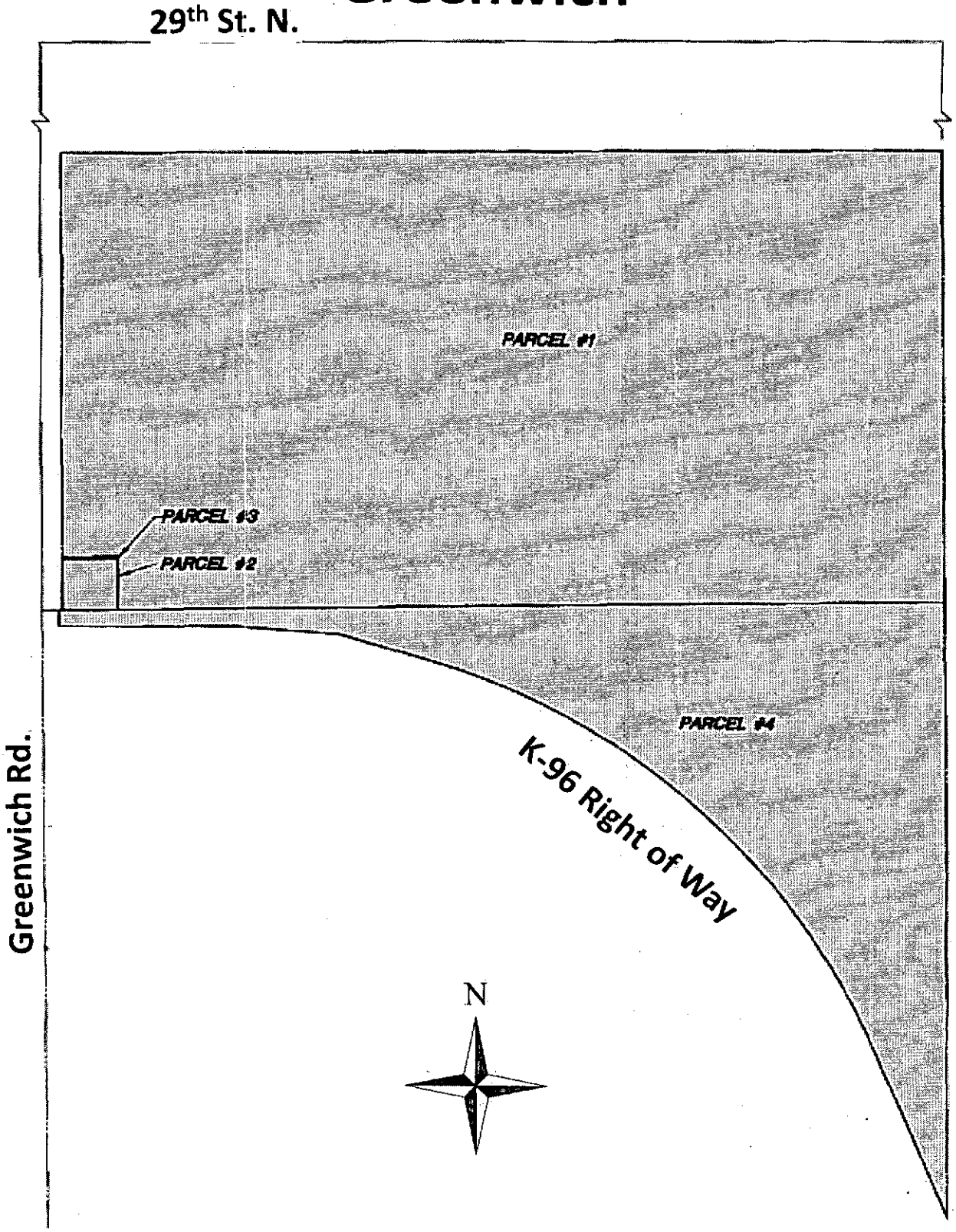
_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

K – 96 Ramp Improvements @ Greenwich



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	K-96 at Greenwich Interchange Design

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
F-		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Freeway Interchange		$500,000		$500,000
Totals		$500,000		$500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84836

13. Recommendation: Approve the Petition and Adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

RECEIVED

MAY 27 '09

CITY CLERK OFFICE

PAVING DESIGN PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

UNPLATTED TRACT

Parcel #1:
The South Half of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT the following tracts:

Tract 1:
A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the Southwest corner of said Northwest Quarter, thence East 223 feet, thence North 150 feet, thence West 223 feet, thence South 150 feet to the point of beginning.

Tract 2:
That part of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning 150 feet North of the Southwest corner thereof; thence North along the West line of said Northwest Quarter 7.0 feet; thence East parallel with the South line of said Northwest Quarter, 223.0 feet; thence South parallel with the West line of said Northwest Quarter, 7.0 feet; thence West parallel with the South line of said Northwest Quarter, 223.0 feet to the point of beginning.

Tract 3:
The West 60 feet of the South Half of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, as dedicated in Doc#/Flm-Pg: 28739057

Parcel #2:
A tract in the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the Southwest corner of said Northwest Quarter, thence East 223 feet, thence North 150 feet, thence West 223 feet, thence South 150 feet to the point of beginning, except the West 60 feet thereof as dedicated in Doc#/Flm-Pg: 28739057

Parcel #3:
That part of the Northwest Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning 150 feet North of the Southwest corner thereof; thence North along the West line of said Northwest Quarter 7.0 feet; thence East parallel with the South line of said Northwest Quarter, 223.0 feet; thence South parallel with the West line of said Northwest Quarter, 7.0 feet; thence West parallel with the South line of said Northwest Quarter,

472 - 84836

223.0 feet to the point of beginning, except the West 60 feet thereof as dedicated in Doc#/Flm-Pg: 28739057

Parcel #4:
A tract of land in the Southwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas more particularly described as follows: Commencing at the Northwest corner of the Southwest Quarter of Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, thence N89° 07'30"E along the North line of said Southwest Quarter, a distance of 50.00 feet to the point of beginning; thence bearing N89° 07'30"E along the North line of said Southwest Quarter, a distance of 2,597.70 feet to the Northeast corner of said Southwest Quarter: thence bearing S00° 35'35"E along the East line of said Southwest Quarter, a distance of 1,815.28 feet to the intersection of the North Right of Way of K-96 Highway; thence along the North Right-of-Way of the K-96 Highway the following courses and distances; N24° 08'08"W a distance of 532.89 feet to the Point of Curvature of a curve to the left with a radius of 2,039.86 feet and a chord distance of 1,696.46 feet bearing N48°12'42"W; thence along said curve to the left through a central angle of 49° 08'34", an arc distance of 1,749.60 feet; thence bearing N73° 44'11"W a distance 322.28 feet; thence bearing N85° 58'54"W, a distance of 301.62 feet; thence bearing S89° 49' 11"W, a distance of 522.46 feet; thence bearing N0°43'07"W, parallel with the West line of said Southwest Quarter a distance of 49.03 feet to the Point of Beginning.

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

(a) That there be designed interchange improvements on K-96 Highway and Greenwich Road to provide for a westbound exit ramp from K-96 Highway onto Greenwich Road and an eastbound entrance ramp from Greenwich Road onto K-96 Highway. That said design at aforesaid limits be in accordance with requirements of the City Engineer of the City of Wichita, Kansas and the Kansas Department of Transportation.

(b) That the estimated and probable cost of the foregoing improvement is Five Hundred Thousand Dollars ($500,000.00) exclusive of the cost of interest on borrowed money, with 100% percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design of the project.

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

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

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

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

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

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

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

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
UNPLATTED TRACT See Legal Description, Page 1	**MEDICAL PRACTICE ASSOCIATION PROPERTIES, LLC** By: Lorene R Valentine Lorene Valentine, Manager	5/20/09

AFFIDAVIT

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

MKEC Engineering Consultants, Inc.
Company

Rachel Sanders
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 27th day of May 2009.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Deborah Bradlock
Deputy City Clerk

Agenda Item No. XII-4d.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Petition to construct 21st Street Deceleration Lane east of Webb (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Approve the petition.

Background: A petition has been submitted to construct a deceleration lane on the north side of 21st Street, east of Webb. The signature on the petition represents 100% of the improvement district.

Analysis: The project will improve vehicular access to Lot 1, Block 1, Remington Place Addition.

Financial Considerations: The petition budget is $75,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow for a new commercial development.

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

Recommendations/Actions: It is recommended that the City Council approve the petition, adopt the resolution and authorize the necessary signatures.

Attachments: Map, CIP sheet, resolution and petition.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-192

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON 21ST STREET NORTH FROM THE WEST END TO THE EAST END OF LOT 1, BLOCK 1, REMINGTON PLACE ADDITION, SIDEWALK TO BE INCLUDED AS REQUIRED (NORTH OF 21ST, EAST OF WEBB) 472-84831 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON 21ST STREET NORTH FROM THE WEST END TO THE EAST END OF LOT 1, BLOCK 1, REMINGTON PLACE ADDITION, SIDEWALK TO BE INCLUDED AS REQUIRED (NORTH OF 21ST, EAST OF WEBB) 472-84831 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize constructing pavement on 21st Street North from the west end to the east end of Lot 1, Block 1, Remington Place Addition, sidewalk to be included as required (north of 21st, east of Webb) 472-84831. Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to Seventy-Five Thousand Dollars ($75,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after December 1, 2008, exclusive of the costs of temporary financing.

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

REMINGTON PLACE ADDITION
Lot 1, Block 1

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

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

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

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

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

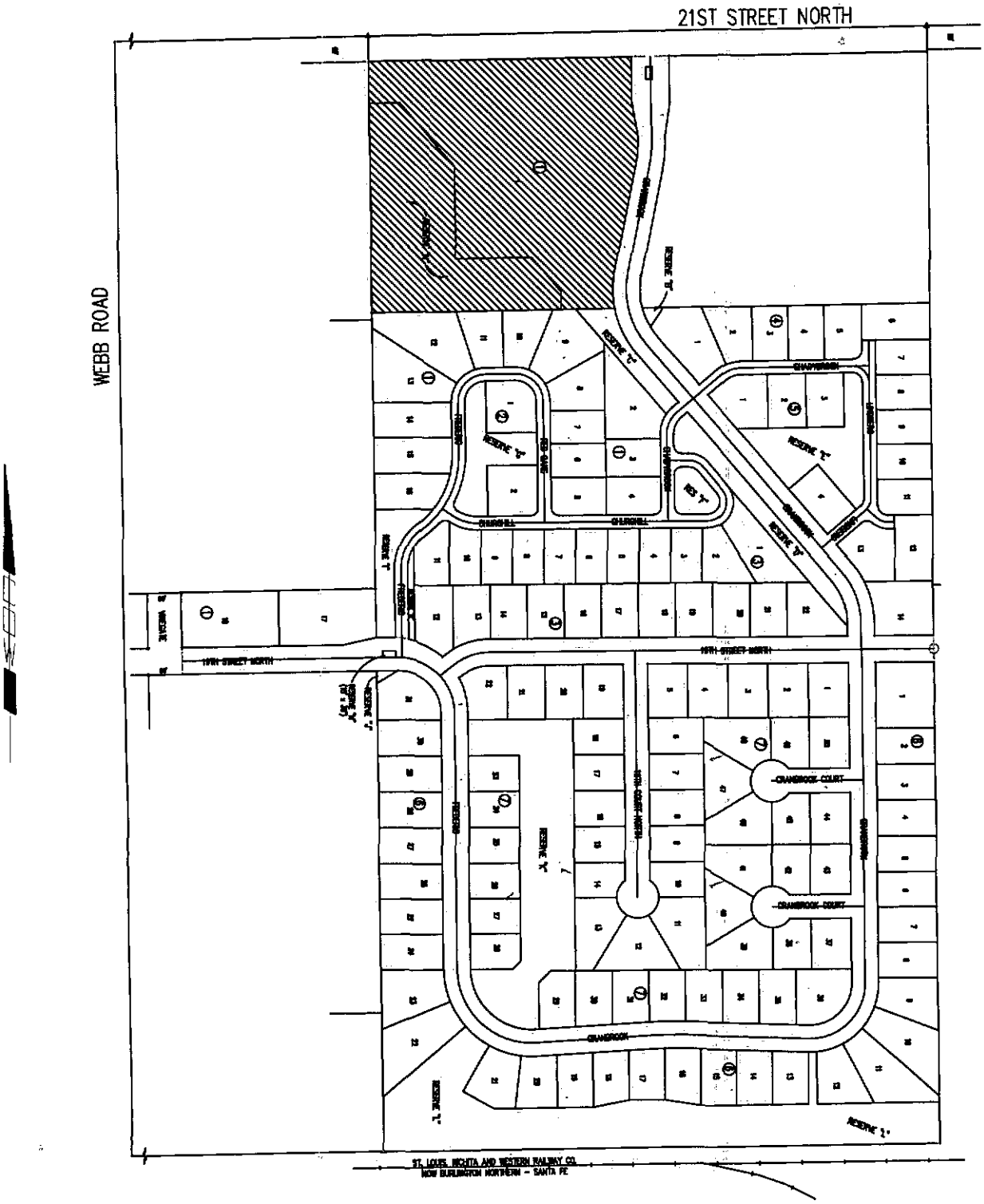
_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

REMINGTON PLACE ADDITION



BENEFIT DISTRICT

PROPOSED IMPROVEMENT

(ACTUAL ALIGNMENT TO BE DETERMINED BY DESIGN ENGINEER)

Wichita All-America City 2009

THE CITY OF WICHITA

CITY ENGINEER'S OFFICE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	6/17/2009	21st St Decel Lane for Lot 1, Block 1, Remington Place Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving		$75,000		$75,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals		$75,000		$75,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

472-84831

13. Recommendation: Approve the Petition and Adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
Jim Armour	[signature]	Date	Date

RECEIVED
MAY 22 '09
CITY CLERK OFFICE

DECELERATION LANE PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

472-94831

Improvement District

Lots 1, Block 1, Remington Place
an Addition to Wichita, Sedgwick County, Kansas

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

(a) That there be constructed pavement on 21st Street North from the west end to the east end of said lot, sidewalk to be included as required. That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

(b) That the estimated and probable cost of the foregoing improvement being Seventy Five Thousand Dollars ($75,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after December 1, 2008.

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

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

(d) That the method of assessment of all costs of the improvement for which

the improvement district shall be liable shall be on a square foot basis.

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

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

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
Remington Place an Addition to Wichita, Sedgwick County, Kansas		
Lots 1, Block 1	Clifford a Weber	May 22, 2009

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief.

Patrick S. Baer
Name

924 N. Main, Wichita KS
Address

316-264-8008
Telephone Number

Sworn to and subscribed before me this 22 day of May, 2009

Deputy City Clerk CMC

Agenda Item No. XII-4e.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Storm Water Drain in Two Unplatted Tracts (north of Kellogg, east of Maize) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new petition.

Background: On February 10, 2009, the City Council approved a petition in the amount of $695,000 to construct a storm water drain to serve an area north of Kellogg, east of Maize. Since the submittal of the original petition, actual design work has been completed based on actual geo-technical conditions at the site, and environmental permits have been obtained containing various conditions that must be met. Additionally, a storm sewer and a safety railing was added to the project. The developer has submitted a new petition with an increased budget to cover the additional cost of these items. The petition has been signed by two owners representing 100% of the improvement district.

Analysis: The project will provide a storm water drain in a new commercial development located north of Kellogg, east of Maize.

Financial Considerations: The original petition totals $695,000. The new petition totals $1,600,000. Funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing for the construction of a storm water drain in a new commercial development.

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

Recommendation/Action: It is recommended that the City Council approve the new petition, adopt the resolution and authorize the necessary signatures.

Attachments: Map, CIP sheet, resolution and petition.

132019

First Published in the Wichita Eagle on July 10, 2009

RESOLUTION NO. 09-193

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER DRAIN NO. 354 (NORTH OF KELLOGG, EAST OF MAIZE) 468-84575 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER DRAIN NO. 354 (NORTH OF KELLOGG, EAST OF MAIZE) 468-84575 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 09-041 adopted on February 10, 2009 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve Storm Water Drain No. 354 (north of Kellogg, east of Maize) 468-84575.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be One Million Six Hundred Thousand Dollars ($1,600,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2009, exclusive of the costs of temporary financing.

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

TRACT A

Parcel 1A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88˚20'30”E along the common line as extended East, 200 feet; thence S01˚18'15”E, 275 feet; thence N88˚20'30”E, 399.5 feet; thence N01˚18'15”W, 275 feet; thence N88˚20'30”E, 205.96 feet; thence S14˚10'35”E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74˚04'48”E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S01˚28'11”E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a

point on the North line of said U.S. 54 Highway; thence S74˚04'48”W along said U.S. 54 Highway, 419.31 feet; thence S15˚55'12”E, 125 feet; thence S71˚17'23”W, 324.5 feet; thence S76˚05'36”W, 210.7 feet; thence S83˚50'05”W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01˚19'41”W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88˚12'33”W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01˚18'15”W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

TRACT B

Parcel 1B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88˚20'30”E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88˚20'30”E, 399.5 feet; thence S01˚18'15”E, 275 feet; thence S88˚20'30”W, 399.5 feet; thence N01˚18'15”W, 275 feet to the point of beginning; ALONG WITH,

Parcel 2

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20’30”E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650; thence N12°55’02”W along said Easement, 59.72 feet; thence continuing along said Easement N36°46’09”W, 96.11 feet; thence N51°17’57”W, 146.12 feet; thence N35°39’24”W, 95.48 feet; thence N16°26’04”W, 101.68 feet; thence N11°19’07”W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33’08”W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20’54”W, 124.1 feet; thence N25°52’23”E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20’41”W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S01°18’15”E along the East line of said Verda Vista , 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20’41”W, 220 feet to the N.W. corner of said Lot 5; thence S01°18’15”E, 100 feet to the S.W. corner of said

Lot 5; thence N88°20’41”E, 220 feet to the S.E. corner of said Lot 5; thence S01°18’15”E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

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

> That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: TRACT A shall pay 667/1000 and TRACT B shall pay 333/1000

Where the ownership of a Tract divided into two or more parcels, the assessment to the lot so divided shall be assessed to each owner or parcel within such subdivided tract on a square foot basis.

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

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

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 7th day of July, 2009.

_____

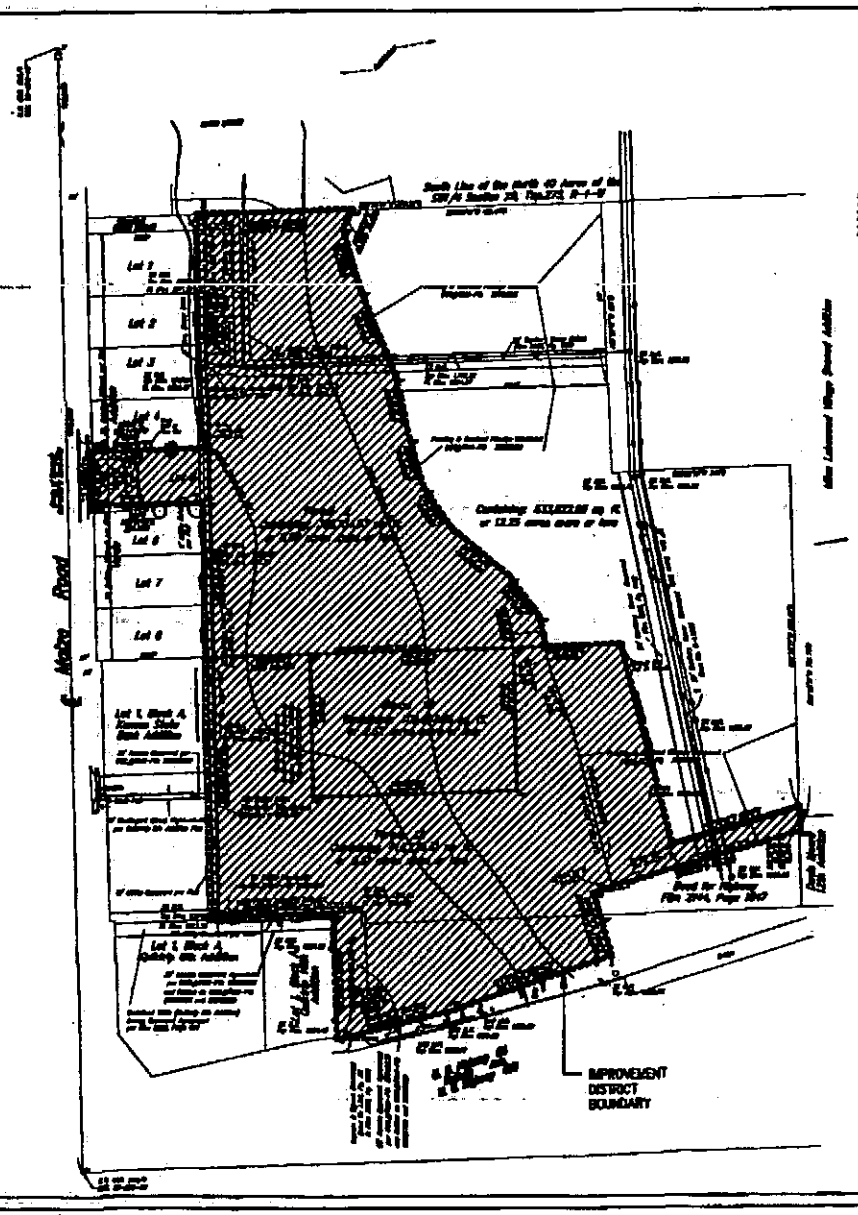
CARL BREWER, MAYOR

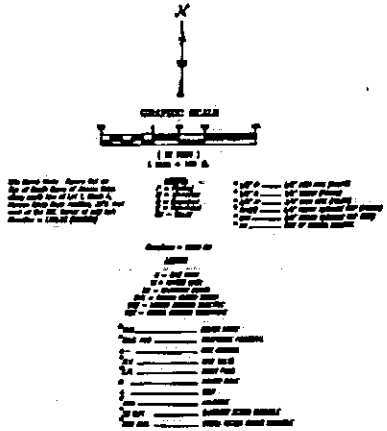
ATTEST:

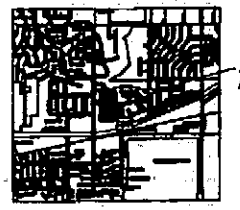
_____

KAREN SUBLETT, CITY CLERK

(SEAL)







ALTA/ACSM LAND TITLE SURVEY

Kellogg & Maize Road

WICHITA, KANSAS

IMPROVEMENT DISTRICT BOUNDARY

KELLOGG/MAIZE ROAD
IMPROVEMENT DISTRICT EXHIBIT
CITY OF Wichita, KANSAS

FOX & ASSOCIATES OF KANSAS, INC.
CONSULTING ENGINEERS

EXHIBIT

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	4/1/2009	Storm Water Drain for area north of Kellogg, east of Maize

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage		$1,600,000		$1,600,000
Sanitary Sewer				
Sidewalk				
Water				
Other				
Totals		$1,600,000		$1,600,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

* Storm Water Utility

SWD 354

468-84575

13. Recommendation: Approve the petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
Jan Armour	[signature]	Catherine A Hill 4/3/09	
		Date	Date

RECEIVED

MAR 13 '09

CITY CLERK OFFICE

DRAINAGE PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

See Exhibit "A" attached hereto

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

SWD 354

468-84575

(a) That drainage improvements including mass grading, retaining wall, landscaping, seeding, erosion control and related appurtenances be constructed on and/or to the Cowskin Creek to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements being ONE MILLION SIX HUNDRED THOUSAND DOLLARS ($1,600,000), with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after April 1, 2009.

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

If this improvement: (i) is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, or (ii) is abandoned at any state during the design and/or construction of the improvement, or (iii) requires the redesign, repair or reconstruction by the City of Wichita after its initial design or construction because the design or construction does not meet the requirements of the City; then in any of the foregoing events the Developers' Agreement shall control."

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

TRACT A shall pay 667/1000

TRACT B shall pay 333/1000

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

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

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

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
TRACT A	Wichita Towers, LLC By: Carl Murray	3-12-09
TRACT B	Maize 54, LLC By:	3-12-09

EXIBIT A

TRACT A

Parcel 1A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet; thence S01°18'15"E, 275 feet; thence N88°20'30"E, 399.5 feet; thence N01°18'15"W, 275 feet; thence N88°20'30"E, 205.96 feet; thence S14°10'35"E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74°04'48"E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S01°28'11"E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a point on the North line of said U.S. 54 Highway; thence S74°04'48"W along said U.S. 54 Highway, 419.31 feet; thence S15°55'12"E, 125 feet; thence S71°17'23"W, 324.5 feet; thence S76°05'36"W, 210.7 feet; thence S83°50'05"W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01°19'41"W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88°12'33"W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01°18'15"W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

TRACT B

Parcel 1B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick

County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88°20'30"E, 399.5 feet; thence S01°18'15"E, 275 feet; thence S88°20'30"W, 399.5 feet; thence N01°18'15"W, 275 feet to the point of beginning; ALONG WITH,

Parcel 2

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650; thence N12°55'02"W along said Easement, 59.72 feet; thence continuing along said Easement N36°46'09"W, 96.11 feet; thence N51°17'57"W, 146.12 feet; thence N35°39'24"W, 95.48 feet; thence N16°26'04"W, 101.63 feet; thence N11°19'07"W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33'08"W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20'54"W, 124.1 feet; thence N25°52'23"E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20'41"W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S01°18'15"E along the East line of said Verda Vista , 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20'41"W, 220 feet to the N.W. corner of said Lot 5; thence S01°18'15"E, 100 feet to the S.W. corner of said Lot 5; thence N88°20'41"E, 220 feet to the S.E. corner of said Lot 5; thence S01°18'15"E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

AFFIDAVIT

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

Name
Tim Austin, PE

Poe & Associates, Inc.
5940 E. Central; Suite 200
Wichita, KS 67208
Address

(316) 685-4114
Telephone Number

Sworn to and subscribed before me 13th day of May, 2009

Deborah Wadlock
Deputy City Clerk

Statements of Cost:

PUBLIC IMPROVEMENTS

a. Police Property & Evidence Relocation. Total Cost - $681,390.58 (plus temporary note interest - $13,309.42, less financing previously issued $681,100.00). Financing to be issued at this time - $13,600.00. (792406/435-376).

b. Century II Bleacher Seats – Total Cost - $1,998,259.38 (plus temporary note interest - $32,940.62, less financing previously issued $1,992,000). Financing to be issued at this time $39,200.00. (792383/435-353).

OCA #	792383
Project #	435353

City Council
Wichita, Kansas

STATEMENT OF COST

Following is the cost of (Construction):

Contract Amount	$1,958,969.70
Publication	$90.21
Subtotal	$1,959,059.91
Administration	$39,199.47
Cost	$1,998,259.38
Plus Temporary Note Interest	$21,999.46
Less Idle Fund Interest	$11,449.16
Less Tranfers In	-$508.00
Less Financing Previously Issued	-$1,992,000.00
Financing to be Issued at this time	$39,200.00

STATE OF KANSAS)
SEDGWICK COUNTY) SS
WICHITA, KANSAS

Respectfully Submitted,

Carol McMillan
Controller

City $39,200.00

(JULY 2009)

OCA #	792406
Project #	435376

City Council
Wichita, Kansas

STATEMENT OF COST

Following is the cost of (Construction):

Contract Amount	$667,964.49
Publication	$67.20
Subtotal	$668,031.69
Administration	$13,358.89
Cost	$681,390.58
Plus Temporary Note Interest	$10,020.93
Less Idle Fund Interest	$3,288.49
Less Financing Previously Issued	-$681,100.00
Financing to be Issued at this time	$13,600.00

STATE OF KANSAS)
SEDGWICK COUNTY) SS
WICHITA, KANSAS

Respectfully Submitted,

Carol McMillan
Controller

City $13,600.00

(JULY 2009)

Agenda Item. No. XII-6a.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: KDOT Construction Agreements (Districts I, IV, & VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the City/State Agreements.

Background: On April 21, 2009, the City Council approved project applications for American Reinvestment and Recovery Act (ARRA) funds. Kansas Department of Transportation (KDOT) Officials have advised the five Wichita projects recommended for funding through Wichita Area Metropolitan Planning Organization were approved for funding. City/State agreements have been prepared that provide for City administration of the bidding and construction phases of projects.

Analysis: The approved projects are:

Hydraulic, Harry – Kellogg
Maize, Pawnee – Kellogg
Broadway, Central – 12th
Washington, 1st – Central
Hillside, 9th – 12th

Financial Considerations: A City contribution will be required to construct the projects. The three maintenance projects have funding available in the Street Maintenance budget. General Obligation bond funding will be included in the proposed 2009-2018 Capital Improvement Program for the Hydraulic and Maize projects. Approval of construction funding for these projects will be returned to the City Council at a future date.

Goal Impact: These projects address the Efficient Infrastructure goal by improving traffic flow on major transportation corridors in the community.

Legal Considerations: The agreements have been approved as to form by the Department of Law.

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

Attachment: Agreements.

Agreement No. 160-09

PROJECT NO. 87 N-0503-01
GRADING AND SURFACING
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation,**" Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds. The City desires to construct a Project on Hydraulic Avenue in the City with federal funds, hereinafter referred to as the "Project." The Secretary is authorizing the use of federal recovery funds for this Project under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The City understands the United States Congress and Federal Highway Administration (FHWA) have placed conditions on the use of recovery funds. The City agrees to abide by all the conditions stated in this Agreement. The City understands lack of compliance could result in forfeiture or reimbursement of Recovery Act funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Grading and seeding on Hydraulic Avenue from Harry Street to Kellogg

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives such that the City may obtain participation of federal funds in the cost of the Project.

Agreement No. 163-09

PROJECT NO. 87 N-0502-01
GRADING AND SURFACING
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation,**" Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds. The City desires to construct a Project on Maize Road in the City with federal funds, hereinafter referred to as the "Project." The Secretary is authorizing the use of federal recovery funds for this Project under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The City understands the United States Congress and Federal Highway Administration (FHWA) have placed conditions on the use of recovery funds. The City agrees to abide by all the conditions stated in this Agreement. The City understands lack of compliance could result in forfeiture or reimbursement of Recovery Act funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Grading and surfacing on Maize Road from Pawnee Avenue to Kellogg

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives such that the City may obtain participation of federal funds in the cost of the Project.

Agreement No. 157-09

PROJECT NO. 87 N-0497-01
MILL AND OVERLAY
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation,**" Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds. The City desires to construct a Project on Broadway in the City with federal funds, hereinafter referred to as the "Project." The Secretary is authorizing the use of federal recovery funds for this Project under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The City understands the United States Congress and Federal Highway Administration (FHWA) have placed conditions on the use of recovery funds. The City agrees to abide by all the conditions stated in this Agreement. The City understands lack of compliance could result in forfeiture or reimbursement of Recovery Act funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Mill and overlay on Broadway from Central Street to 12th Street

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives such that the City may obtain participation of federal funds in the cost of the Project.

2. To reimburse the City for one-hundred percent (100%) of the total eligible actual costs of preliminary engineering, construction (which includes the costs of all construction contingency items), and construction engineering, but not to exceed a maximum of $486,000 for the

PROJECT NO. 87 N-0501-01
RESURFACING
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation,**" Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds. The City desires to construct a Project on Washington Street in the City with federal funds, hereinafter referred to as the "Project." The Secretary is authorizing the use of federal recovery funds for this Project under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The City understands the United States Congress and Federal Highway Administration (FHWA) have placed conditions on the use of recovery funds. The City agrees to abide by all the conditions stated in this Agreement. The City understands lack of compliance could result in forfeiture or reimbursement of Recovery Act funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Resurfacing of Washington Street from 1st Street to Central Avenue

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives such that the City may obtain participation of federal funds in the cost of the Project.

2. To reimburse the City for one-hundred percent (100%) of the total eligible actual costs of preliminary engineering, construction (which includes the costs of all construction contingency items), and construction engineering, but not to exceed a maximum of $432,000 for the

Agreement No. 156-09

PROJECT NO. 87 N-0500-01

RESURFACING
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation,**" Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds. The City desires to construct a Project on Hillside in the City with federal funds, hereinafter referred to as the "Project." The Secretary is authorizing the use of federal recovery funds for this Project under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The City understands the United States Congress and Federal Highway Administration (FHWA) have placed conditions on the use of recovery funds. The City agrees to abide by all the conditions stated in this Agreement. The City understands lack of compliance could result in forfeiture or reimbursement of Recovery Act funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Resurfacing of Hillside from 9th Street to 12th Street.

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives such that the City may obtain participation of federal funds in the cost of the Project.

2. To reimburse the City for one-hundred percent (100%) of the total eligible actual costs of preliminary engineering, construction (which includes the costs of all construction contingency items), and construction engineering, but not to exceed a maximum of $864,000 for the Project. However, this

reimbursement obligation is contingent upon the City's compliance with Article II, paragraph 2. The Secretary shall not be responsible for the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering that exceeds $864,000 for the Project. The Secretary agrees to make partial payments to the City for amounts not less than $1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer employed by the City that the Project is being constructed within substantial compliance of the plans and specifications. The Secretary shall not be responsible for the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

ARTICLE II

THE CITY AGREES:

1. To make or contract to have made design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, to let the contract, to construct the Project in accordance with the design plans, specifications, and the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas, to supervise the construction and administer the payments due the contractor, including the portion of cost borne by the Secretary. The City agrees to furnish the Secretary one (1) set of plans for his or her records. The City further agrees the specifications will require the contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.

2. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of federal aid for this Project under the current Federal-Aid Transportation Act, the Recovery Act, or both. The City agrees to take all steps necessary to obtain federal aid for this Project.

a. To secure Recovery Act funds, the City shall take the following steps:

- Let the project on or before December 31, 2009. To let the Project within this time frame, the City shall have completed the right-of-way acquisition, utility relocation arrangements, and preparation of plans, specifications, and estimates for the Project.

- Complete the Recovery Act monthly employment reporting requirement, "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, for City employees who charge time to the Project rather than charging time to overhead. The City shall complete the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, electronically on KDOT's website by accessing the Economic Stimulus link at www.ksdot.org or using the link at www.ksdot.org/EconomicRecovery.asp. The City shall submit the completed on-line "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, no later than 10 calendar days after the last Saturday in the month being reported. Further details are provided in Required Contract Provision 03-10-09-R5.

- Obtain a D-U-N-S number (Dun & Bradstreet Number) to include on the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589. Acquire the D-U-N-S number using the following link: http://www.dnb.com/us/duns_update/.

- Include and enforce contract language requiring consultants, subconsultants, contractors, and subcontractors to comply with the monthly employment reporting requirements of Required Contract Provision 03-10-09-R5 (See Article II, paragraphs 4, 16, and 19). On non-KDOT let projects, this provision requires all contractors and consultants who have not undertaken contracts with KDOT to obtain a contractor number by contacting the Director of KDOT's Division of Operations at 785-296-2235. This provision also requires contractors and consultants to have the contract number between KDOT and the entity letting the Project. The contract number is the Agreement No. contained on this Agreement, and the City shall furnish this contract number to the contractors and consultants. A contractor number and contract number are both necessary for the contractors and consultants to access, complete, and submit the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, electronically on KDOT's website.

- Monitor contractors' and consultants' compliance with Required Contract Provision 03-10-09-R5.

- Review monthly the contractor's and consultant's electronic "MONTHLY EMPLOYMENT REPORT," DOT Forms 1589 for compliance with Required Contract Provision 03-10-09-R5. After the contractor or consultant completes and submits its on-line "MONTHLY EMPLOYMENT REPORT," DOT Form 1589 for the Project, the City shall access the MONTHLY EMPLOYMENT REPORT DOT Form 1589 on KDOT's website, review the REPORT, and document on the space provided that the City completed this review. Conduct the review within 4 calendar days after the contractor's and consultant's 10-calendar day deadline for completion and submission of their MONTHLY EMPLOYMENT REPORT DOT Form 1589.

- Notify Allison Bell in KDOT's Bureau of Local Projects by e-mail (abell@ksdot.org) as soon as the City submits its "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, and as soon as the City has completed its review of the contractor's and consultant's electronic "MONTHLY EMPLOYMENT REPORT," DOT Forms 1589.

- Include contract language requiring consultants, subconsultants, contractors, and subcontractors to comply with the auditing requirements of Required Contract Provision 04-03-09-R3 (See Article II, paragraphs 4, 16, and 19).

b. The City understands the Secretary loses Recovery Act funds if the funds are not obligated within the 365 days the Recovery Act requires. Thus, if the City's failure to let the Project by December 31, 2009 risks the loss of Recovery Act funds, the Secretary may remove the funds from the City's Project and allocate the funds elsewhere. If the Secretary removes Recovery Act funds from the City's Project and Recovery Act funds already have been expended on preliminary engineering, the City

will be obligated to reimburse the Secretary for Recovery Act funds used for preliminary engineering expenses. This provision does not affect federal-aid funds from sources other than the Recovery Act.

c. The City understands that the Secretary loses Recovery Act funds if the reporting requirements are not met. Thus, if the City, for its own forces, the City's consultants/subconsultants, or the City's contractors/subcontractors fail to meet the reporting requirements, the City will have to reimburse the Secretary for Recovery Act funds lost because of such failure(s) to comply.

d. The City understands that Required Contract Provision 03-10-09-R5 contains additional sanctions for the City's failure to meet the reporting requirements for City employees.

3. To design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Project Development Manual for Non-National Highway System Local Government Road and Street Projects, Volumes I and II, Bureau of Local Project's (BLP) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and with any necessary Project Special Provisions with the rules and regulations of the FHWA pertaining thereto.

4. Upon completion thereof, the design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project shall be submitted to the Secretary by a licensed professional engineer attesting to the conformity of the design plans with the items in paragraph 3 above. Contracts between the City and any consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement shall contain language requiring conformity with paragraph 3 above. In addition, any contract between the City and any consultant retained by them to do the design for the Project covered by this Agreement shall also contain the following:

a. Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the consultant's control.

b. Language requiring the consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.

c. Because of the Secretary of Transportation of the State of Kansas (Secretary) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this

provision precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement.

d. Language incorporating into the consultant contract Required Contract Provision 03-10-09-R5 which requires the consultant to complete on-line and submit electronically the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589, but only if the design or other preliminary engineering services are being paid for with Recovery Act funds.

e. Language incorporating into the consultant contract Required Contract Provision 04-03-09-R3 which permits the United States Comptroller General or the Inspector General and their representatives to audit Project records and interview employees. Even if the design or other preliminary engineering services are not being paid with Recovery Act funds, these consultant records may be audited as documents that pertain to a contract using Recovery Act funds.

5. The City and any consultant retained by the City shall have the sole responsibility for the adequacy and accuracy of design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Any review of these items that may be performed by the Secretary or his or her representatives is not intended to and shall not be construed to be an undertaking of the City's and its consultant's duty to provide adequate and accurate design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Such reviews are not done for the benefit of the consultant, the construction contractor, the City, or other political subdivision, nor the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the consultant or the City.

6. A duly appointed representative of the City is authorized to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project undertaken under this Agreement. The design plans must be signed and sealed by the licensed professional engineer responsible for preparation of the design plans. Geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies. Rights of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the rights of way descriptions.

7. It will, in its own name as provided by law, acquire by purchase, dedication or condemnation all of the rights of way, easements and access rights shown on the final design plans in accordance with the schedule established by KDOT. The City agrees that the necessary rights of way, easements, and access rights shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary, on forms provided by the Bureau of Local Projects, such

rights of way, easements and access rights have been acquired. The City further agrees they will have recorded in the Office of the Register of Deeds all rights of way deeds, dedications, permanent easements and temporary easements.

8. To contact the Secretary if there will be any displaced persons on the Project prior to making the offer for the property. The Parties mutually agree the Secretary will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive and Kansas Administrative Regulations 36-16-1 *et seq.*

9. To provide all legal descriptions required for right of way acquisition work. The City further agrees to acquire rights of way, easements and access rights in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT and as required by FHWA directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents including recommendations and coordination for appeal, bills, contracts, journal entries, case files or documentation requested by the Office of Chief Counsel will be sent to the Office of Chief Counsel within the time limits set by the Secretary.

10. If federal funds are used in the acquisition of rights of way, any disposal of or change in the use of rights of way or in access after Project construction will require prior written approval by the Secretary.

11. It will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing structures, pole lines, pipe lines, meters, manholes and other utilities, publicly or privately owned, which may be necessary to construct the Project in accordance with the final design plans. New or existing utilities to be installed, moved or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.

Except as provided by state and federal laws, the expense of the removal or adjustment of the utilities located on public right of way shall be borne by the owners. The expense of the removal or adjustment of privately owned utilities located on private rights of way or easements shall be borne by the City except as provided by state and federal laws.

12. It will expeditiously take such steps as are necessary to facilitate the early adjustment of utilities, will initiate the removal or adjustment of the utilities, and will proceed with reasonable diligence to prosecute this work to completion. The City further agrees to move or adjust or cause to be moved or adjusted all necessary utilities sixty (60) days prior to the scheduled construction letting except those necessary to be adjusted during construction and those which would disturb the existing street surface. The City further agrees to certify to the Secretary on forms supplied by the Secretary all utilities required to be moved prior to construction have either been moved or a date provided by the City as to when, prior to construction, they will be moved. The City will initiate and proceed to complete adjusting the remaining utilities not required to be moved during construction in order the contractor shall not be delayed in construction of the Project. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claim Act, the City will indemnify, hold harmless, and save the Secretary and the

construction contractor for damages incurred by the Secretary and construction contractor because identified utilities have not been moved or adjusted timely or accurately.

13. To certify to the Secretary all privately owned utilities occupying public rights of way required for the construction of the Project are permitted thereon by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations required as a result of street or highway improvements.

14. It shall determine the manner in which traffic is to be handled during construction in accordance with the latest version, adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD).

15. To let the contract for the Project and shall award the contract to the lowest responsible bidder upon concurrence in the award by the Secretary. The City further agrees to administer the construction of the Project in accordance with the final design plans, in the manner required by the FHWA and the current version of the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas, and administer the payments due the contractor, including the portion of the cost borne by the Secretary and the City. Decisions about what construction costs are federal participating will be made in accordance with the requirements of the FHWA.

16. To require the contractor to pay prevailing wages, to complete the Recovery Act employment reporting requirements, and to comply with the Recovery Act auditing requirements.

a. The City will incorporate into the construction contract the current general wage decision for the county in which the Project is being constructed. The City will obtain the mandatory Required Contract Provisions from KDOT and incorporate it into the construction contract. The City may obtain the current wage decision from KDOT's Bureau of Construction and Maintenance, Topeka, Kansas.

b. The City will incorporate into the construction contract Required Contract Provision 03-10-09-R5 which requires the contractor to complete on-line and submit electronically the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589.

c. The City will incorporate into the construction contract Required Contract Provision 04-03-09-R3 which permits the United States Comptroller General or the Inspector General and their representatives to audit Project records and interview employees.

17. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the City agrees to defend, indemnify, hold harmless, and save the Secretary and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property, or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the City or the City's employees.

18. To require the contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends

a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

19. To provide the construction inspection in accordance with the rules and guidelines developed for the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas. To complete the Recovery Act monthly employment reporting requirements for City employees performing construction inspection, to require consultants performing construction inspection to complete the reporting requirements, and to require consultants performing construction inspection to comply with the Recovery Act audit requirements.

a. The City will require at a minimum all personnel, whether City or consultant to comply with the high visibility apparel requirements of the *KDOT Safety Manual*, Chapter 4, Section 8 Fluorescent Vests. If the City executes an agreement for inspection, the agreement shall contain this requirement as a minimum. The City may set additional clothing requirements for adequate visibility of personnel.

b. If the City performs some or all of the construction inspection with City employees who charge their time to the Project rather than overhead, the City will complete on-line and submit electronically the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589 as required by Required Contract Provision 03-10-09-R5. This requirement applies even if the City limits the use of Recovery Act funds to the construction contract and fails to use Recovery Act funds for the City's construction inspection.

c. If the City retains a third party to perform some or all of the construction inspection, the City will incorporate into the construction inspection contract the current Required Contract Provision 03-10-09-R5 which requires the consultant to complete on-line and submit electronically the "MONTHLY EMPLOYMENT REPORT," DOT Form 1589. This requirement applies even if the City limits the use of Recovery Act funds to the construction contract and fails to use Recovery Act funds for the construction inspection contract.

d. If the City retains a third party to perform some or all of the construction inspection, the City will incorporate into the construction inspection contract the current Required Contract Provision 04-03-09-R3 which permits the United States Comptroller General or the Inspector General and their representatives to audit Project records and interview employees.

20. To be responsible for zero (0%) of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering, up to $864,000 for the Project. In addition, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering that exceeds $864,000 for the Project. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

21. To be responsible for one hundred percent (100%) of any Project costs incurred by the City for the Project prior to the funding for the Project being authorized, obligated, and approved by the FHWA.

22. To adopt an ordinance requiring the removal of all encroachments either on or above the limits of the right of way shown on the final design plans for this Project, and it will initiate and proceed with diligence to remove or require the removal of the encroachments. It is further agreed all such encroachments be removed before the Project is advertised for letting (provided, however, if the Secretary is satisfied, with respect to any encroachment, the physical removal thereof has been fully provided for between the City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, the Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). The City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the rights of way of the Project and will require that any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than twelve (12) feet back of the right of way line. All rights of way provided for the Project shall be used solely for public street purposes and no signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the right of way limits except as provided by state and federal laws.

23. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

24. To locate and be responsible for all costs necessary to remedy or clean up any hazardous waste site, including, but not limited to, leaking underground storage tanks discovered on rights of way, easements and access rights acquired by the City. The City shall be responsible to the Secretary for all damages, fines or penalties, expenses, claims and costs incurred by the Secretary from any hazardous waste site discovered on rights of way, easements and access rights acquired by the City prior to commencement of construction of the Project. The City shall take appropriate action to contain or remediate any identified hazardous waste site within the Project limits prior to letting of the Project. The City will investigate any and all hazardous waste sites discovered during construction of the Project on City owned land within the Project boundary and shall take appropriate action to contain or remediate such hazardous waste sites.

That for any hazardous waste site, including, but not limited to, leaking underground storage tanks, the City shall hold harmless, defend and indemnify the Secretary, its agents and employees against and from all damages, expenses and costs incurred by any person, the State of Kansas, or the United States Government for determining and undertaking remedial action, any fines or penalties assessed under state or federal laws, contract claims, personal injury claims, and damage of or loss of natural resources.

It is specifically agreed between the Parties executing this Agreement any provision of this hazardous waste clause is not intended to make the public, or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party of this Agreement to maintain a suit for personal injuries, property damages, or hazardous waste claims. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed by law.

The City, by signing this Agreement with the Secretary has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any hazardous waste on any rights of way, easements, and access rights acquired by the City. The City reserves the right to bring any action against

any third party for any hazardous waste site on any rights of way, easements, and access rights acquired by the City.

The term hazardous waste includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, are incorporated by reference and include but not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 1990 Supp. 65-3431 *et seq.*, Hazardous Waste.

The standards to establish cleanup of a hazardous waste site include, but is not limited to, federal programs administered by the E.P.A., State of Kansas environmental laws and regulations, and City and county standards where the hazardous waste site is located.

25. To control parking of vehicles on the city street throughout the length of the Project covered by this Agreement. On-street parking will be permitted until such time as parking interferes with the orderly flow of traffic along the street.

26. The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may safely and expeditiously be served and shall adopt and enforce such rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the FHWA.

27. To maintain the control of access rights and to prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final design plans, unless prior approval is obtained from the Secretary.

28. To control the construction or use of any entrances along the Project within the City including those shown on the final design plans.

29. The location, form, and character of informational, regulatory and warning signs, traffic signals, and curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, shall conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to the approval of the Secretary.

30. To participate and cooperate with the Secretary in an annual audit of the Project. To participate and cooperate with the Secretary in any audit of the Project undertaken by FHWA, the United States Comptroller General, or the Inspector General and their representatives as provided in Required Contract Provision 04-03-09-R3. The City shall make its records and books available to representatives of the Secretary and/or the FHWA for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with federal funds by the City for items

considered non-participating or if any such audits result in disallowance of costs for other reasons, the City shall promptly reimburse the Secretary for such items upon notification by the Secretary.

31. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of the KDOT and all costs incurred by the City not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

32. When the Project is completed and final acceptance is issued, the City will, at its own cost and expense, maintain the Project, and will make ample provision each year for such maintenance. Upon notification by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed.

33. If it cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary's statement of the cost were incurred by the Secretary prior to the cancellation of the Project.

ARTICLE III

THE PARTIES MUTUALLY AGREE:

1. The final design plans for the Project are by reference made a part of this Agreement.

2. If any items are found to be non-participating by the Secretary, acting on his or her own behalf and on behalf of the FHWA, the total cost of these items will be paid for by the City.

3. Representatives of the Secretary may make periodic inspection of the Project and the records of the City as may be deemed necessary or desirable. The City will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of federal participation. The Secretary does not undertake (for the benefit of the City, the contractor, the consultant, or any third party) the duty to perform the day-to-day detailed inspection of the Project, or to catch the contractor's errors, omissions, or deviations from the final design plans and specifications.

4. It is the policy of the Secretary to make final payments to the City in a timely manner. The Single Audit Standards set forth in federal O.M.B. Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" require the City to comply in accordance with those standards.

The Secretary may pay the final amount due for authorized work performed based upon the City's most recent "Single Audit Report" available and a desk review of the claim by the Contract Audit Section of the Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Secretary and the City agree as the "Single Audit Report" becomes available for the reimbursement period, the Secretary will review the "Single Audit Report" for items which are declared as not eligible for reimbursement. The City agrees if payment has been made to the City for items

subsequently found to be not eligible for reimbursement by audit, the City will refund to the Secretary the total amount of monies paid for same.

5. The City agrees to comply with all appropriate state and federal laws and regulations for this Project.

6. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

7. The Project Special Provision 03-10-09-R5, **REQUIRED CONTRACT PROVISIONS, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, REPORTING REQUIREMENTS FOR RECOVERY ACT CONTRACTS, attached hereto, is hereby made a part of this Agreement.**

8. The Project Special Provision 04-03-09-R3, **REQUIRED CONTRACT PROVISIONS, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, IMPLEMENTATION OF SECTION 902 AND 1515(b); attached hereto, is hereby made a part of this Agreement.**

9. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary, the City, and their successors in office.

10. No third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms of provisions of this Agreement.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

_____
CITY CLERK (Date)

_____
MAYOR

(SEAL)

Kansas Department of Transportation
Debra L. Miller, Secretary of Transportation

APPROVAL AS TO FORM

Gary Rebenstorf, Director of Law

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary for Engineering and
State Transportation Engineer

KANSAS DEPARTMENT OF TRANSPORATION

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

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

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

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

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

Nondiscrimination Clauses

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

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

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

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

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

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

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

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

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

7) Disadvantaged Business Obligation

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

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

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

8) Executive Order 12898

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

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

State of Kansas
Department of Administration
DA-146a (Rev. 1-01)

CONTRACTUAL PROVISIONS ATTACHMENT

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

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

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

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

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

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

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

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

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

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

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

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

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

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

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

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

REQUIRED CONTRACT PROVISIONS
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
IMPLEMENTATION OF SECTION 902 AND 1515(b)

This Project is funded partially or wholly by funds appropriated to the state of Kansas under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The Recovery Act requires Recipients of Recovery Act funds to allow representatives of the United States Comptroller General and Office of Inspector General to examine records and interview persons of firms working on Contracts that use Recovery Act Funds. Recipients of Recovery Act funds include the Kansas Department of Transportation (KDOT); local public authorities (LPA's) such as Cities, Counties, and Metropolitan Planning Organizations; and other transit agencies.

I. DEFINITIONS: For purposes of this Required Contract Provision only,

a. The term Contract includes:

- An agreement between the Secretary and another Recipient of Recovery Act funds.
- A construction contract. The term construction contract means an agreement to perform physical construction of a project using Recovery Act funds.
- A consulting contract. The term consulting contract means:
  - An agreement to perform Design Services using Recovery Act funds. Design Services include preliminary engineering and technical services or designer construction services such as drawing reviews and plan revisions during construction.
  - An agreement to perform Inspection Services using Recovery Act funds. Inspection Services include engineering and administrative supervision of a construction contract.
  - An agreement to perform Inspection Services for a construction contract that uses Recovery Act funds, even though the Inspection Services are not being paid from Recovery Act funds.

b. The term Contractor includes:

- An entity contracting with a Recipient of Recovery Act funds to complete a construction contract.
- An entity contracting with a Recipient of Recovery Act funds to perform a consulting contract.

c. The term subcontractor includes:

- An entity contracting with a Contractor as defined above;
- An entity contracting with a subcontractor or lower-tier subcontractor to perform part of the physical work for the construction contract or to perform engineering or other technical services for the consulting contract;
- An entity contracting with a Contractor, a subcontractor, or a lower-tier subcontractor to supply materials needed to fulfill the construction contract or the consulting contract.

II. RECOVERY ACT SECTION 902. COMPTROLLER GENERAL'S AUTHORITY.

Section 902 of the American Recovery and Reinvestment Act (ARRA or Recovery Act) of 2009 requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

"(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions."

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 902 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

III. RECOVERY ACT SECTION 1515(b) OIG'S AUTHORITY.

Section 1515(b) of the ARRA or Recovery Act provides that for "each contract or grant awarded using ARRA funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), has the authority to:

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contactor, [subcontractors], grantee, subgrantee, or any [state or local government] agency [administering the contract], regarding such transactions."

Accordingly, the Inspector General and any representatives of the Inspector General shall have the authority and rights as provided under Section 1515(b) of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 1515(b) further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

IV. AUDITS.

Nothing in this Required Contract Provision limits the existing authority of the Federal Highway Administration or any other governmental entity to audit the contract.

05-12-09 C&M (CB)

REQUIRED CONTRACT PROVISIONS
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
REPORTING REQUIREMENTS FOR RECOVERY ACT CONTRACTS

This Project is funded partially or wholly by funds appropriated to the state of Kansas under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act). The Recovery Act requires Recipients of Recovery Act funds to collect and compile information for submission to the Federal Highway Administration (FHWA) and United States Congress. Recipients include the Kansas Department of Transportation (KDOT); local public authorities (LPA's) such as Cities, Counties, and Metropolitan Planning Organizations; and other transit agencies. Recipients are required to complete monthly reports containing employment information for the Project and include a provision in their contracts for contractors, subcontractors, and lower-tier subcontractors to complete monthly reports containing employment information for the Project. Recipients must meet these reporting requirements to obtain Recovery Funds.

I. DEFINITIONS. For purposes of this Required Contract Provision only:

a. The term Contractor includes:

(1) An LPA, transit agency, or other recipient of funds appropriated under the Recovery Act (Contractor Recipient).

(2) An entity contracting with the Secretary of Transportation (Secretary) or Contractor Recipient to complete a construction contract (Construction Contractor). The term construction contract means an agreement to perform physical construction of a project using Recovery Act funds.

(3) An entity contracting with the Secretary or a Contractor Recipient to complete a consulting contract (Contractor Consultant). The term consulting contract means:

(a) An agreement to perform Design Services using Recovery Act funds. Design Services include preliminary engineering and technical services or designer construction services such as drawing reviews and plan revisions during construction.

(b) An agreement to perform Inspection Services using Recovery Act funds. Inspection Services include engineering and administrative supervision of a construction contract.

(c) An agreement to perform Inspection Services for a construction contract that uses Recovery Act funds, even though the Inspection Services are not being paid from Recovery Act funds.

b. The term subcontractor includes:

(1) An entity contracting with a Construction Contractor to perform part of the physical work. The term subcontractor does not include entities that supply materials needed to fulfill the construction contract.

(2) An entity contracting with a Contractor Consultant to perform part of the Design Services or Inspection Services.

c. The term lower-tier subcontractor includes:

(1) An entity contracting with a subcontractor to perform part of the physical work. The term lower-tier subcontractor does not include entities that supply materials needed to fulfill the subcontract agreement.

(2) An entity contracting with a subcontractor to perform part of the Design Services or Inspection Services.

II. MONTHLY EMPLOYMENT REPORT. DOT Form 1589 (in lieu of Form FHWA-1589)(Sample Attached)

a. Entities obligated to file DOT Form 1589.

(1) The Construction Contractor shall complete a "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, beginning with the Notice to Proceed date and ending with the Notice of Acceptance of Contract.

(2) The Contractor Consultant shall complete a "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, beginning with the Notice to Proceed date and ending with the date the Contractor Consultant completes all Services the consulting contract requires.

(3) The Contractor Recipient shall complete a "MONTHLY EMPLOYMENT REPORT", DOT Form 1589. The Contractor Recipient shall begin reporting on the Notice to Proceed date for the construction contract or

the Notice to Proceed date for the consulting contract, whichever occurs first. The Contractor Recipient shall end reporting on the Notice of Acceptance of Contract for the construction contract or on the date the Contractor Consultant completes all Services for the consulting contract, whichever occurs last.

b. All Contractors shall complete the "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, electronically on KDOT's website by accessing the Economic Stimulus link at www.ksdot.org or using the link at www.ksdot.org/EconomicRecovery.asp and then the Recovery Act Reporting link.

On KDOT Let Projects: The Contractor shall select the box for KDOT Let Projects. The Construction Contractor, Contractor Consultant, or Contractor Recipient shall enter its Contractor number (the unique number KDOT has assigned to each entity that transacts business with KDOT—not the Contractor's FEIN number). After the Contractor enters its Contractor number, the website will generate a list of projects/contracts for that Contractor number and allow the Contractor to:

(1) select the REPORT, DOT Form 1589, for desired project/contract,
(2) fill in the required information on the REPORT for that project/contract,
(3) save the REPORT each time data is entered, and
(4) submit the REPORT for that project/contract upon completion of the REPORT.

On Non-KDOT Let Projects: The Contractor shall select the box for Projects Not Let by KDOT. The Construction Contractor, Contractor Consultant, or Contractor Recipient shall enter its Contractor number (the unique number KDOT has assigned to each entity that transacts business with KDOT—not the Contractor's FEIN number). If the Construction Contractor or Contractor Consultant does not have a Contractor number with KDOT, obtain a number by contacting the KDOT Director of Operations Office at 785-296-2235. In addition to entering its Contractor number, the Contractor will have to enter the Contract Number between KDOT and the Entity letting the Project. The Entity letting the Project should have furnished this information to the Contractor. After the Contractor has entered its Contractor number and the Contract Number between KDOT and the Letting Entity, the website allows the Contractor to:

(1) fill in the required information on the REPORT for that project/contract,
(2) save the REPORT each time data is entered, and
(3) submit the REPORT for that project/contract upon completion of the REPORT.

The website will not permit the Contractor to submit the REPORT until all fields have been completed.

c. Construction Contractors and Contractor Consultants shall require each subcontractor and lower-tier subcontractor to complete and submit to that Contractor a "MONTHLY EMPLOYMENT REPORT", DOT Form 1589 or Like Report, so these Contractors can include that information in the their on-line electronic REPORT as required by ***Subsection II.b.***

(1) A copy of DOT Form 1589 is available to subcontractors and lower-tier subcontractors in Microsoft Excel format on KDOT's internet. Go to www.ksdot.org, select Doing Business With Us, then Letting Information, then DOT Form 1589.

(2) In lieu of DOT Form 1589, Construction Contractors and Contractor Consultants may develop a Like Report for subcontractors and lower-tier subcontractors to furnish the required information to the Contractors. However, such Like Report shall contain the same information required on DOT Form 1589.

(3) Upon completion, subcontractors and lower-tier subcontractors shall furnish the DOT Form 1589 or Like Report to the Construction Contractor or Contractor Consultant, whichever is appropriate. Contractors, subcontractors, and lower-tier subcontractors shall retain copies of the DOT Form 1589 or Like Report for subsequent review and auditing. These Reports should not be sent to the Secretary or Contractor Recipient unless and until specifically requested. As already stated, the Secretary will receive the Contractor's electronic DOT Form 1589 on-line through the Economic Stimulus link.

d. Completing DOT Form 1589

(1) Enter the Month and Year being reported in Box 1.

(2) The Contracting Agency is the owner of the Project. Even if KDOT lets and administers the Project as the Contractor Recipient's agent, the Contractor Recipient is the Contracting Agency and will be the entity identified in Box 2 of DOT Form 1589. If the Contractor Recipient is completing the DOT Form 1589 for its direct, on the project employees as required, the Contractor Recipient will be the Contracting Agency as well as the Contractor identified in Box 7 of DOT Form 1589.

(3) All Contractors (including Contractor Recipients) shall obtain a D-U-N-S number (Dun & Bradstreet Number). Contractors may acquire the D-U-N-S number using the following link: http://www.dnb.com/us/duns_update/. Subcontractors do not have to obtain a D-U-N-S number.

(4) Only Construction Contractors report Disadvantaged Business Enterprise (DBE) information on DOT Form 1589. For the DBE Total Payments to Date, report the total, accumulated payments made to all Kansas-certified DBE's, even if the Project had a self-determined goal or no DBE goal.

(5) For the Number of Employees, report the number of direct, on-the-project employees. This includes employees on the job site, in the field office, in the home office, and in alternative locations who charge time to the project rather than overhead and thus are considered actively engaged in the project. If a Contractor or Subcontractor has no employees to report for that reporting month, enter a "0" in the "Employees" column.

(6) For the Number of Hours, include regular and overtime hours for all direct, on-the-project employees. If a Contractor or Subcontractor has no employees and thus no hours to report for that reporting month, enter a "0" in the "Hours" column.

(7) For the Payroll information, include the direct labor paid for the number of hours reported for the number of direct, on-the-project employees reported. Do not include fringe benefits or overhead for these employees. If a Contractor or Subcontractor has no employees and thus no payroll to report for that reporting month, enter a "0" in the "Payroll" column.

(8) For Subcontractors, enter the names of all subcontractors who will be working on the Project.

- On KDOT-let Projects, the information is populated into the DOT Form 1589 based on the Request for Approval of Subcontractor Form 259. It is critical that Contractors submit all Form 259's needed for the Project on or before the Notice to Proceed even if those subcontractors will not be performing work at the beginning of the Project.
- On non-KDOT Let Projects, the first time the Contractor accesses the DOT Form 1589, the Contractor shall manually enter the names of all subcontractors who will be working on the Project. It is critical that the Contactor identify all subcontractors who will be working on the Project even if those subcontractors will not be performing work at the beginning of the Project.

(9) Further guidance may be found at www.fhwa.dot.gov/economicrecovery/index.htm.

e. Submitting DOT Form 1589.

All Contractors shall submit the completed on-line "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, no later than 10 calendar days after the last Saturday in the month being reported. This allows the Contractors to compile the information at the end of the last payroll period in the month being reported rather than in the middle of a payroll period. However, be sure to include in the next "MONTHLY EMPLOYMENT REPORT" any days that were not reported in the previous calendar month. Contractors may obtain a schedule of required reporting dates on KDOT's website by accessing the Economic Stimulus link at www.ksdot.org or using the link at www.ksdot.org/EconomicRecovery.asp.

Construction Contractors and Contractor Consultants shall require subcontractors and lower-tier subcontractors to submit their "MONTHLY EMPLOYMENT REPORT" (DOT Form 1589 or Like Report) within the amount of time the Construction Contractor or Contractor Consultant believes is necessary to enable that Contractor to input the data on-line and meet the 10-day submission requirement. A subcontractor's or lower-tier subcontractor's failure to timely furnish to the Contractor a "MONTHLY EMPLOYMENT REPORT" does not excuse the Contractor's obligation to complete and submit the "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, on-line within the required 10 calendar days.

III. SANCTIONS

a. For Construction Contractors: If the Construction Contractor fails to complete and submit the on-line "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, within 10 calendar days after the last Saturday in the month being reported, the Secretary or other Contractor Recipient may impose one or more of the following sanctions:

(1) Withhold payment of progress payments until the Construction Contractor complies with the reporting requirements of this Required Contract Provision.

(2) Declare the Construction Contractor a non-responsible Contractor under **subsection 102.18** of the Kansas Department of Transportation Standard Specifications for State Road and Bridge Construction (2007 Edition) (Standard Specifications), thereby precluding award of a contract to the Contractor.

(3) Deny the Construction Contractor's approval as a subcontractor on other projects under Standard Specifications **subsection 105.9**.

(4) Assess damages of $200.00 per day for every calendar day, or part thereof, that the "MONTHLY EMPLOYMENT REPORT" has not been submitted after the 10 calendar days allowed expire.

(5) Declare the Construction Contractor in breach of contract under Standard Specifications **subsection 108.9.** However, rather than the 10-day cure time allowed under Standard Specifications **subsection 108.9**, the Construction Contractor shall have 2 calendar days to cure the default by providing the "MONTHLY EMPLOYMENT REPORT". If the default is not cured within this 2 calendar days, the Secretary may terminate the Construction Contractor from the Project and exercise the Secretary's remedies under Standard Specifications **subsection 108.9** or the Secretary may allow the Construction Contractor to remain on the Project. Under either alternative, the Secretary may compile or hire a third party to compile and furnish the required information at the Contractor's and Surety's expense.

(6) Exercise termination or other remedy available in the construction contract between the Construction Contractor and Contractor Recipient.

(7) Take other action that FHWA authorizes for non-compliance with this Required Contract Provision.

b. **For Contractor Consultants**: If the Contractor Consultant fails to complete and submit the on-line "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, within 10 calendar days after the last Saturday in the month being reported, the Secretary of Transportation or other Contractor Recipient may impose one or more of the following sanctions:

(1) Withhold payment of progress payments until the Contractor Consultant complies with the reporting requirements of this Required Contract Provision.

(2) Refrain from negotiating with the Contractor Consultant on other Engineering Agreements until the Contractor Consultant complies with the reporting requirements of this Required Contract Provision.

(3) Deny the Contractor Consultant's approval as a subcontractor on other projects.

(4) Assess damages of $200.00 per day for every calendar day, or part thereof, that the "MONTHLY EMPLOYMENT REPORT" has not been submitted after the 10 calendar days allowed expire.

(5) Declare the Contractor Consultant in breach of contract. However, rather than utilizing procedures outlined in the KDOT's Consultant Standard of Care Policy, the Contractor Consultant shall have 2 calendar days to cure the default by providing the "MONTHLY EMPLOYMENT REPORT". If the default is not cured within this 2 calendar days, the Secretary may terminate the Contractor Consultant from the Project or the Secretary may allow the Contractor Consultant to remain on the Project. Under either alternative, the Secretary may compile or hire a third party to compile and furnish the required information at the Contractor Consultant's expense.

(6) Exercise termination or other remedy available in the consulting contract between the Contractor Consultant and Contractor Recipient.

(7) Take other action that FHWA authorizes for non-compliance with this Required Contract Provision.

c. **For Contractor Recipients.** If a Contractor Recipient fails to complete and submit the on-line "MONTHLY EMPLOYMENT REPORT", DOT Form 1589, within 10 calendar days after the last Saturday in the month being reported, the Secretary may impose one of the following sanctions:

(1) Refrain from entering into other agreements with the Contractor Recipient for other projects until the Contractor Consultant complies with the reporting requirements of this Required Contract Provision.

(2) Assess damages of $200.00 per day for every calendar day, or part thereof, that the "MONTHLY EMPLOYMENT REPORT" has not been submitted after the 10 calendar days allowed expire.

(3) Declare the Contractor Recipient in breach of contract and compile or hire a third party to compile and furnish the required information at the Contractor Recipient's expense.

(4) Require the Contractor Recipient to reimburse the Secretary for Recovery Act funds lost because of the Recipient's failure to comply with this Required Contract Provision.

(5) Take other action that FHWA authorizes for non-compliance with this Required Contract Provision.

d. The Secretary is responsible to the FHWA for administering this provision even if the Contractor Recipient lets the project. Thus, the Contractor Recipient shall obtain the Secretary's permission before imposing one or more of the sanctions identified in **subsection III.a or III.b.**

05-22-09 C&M (CB)

Agenda Item No. XII-6b.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: Renewal of Contract – Kansas Department of Agriculture Food Service Establishment Inspection Contract

Initiated By: Department of Environmental Services

Agenda: Consent

Recommendation: Approve renewal of the contract.

Background: The Environmental Services Department has conducted food service establishments within the city of Wichita and Sedgwick County on behalf of State of Kansas regulatory agencies for more than twenty-eight years. The department currently conducts inspections of food service establishments within Wichita and Sedgwick County on behalf of the Kansas Department of Agriculture (KDA). Environmental Services staff enforces state regulations and initiates state enforcement mechanisms as appropriate. KDA remits 80% of license revenue (as established by state statute) to the City and provides enforcement assistance and training for local staff. ES Food Services staff also investigates, reports, and tracks suspected food borne illnesses reported by the public. KDA has proposed renewal of the contract for state fiscal year 2010.

Analysis: Contract inspections by local entities reduce duplication of effort, provide a single source of contact for industry and citizens, and contribute substantially to local food protection budgets. The use of Kansas regulations and enforcement procedures promotes consistency with other jurisdictions within the state.

Financial Consideration: Staff estimates the value of the contract at approximately $380,000. Staff also performs city functions including training food service workers and for licensing and inspections of city grocery establishments and tobacco merchants within the city of Wichita. These services provide $98,000 in additional revenue that helps offset program costs.

Goal Impact: These services support the "Safe and Secure Community" goal by improving environmental health and community safety. Inspection, education, and enforcement actions under the contract reduce the risk of food-borne illness.

Legal Consideration: The contract has been reviewed by the Law Department for approval as to form.

Recommendation/Actions: It is recommended that the City Council approve the KDA contract and authorize the appropriate signatures.

Attachments: Copies of KDA contract and Contractual Provisions Document.

CONTRACT
between
KANSAS DEPARTMENT OF AGRICULTURE
and
CITY OF WICHITA DEPARTMENT OF ENVIRONMENTAL SERVICES
for
FOOD SERVICE ESTABLISHMENT INSPECTIONS AND REGULATORY SERVICES

This CONTRACT, to be effective July 1, 2009, and to terminate June 30, 2010, states the agreement of the parties, the Kansas Department of Agriculture (KDA) and the City of Wichita Department of Environmental Services (LOCAL AGENCY), relating to the inspection of food service establishments, as defined in K.S.A. 36-501, located in Sedgwick County, Kansas, in order to protect the health of the public.

WHEREAS the Secretary of the Kansas Department of Agriculture, authorized by K.S.A. 36-501, has determined that the LOCAL AGENCY is a qualified political subdivision of the State of Kansas and is authorized to act under contract as an agent of the KDA in providing food service establishment inspection and regulatory services. KDA has further determined that it is feasible and proper to contract with the LOCAL AGENCY for such purposes.

1. **History.** Executive Reorganization Order 32 transferred specific powers, duties and functions to KDA on October 1, 2004, under the Kansas Food Service and Lodging Act, K.S.A. 36-501 *et seq.*, relating to the licensing, inspection, and regulation of food service establishments located in retail food stores as defined in K.S.A. 36-501. ERO 32 also transferred specific powers, duties and functions in K.S.A. 65-619 through 65-687 relating to the licensing, inspection and regulation of food service establishments located in retail food stores (K.S.A. 74-581). Senate Bill 584 transferred all the powers, duties and functions under the Kansas Food Service and Lodging Act, K.S.A. 36-501 *et seq.* concerning food service to the KDA, effective October 1, 2008.

2. **Definitions.**

2.1 <u>County</u> refers to Sedgwick County, Kansas.

2.2 <u>Kansas Food Service and Lodging Act</u> refers to that act which is published at K.S.A. 36-501 *et seq.*, and amendments thereto, and rules and regulations adopted thereunder.

2.3 <u>Food service establishment</u> means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside stand, industrial-feeding establishment, catering kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving

food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge (K.S.A. 36-501(e)).

2.4 Kansas Food Code refers to the 2005 version of the food code adopted by reference in K.A.R. 4-28-8 through 4-28-15.

3. **KDA agrees to:**

3.1 Designate and accept the LOCAL AGENCY as the agent of the KDA to provide inspection and regulatory services as necessary for food service establishments located in the county as required under the Kansas Food Service and Lodging Act.

3.2 Provide consultation, training opportunities and program evaluation services to the LOCAL AGENCY to assist in improving the provided regulatory services and to protect the health of consumers.

3.3 Pay the LOCAL AGENCY compensation for such food service establishment inspections and regulatory services an amount equal to 80% of the license and application fees received from food service establishments in the county served by the LOCAL AGENCY. All expenditures from the Food Safety Fund shall be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Secretary of KDA or their designee as provided in K.S.A. 36-512. All payments will be made quarterly and shall be initiated on October 15, 2009, and on the fifteenth day of the first month after the start of a new quarter (January 15, April 15, and July 15) thereafter for the term of this contract.

3.4 Provide an annual performance standards report addressing the requirements in section 4 of this contract.

4. In consideration of the above, the **LOCAL AGENCY agrees to:**

4.1 **Inspection Staff.** Provide adequate number of and trained staff to maintain food service establishment inspection services in the county consistent with KDA Division of Food Safety and Lodging. Adequate and trained regulatory staff shall include, but not be limited to, the following:

4.1.1 All new regulatory staff shall satisfactorily complete field training as prescribed by the KDA Division of Food Safety and Lodging.

4.1.1 All new regulatory staff shall satisfactorily complete the Kansas Training Plan within two (2) years of hire.

4.1.2 Regulatory staff shall successfully complete standardization certification as necessary to comply with the KDA Division of Food Safety and Lodging.

4.1.3 Regulatory staff shall satisfactorily complete at least ten (10) contact hours of continuing education during the contract year. Documentation of contact hours shall be submitted to the KDA Division of Food Safety and Lodging quarterly with the information required in section 5.8 of this contract.

4.1.4 All new employees performing food inspections pursuant to this contract shall have earned at least a Bachelor's Degree of Science in a biological or physical science. At KDA's discretion related work experience may be substituted for education.

4.1.5 Participate in training conducted by KDA, or approved by KDA prior to training.

4.1.6 Provide such other staff related assurances and training as requested by the KDA Division of Food Safety and Lodging.

4.1.7 Pay the KDA for the annual maintenance fee for the software inspection program once invoice has been received by the LOCAL AGENCY.

4.2 **Routine Inspections.** Provide inspection and regulatory services for all food service establishments as required by the Kansas Food Service and Lodging Establishment Act and in accordance with the KDA Division of Food Safety and Lodging as follows:

4.2.1 To provide inspections which identify uncontrolled hazards and critical risk factors.

4.2.2 To fill out inspection reports that completely and accurately document food safety conditions and compliance in the food service establishment.

4.2.3 Provide at least one (1) annual inspection between July 1, 2009, and June 30, 2010, per licensed food service establishment as required by K.S.A. 36-505.

4.2.4 Conduct at least two (2) annual inspections of all participating schools as required by Public Law 108-265 Amended section 9(h) of the Richard B. Russell National School Lunch Act.

4.2.5 To provide professional inspection equipment, including test strips, 35 mm or digital camera, digital thermometer or thermocouple, flashlight and hair restraints.

4.3 **Non-Routine Inspections and Investigations.** Conduct non-routine inspections and investigations as follows:

4.3.1 All plan reviews and pre-licensing inspections.

4.3.2 All consumer complaint investigations.

4.3.3 All food borne illness investigations. Food borne illness investigations shall be conducted in accordance with KDA and or KDHE Epidemiological Services (Epi) policy and procedures. When a food borne illness outbreak occurs at a food establishment, a HACCP inspection shall be conducted by HACCP trained staff as directed by KDA or KDHE Epi. If adverse conditions are documented during an investigation of an alleged food borne illness, the LOCAL AGENCY may initiate appropriate enforcement actions as set forth in section 5.5 of this contract.

4.3.4 Follow up inspections conducted after a routine or non-routine inspection or investigation.

4.4 **Reports and forms.**

4.4.1 All inspection reports and other documentation shall be on the appropriate reporting forms provided by KDA, as directed by the KDA Division of Food Safety and Lodging.

4.4.2 All inspection reports and other required documentation shall be submitted to the KDA on a weekly basis.

4.4.3 The LOCAL AGENCY shall submit completed inspection reports and other documentation to KDA electronically using the inspection software provided to the LOCAL AGENCY by KDA pursuant to section 4.5.

4.5 **Enforcement Actions.** The LOCAL AGENCY shall initiate appropriate enforcement actions necessary to minimize the recurrence of uncontrolled hazards and critical risk factors as directed and approved by the KDA Division of Food Safety and Lodging, such as:

4.5.1 On-site corrective action of risk factor violations of the Kansas Food Code; offering a Risk Control Plan; issuing a Notice of Non-compliance; requesting voluntary closure of a facility; requesting voluntary destruction of non-compliant food products; and embargoing product upon prior authorization from KDA when a product reasonably constitutes a threat to public safety.

4.5.2 Requesting administrative review from KDA in accordance with the KDA Division of Food Safety and Lodging policy.

4.5.3 The LOCAL AGENCY will direct any request for a hearing or other legal process to the KDA Division of Food Safety and Lodging. Any legal

action shall be determined and administered by the KDA.

4.5.4 The LOCAL AGENCY shall make its personnel and resources available to provide relevant testimony, photo documentation and other things necessary for the prosecution of agency actions upon request by KDA.

4.5.5 Enforcement actions initiation by the LOCAL AGENCY does not include any enforcement action that require assessment of civil penalties; closure, other than voluntary closure; the denial, modification, suspension or revocation of the food service establishment license; or publication of inspection reports or enforcement action.

4.6 Cooperate with investigations and surveys or program audits in order to evaluate and determine the effectiveness of the work and services being performed by the LOCAL AGENCY.

4.7 Submit any proposed system of grading or scoring of food-worker certification and food-handler certification to the KDA for review and approval before implementation thereof.

4.8 Provide the KDA a quarterly report (October 1, 2009, January 1, 2010, April 1, 2010, and July 1, 2010) indicating the total number of inspections, complaint investigations, disaster investigations, HACCP inspections, Risk Control Plans and any other program activities as requested by the KDA Division of Food Safety and Lodging. Quarterly reports shall be submitted on the forms provided by the KDA or through electronic submission. All training activities shall be documented and provided to KDA at least quarterly.

5. It is further agreed by the parties:

5.1 The LOCAL AGENCY shall repeal all ordinance, regulations and/or resolutions related to food service establishments required to be licensed by the KDA and cease collection of all fees assessed thereunder. This paragraph shall not prohibit the adoption of any ordinance, regulation and/or resolutions solely related to food service worker training or food service manager training, provided that such training shall be coordinated and approved by the KDA. Any request for exception to this paragraph must be submitted to the Secretary of KDA or the Secretary's designee in writing.

5.2 **Media and legislative contact.** The LOCAL AGENCY shall refer to KDA any and all media or legislative inquiries about food safety inspections performed under contract with KDA. The LOCAL AGENCY shall notify the KDA upon receipt of any such contact.

5.3 **Open records requests.** All records generated pursuant to this contract are the property of KDA and any requests for information and records shall be handled by

KDA. Requests for pen records can be submitted at the KDA website, www.ksda.gov.

5.4 The provisions found in Contractual Provisions Attachment (Form DA-146a), which is attached hereto, are hereby incorporated in this contract.

5.5 The KDA and the LOCAL AGENCY will carry out joint inspections and joint activities as may be appropriate to develop training, promote coordination and protect the public health.

5.6 **Language assistance.** The LOCAL AGENCY, its agents or subcontractors, shall provide language assistance designed to ensure meaningful access to services for persons with Limited English Proficiency pursuant to Title VI of the Civil Rights Act (42 U.S.C. ' 2000d *et seq*.) and 45 C.F.R. ' 80.3(b). Meaningful access means that the LOCAL AGENCY, its agents or subcontractors, and Limited English Proficiency person(s) can communicate effectively when services are being provided to Limited English Proficiency persons.

5.7 **Nonperformance.** If the LOCAL AGENCY does not perform the regulatory services under this contract or if this contract is terminated, the KDA may, at its sole discretion, perform said services for the LOCAL AGENCY and be entitled to all reasonable costs, expenses and/or reimbursement for said services to be paid to the KDA by the LOCAL AGENCY. Reimbursement will be determined based on the current license fee and the number of establishments not inspected by LOCAL AGENCY for the state fiscal year.

5.8 **Termination.** This contract shall terminate on the 30th day of June, 2010, unless terminated at an earlier date. This contract may be terminated by either party by giving thirty (30) days written notice of termination to the other party. The parties may extend this contract, with the KDA exercising this option by notifying the LOCAL AGENCY in writing of its intent to extend the contract. The LOCAL AGENCY may then, in writing to KDA, accept such extension.

5.9 **Invalidity or illegality of any part.** If any provision or application of this contract is held invalid or illegal, the invalidity or illegality shall not affect other provisions or applications of this agreement, which can be given effect without the invalid or illegal provision or application, and to this end, the provisions of the contract are declared to be severable.

5.10 The signatories to this contract have the authority to bind the parties to the terms of this contract.

KANSAS DEPARTMENT OF AGRICULTURE

_____ _____

Adrian J. Polansky, Secretary Date

Division of Food Safety and Lodging
Retail Food Inspection
Steve Moris, Program Manager
109 SW 9th Street- 3d Floor
Topeka, KS 66612

LOCAL AGENCY ATTEST:

_____ _____

City of Wichita Date City Clerk Date

APPROVED AS TO FORM:

_____

Director of Law and City Attorney Date

Address to send KDA warrants:
City of Wichita
1900 E. 9th
Wichita, KS 67214-3115
FEIN: 48-6000653

CONTRACTUAL PROVISIONS ATTACHMENT

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

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

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Encroachment Agreement with Quest Pipeline (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the agreement.

Background: An agreement has been prepared to formally permit the City of Wichita to enter and construct improvements on, over, and across a pipeline easement owned and occupied by Quest Midstream Partners, LP. This agreement is in conjunction with the drainage improvement for Jennie Street, from Central to 119th West. Legal description of the area follows:

The Northwest Quarter (NW/4) of Section 19, Township 27 South, Range 1 West

Analysis: The agreement allows Quest Midstream Partners, LP to be held harmless from any and all claims, demands, damages, liabilities, costs, expenses, actions and causes of action of whatsoever nature, for loss of or damage to any property arising out of resulting from the construction, presence, maintenance, use, repair or removal of the City encroachment permitted under the agreement.

Financial Considerations: No cost to the City.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing for improvements desirable to an existing development.

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

Recommendation/Action: It is recommended that the City Council approve the agreement, authorize the necessary signatures and approve filing with the Register of Deeds.

Attachments: Encroachment Agreement.

When recorded please return to:
Quest Pipeline KPC
P.O. Box 70
Olathe, Kansas 66051-0070

ENCROACHMENT AGREEMENT

STATE OF KANSAS

COUNTY OF SEDGWICK

THIS ENCROACHMENT AGREEMENT made and entered into this_____ day of _____, 2009, by and between, **QUEST MIDSTREAM PARTNERS, L.P., a Delaware limited Partnership**, (hereinafter "Grantor") and **CITY OF WICHITA, KANSAS, A MUNICIPAL CORPORATION,** (hereinafter "Grantee"), with a mailing address of **455 North Main Street, Wichita, Kansas 67052**.

WITNESSETH:

WHEREAS, certain improvements are proposed to be constructed for the development known as **CITY OF WICHITA, KANSAS JENNIE HOTSPOT DRAINAGE PROJECT** (the "Development") on the land more specifically described in **Exhibit "A" (City Easement or Platted Easement) and** (hereinafter referred to as the "Property") in the **City of Wichita, Sedgwick County, Kansas**; and

WHEREAS, Grantor is the owner of a high pressure, natural gas pipeline(s) (the "Pipelines") situated within the following described right of way easement: **Right of Way Contracts and Easements dated July 14, 1930,** covering certain lands located in **Sedgwick County, State of Kansas**, to wit:

> **The Northwest Quarter (NW/4) and the Northwest Quarter (NW/4) of Section 19, Township 27 South, Range 1 West,**

said Right of Way Easement Contract being filed of record in **Volume 98, Pages 130, of Sedgwick County Register of Deed Records** (the "Right of Way Agreement"); and (the "Easement"); and

WHEREAS, the construction by Grantee will include: Proposed improvements for a new surface drainage collection system paralleling and crossing Quest Pipeline KPC, and Conoco Phillips pipelines in one general location. This particular crossing includes the construction of a concrete flume to collect the surface water as it parallels the pipelines and discharge to a street curb inlet in close proximity with PVC drainage pipes crossing the pipelines. Said location of this improvement will be East of 119th Street and South of Central Street. The City of Wichita has an existing Drainage and Utility easement overlapping our existing pipeline easement.

All improvements will cross on top of said pipeline within 1 foot of the existing ground elevation. An additional 10 inches of dirt will be installed over pipelines to reach 48 inches of cover consistently over pipelines. This will be coordinated with Quest field personnel and the contractor for the City. A Temporary fence will be installed to prohibit construction equipment from traveling over pipelines except for the designated crossing as agreed to. The designated crossing area will be ramped up with compacted fill to allow for heavier equipment to cross safely without damaging the pipeline. No equipment in excess of 8,000 lbs will cross pipelines except for designated crossing areas. All concrete related equipment will NOT cross pipeline whatsoever. A concrete pump truck will pump concrete to the desired location for placement.

The surface drainage collection system crosses said pipeline(s) and pipeline easement area in one specific location, (the "Encroachments") on, in and through that certain pipeline Easement of Grantor, and which Encroachments are shown on the "JENNIE HOTSPOT

DRAINAGE PROJECT" prepared by MKEC ENGINEERING CONSULTANTS, INC (the "Plans")" attached hereto as Exhibit "B" respectively.

Said Encroachments will require Grantor to analyze the impact of the work to be performed and not to excavate, reinforce, relocate, lower and/or replace sections of Grantor's Pipeline which crosses and traverses the Easement (hereinafter referred to as the "Work"); and

WHEREAS, Grantee desires to obtain Grantor's consent and accommodation, subject to the terms of this Agreement, to encroach on the Easement; and

WHEREAS, Grantor is willing, subject to the terms of this Agreement, to consent to the Encroachments within the Easement.

NOW, THEREFORE, for and in consideration of the promises and mutual covenants herein contained, the receipt and sufficiency of said consideration being hereby acknowledged, it is agreed as follows:

1. Subject to the terms and conditions of this Agreement, Grantor hereby grants to Grantee and its successors and assigns the right to install, maintain, repair, replace and/or remove the Encroachments in accordance with the Plan.
2. Grantee agrees that the Encroachments shall be subject to the following limitations and conditions:
    a. Grantee shall provide Grantor copies of all construction drawings, which affect the Easement, including any revisions thereto. Grantor shall approve all such drawings prior to the commencement of construction. Within 90 days after the completion of construction, Grantee shall provide Grantor with two copies of as-built drawings of the Encroachments.

b. Grantee will construct, maintain, relocate and remove the Encroachments at no cost to Grantor.

c. Grantee and the Encroachments must comply with the standards and specifications set forth in the "Engineering Standards/Encroachment Guidelines for Natural Gas Pipeline" published by Grantor and incorporated herein by this reference.

d. Permanent above ground markers identifying the crossing pipeline or utility shall be installed and maintained by Grantor at the limits of Grantor's Easement and /or at the crossing. If it is impractical to install and maintain above ground markers due to the crossing location, plastic marker tape shall be installed below cultivation level and over Grantor's pipeline, extending the width of the easement or a minimum of 2,640 feet.

e. Grantee is responsible for compliance with one-call laws. Grantee shall notify Grantor 48 – 72 hours prior to performing any construction activities on or immediately adjacent to the Easement.

f. If temporary construction roads are required to protect Grantor's pipelines, Grantor must approve all equipment and vehicle crossings on the Easement prior to the construction thereof.

g. Grantee agrees to immediately contact Grantor in the event of any incident involving, or potentially involving, the Pipeline at the following number: **(913) 764-6015** or **Joe Fowler at (913) 522-2544**.

h. Mechanical excavation will cease once the earth has been removed to within 2 foot of Grantor's pipeline. Shovels must be used to manually clean the area

above and below the pipeline. After the pipeline has been initially located, the pipeline shall be kept visible to the equipment operator during the excavation process. Grantor may require shoring or another type of support to protect the pipeline's integrity. All backfill on Grantor's easement shall be mechanically compacted to the top of the pipeline(s).

i. If, at Grantor's sole discretion, any modifications to its pipeline facilities are necessary to allow installation of the Encroachments, the Grantee agrees to pay Grantor for any and all cost associated with the necessary modifications.

j. To the extent Grantor incurs any measurable increased cost in the future to maintain, alter, repair, operate and/or replace its pipeline facilities as a result of the Encroachments (as compared to the cost that would otherwise be incurred by Grantor if such improvements had not occurred), then Grantee shall reimburse Grantor on such occasions for the amount of such increased cost.

k. Grantor shall not be responsible for any repair or restoration of any such fences or other installations of any type within Grantor's right-of-way in the event Grantor requires the temporary or permanent removal of such fences or installations for the exercise of any of Grantor's rights under such right-of-way Easements.

l. All improvements shall be constructed and maintained to comply with all applicable laws, rules, regulations, ordinances, codes and industry standards.

m. This Agreement may be revoked by Grantor in the event of any noncompliance with any of the requirements, conditions or specifications of this Agreement upon written notice to Grantee.

n. The Grantee agrees that Grantor may remove, at the Grantor's expense, any improvement or portion thereof, if in Grantor's judgment it is reasonably necessary to do so in order to construct, alter, maintain, repair or replace its facilities located within the Easement, or in order to construct or install new facilities. Should Grantor remove any such items or portions thereof Grantor will not be liable to the Grantee and/or landowner or their successors or assigns for any damages resulting by reason of such removal.

o. Grantor reserves the right to alter the specifications of this Agreement at any time, provided that the Grantee will be given reasonable time to comply, at their expense, with any new requirements imposed after the construction of the improvement.

3. Grantee hereby covenants and agrees to release, protect, indemnify and hold harmless Grantor, its officers, agents, servants, and employees from any and all loss, cost, expense, liability or claim of liability, of any kind, for injury to or death of persons or for damage to, destruction of, or loss of use of property, including but not limited to damage to the Pipeline and environmental damage, and, upon notice, to take over, at its expense, the handling or defense of any claims or suits which may arise from, grow out of or have any connection to Grantee's activities on or about the Easement pursuant to this Agreement or which in any way grow out of, are caused by, result from or are otherwise connected

with Grantee's exercise of its rights under this Agreement, excluding only such damage, loss, injury or death caused by Grantor's gross negligence or willful misconduct. In the event that the Pipeline is damaged as a result of the actions of Grantee or its agents or contractors, Grantee shall be responsible for all product lost as a result thereof.

4. It is expressly understood by the parties hereto that, except for the Encroachment rights granted to Grantee herein, Grantor is not hereby releasing, modifying, amending or abandoning any right, title or interest Grantor may have in or to any right-of-way Easements which Grantor may hold with respect to the Property, which shall continue to be subject to any and all rights which Grantor or its successors and assigns have under any right of way contract, or which are otherwise provided by **Kansas** law, all of which rights are hereby specifically reserved with respect to the Property, including without limitation, the right to maintain, replace or repair pipelines or to lay additional pipelines, to the full extent enjoyed by Grantor or its successors and assigns prior to the execution of this instrument.
5. This Agreement supersedes every antecedent or concurrent oral and/or written declaration and/or understanding pertaining to the subject matter of this Agreement made by and between Grantee and Grantor.
6. The terms and conditions of this Agreement shall constitute covenants running with the land and shall be binding upon the parties hereto, their respective heirs, representatives, successors and assigns.
7. The signatory for the Grantee acknowledges that he is a duly authorized agent of the Grantee in accordance with **Kansas** law and is fully authorized to execute this Agreement on behalf of the Grantee.

8. Grantee and/or its contractor shall furnish Grantor satisfactory evidence of insurance coverage or a Certificate of Insurance prior to beginning work across or in close proximity to the Easement. Coverage must be in a form acceptable to Company prior to granting approval to commence construction. In the event of construction under the Pipeline, Grantor must be named as an additional insured on such insurance policies. Any rights of subrogation or recovery will be waived in favor of Grantor.

9. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing executed by the party against whom enforcement of the modification or waiver is sought.

IN WITNESS WHEREOF, the parties hereto have executed this Encroachment Agreement as of the date first above written.

GRANTEE:

CITY OF WICHITA, KANSAS

By: _____
Name: Carl G. Brewer
Title: Mayor

GRANTOR:
Quest Midstream Partners, L.P.

Quest Resource Corporation

COMPANY

By: _____
Name: David W. Bolton
Title: Executive Vice President - Land

ATTEST:

(SEAL)

_____
Karen Sublett, City Clerk

APPROVAL AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

STATE OF OKLAHOMA)
) §§
COUNTY OF OKLAHOMA)

On the____ day of _____, 2009, personally appeared **David W. Bolton**, to me personally known, who, being duly sworn did say that he is the **Executive Vice President – Land for Quest Resource Corporation**, a corporation and acknowledged to me that he executed the foregoing instrument on behalf of said corporation as the free and voluntary act and deed, for the uses, purposes and consideration therein set forth.

_____
NOTARY PUBLIC

My Commission Expires: _____

STATE OF KANSAS §
§
COUNTY OF SEDGWICK §

On this _____ day of _____, 2009, before me the undersigned, a Notary Public in and for the County and State aforesaid, came, **Carl G. Brewer**, as **Mayor of The CITY OF WICHITA, KANSAS, and Karen Sublett, City Clerk of said City,** personally appeared known to me to be the person whose name is on the foregoing instrument and acknowledged to me that they executed, as such officers, the foregoing instrument as his free and voluntary act and deed, for the uses, purposes and consideration therein set forth.

_____
NOTARY PUBLIC

My Commission Expires: _____

1. SCOPE

* This standard provides recommended distance between the Company's pipelines and various facilities that may encroach upon existing pipeline right-of-way or that may be encountered in the construction of new pipelines by the Company.

2. GENERAL

2.1 These guidelines are for monitoring encroachments on existing pipelines and for consideration in the route selection and placement of new pipe

2.2 The following table lists recommended distance between pipelines of various sizes and various types of facilities and activities. These recommended distances are intended as a guide for initial negotiations with outside parties. The minimum allowed distance can only be determined by the terms of the existing right-of-way or easement documents.

ENCROACHMENT DESCRIPTION	OFFSET FROM PIPELINE (FEET) VERSUS PIPE SIZE 2" - 12"	14" – 24"	Over 24"
I. ABOVE GROUND STRUCTURES AND APPURTENANCES			
A. Buildings			
Any enclosed structure permanent in nature regardless of purpose	35	45	60
B. Utilities			
Utilities may cross pipelines at right angles. Distances specified are for parallel Encroachments. (See guys and anchors if applicable.)	Crossing of Company Pipelines by		
1. *Electric power and telephone lines*	35	35	50
2. *Television cables*	25	35	50
C. Miscellaneous			
1. *Campground:* If within 660 feet of pipeline, see Engineering Standard 0060, Class Location Determination.	---	---	---
2. *Fences:* May cross pipelines. Distances specified are for parallel fences.	25	35	50
3. *Guys and Anchors:* No guys or anchors will terminate within the minimum distance specified. The guy or anchor must have a vertical clearance of 18 feet minimum within the specified distance of the pipeline.	35	40	55
4. *Mobile Homes:*	35	45	60
5. *Nursery Stock* (including Christmas Trees No minimum is small and used as cash crop. Consult Company right-of-way personnel to establish agreement before planting.	---	---	---
6. *Poles* (See also guys & anchors, towers, electric power lines); Telephone, power, etc. and sing boards including supports.	30	40	55
7. *Stored Materials* Permitted over pipeline if of a type that can be readily relocated and of weight not detrimental to the pipeline.	---	---	---
8. *Swimming Pools* Permitted over pipeline if readily removable. Distances specified are for partially below grade or permanent in nature.	35	45	60
9. *Towers* (See also guys and towers)	75	100	100
10. *Trees & Shrubs* (See also nursery stock) Permanent (perennial) trees, shrubbery or other landscaping that would impair access to the pipeline.	30	40	55

ENCROACHMENT DESCRIPTION	OFFSET FROM PIPELINE (FEET) VERSUS PIPE SIZE 2" - 12"	14" – 24"	Over 24"
II. SURFACE IMPROVEMENTS, MODIFICATIONS AND ACTIVITIES			
A. Pavement Pavement includes asphalt and concrete or variations thereof. May cross pipeline at near right angles or be placed parallel to pipeline at distance specified.			
1. *Air Strips:*	30	40	55
2. *Alleys, Driveways, Roads, Sidewalks, Tennis (or other) Courts:*	25	35	50
3. *Parking Lots:* Consult Company right-of-way personnel to establish agreement for "green belts", etc.	---	---	---
4. *Patios:* If roofed & fenced, consider as building; otherwise as specified	25	35	50
B. Earthwork or Other Grade Modifications Ensure 36" minimum cover (or existing if <36") is preserved over pipeline. Cover may be added if free or foreign debris such as large rocks, concrete chunks and metal scraps. Operation of heavy equipment over the pipeline must provide for appropriate safeguard of pipeline integrity.			
1. *Ditches:* Should cross at near right angles. Parallel distances to be as specified. Minimum cover shall be 36" from bottom of ditch to pipeline.	30	40	55
2. *Roads:* Minimum cover shall be 48" from top of road to pipeline.	---	---	---
3. *Landing Leveling:* Permitted over pipeline if cover requirements are maintained.	---	---	---
4. *Plowing (including deep tilling or chisel plowing):* Permitted over pipeline if minimum clearance of 12" is maintained between plow depth and top of pipeline.	---	---	---
5. *Terracing (See land leveling):*			
6. *Dams & Dikes (including waterways & water impoundments):*	30	40	55
7. *Dredging:*	30	40	55
C. Seismography: Calculate distances allowed based on Engineering Standards 7155.	See Engineering Standard 7155, Effects of Blasting on Buried Pipelines.		

ENCROACHMENT DESCRIPTION	OFFSET FROM PIPELINE (FEET) VERSUS PIPE SIZE 2" - 12"	14" - 24"	Over 24"
III. BELOW GROUND STRUCTURES AND APPURTENANCES			
A. Pipelines and Utilities			
1. *Drain Tile:* May cross pipeline. Distances specified are for parallel tile lines.			
a. Tile diameter less than 10"	25	35	50
b. Tile diameter 10" or greater:	30	40	55
2. *Pipeline (water, gas, oil, well, sewer, etc.:* It is preferred that pipelines greater than 2" undercross Company pipelines. Minimum clearance should be 24". Distances specified are for parallel pipelines.	30	40	55
3. *Power Lines:* It is preferred that all crossings are under Company lines at near right angles. Minimum clearance should be 36". Cables having conductors at more than 60 volts to ground should be non-metallic casing for a minimum distance of 10' on either side of the pipeline with six inches of red colored concrete for a distance of 10 feet on each side of Company's pipeline installed per National Electrical standards. Distances specified are for parallel power lines.	30	40	55
4. *Communication Lines:* It is preferred that cables undercross pipelines at near right angles. Minimum clearance should be 12". Exception may be made where it would be necessary to cut and splice the cable. When laid over the pipeline, the cable must be cased for a minimum distance of 1.5' on either side of the pipeline or otherwise protected. Distances specified are for parallel communication lines.	30	40 ---	55 ---
B. Miscellaneous			
1. *Blasting:* Calculate distance allowed based on Engineering Standard 7155. Notify blasting contractor of pipeline location and limits of blasting activities.	See Engineering Standard 7155, Effects of Blasting on Buried Pipelines.		
2. *Mines (mining):* Notify Company Technical Office whenever mining or quarrying is proposed within 660 feet of pipeline. Notify mining contractor of pipeline location.	---	---	---
3. *Leach Beds:* Lines crossing pipeline will be of solid impervious material.	30	40	55
4. *Septic System:*	30	40	55

LRW 1-45-16

PHILLIPS PETROLEUM MPANY
REAL ESTATE & INSURANCE
101 Park Avenue Building, Suite 1270
OKLAHOMA CITY, OKLAHOMA 73102

FILM 419 PAGE 1457

AMENDED PARTIAL RELEASE OF RIGHT OF WAY CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on the 14th day of July, 1930, J. D. Benson and Hortense Benson executed and delivered to Phillips Pipe Line Company, its successors and assigns, a Right of Way Contract covering the following described lands in Sedgwick County, State of Kansas, to wit:

NW/4 of the NW/4 Section 19, Township 27 South, Range 1 West,

said Right of Way Contract being filed of record in Book 98 Miscellaneous, Page 130, Register of Deeds, Sedgwick County, State of Kansas; and

WHEREAS, on the 31st day of January, 1979, Phillips Pipe Line Company executed an Amendment of Right of Way Agreement which is filed of record on Film 350, Page 609, Register of Deeds, Sedgwick County, State of Kansas; and

WHEREAS, said Amendment of Right of Way Agreement contains a covenant on the part of the present owner of the interest of J. D. Benson and Hortense Benson obligating said owners, Thurman W. Smith and Judy A. Smith, and their successors and assigns to refrain from erecting dwellings, buildings, structures, obstructions or engineering works of whatsoever kind on the retained 60 foot wide permanent easement or within 50 foot wide strip on either side thereof; and

WHEREAS, the present owner desires a partial release from the terms and obligations of said covenant insofar as it covers part of the 50 foot wide strip on each side of the retained 60 foot permanent easement.

NOW, THEREFORE, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the recipt of which is hereby acknowledged, the undersigned Phillips Pipe Line Company hereby releases the present owner of the lands above described, and its successors and assigns, from the terms and obligations of the hereinabove referenced covenant, except insofar as it covers the 60 foot permanent easement and a strip 25 feet in width on the south side thereof.

All other terms, provisions and covenants of the Partial Release of Right of Way to remain in full force and effect.

Executed this 15th day of April, 1980.

STATE OF KANSAS
SEDGWICK COUNTY } ss
FILED FOR RECORD AT
8:00 A.M.
MAY 20 1980
NO. 4 89392
BETTE F. McCART
REGISTER OF DEEDS

MICROFILMED OF RECORD

PHILLIPS PIPE LINE COMPANY

By [signature]
Attorney-in-Fact
PERRY J. DICKEY

Approved as to form

Pat Kettler
Deputy

Phillips Petroleum Co.
Real Estate and Insurance
101 Park Ave. Bldg.
Suite 1270
Oklahoma City, Okla. (E no)

6.00

STATE OF Oklahoma)
COUNTY OF Washington) ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this 15th day of April, 1980, personally appeared Perry J. Dickey, the duly constituted Attorney in Fact of and for PHILLIPS PIPE LINE COMPANY, to me know to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My commission expires: 5/10/83

Dianne Wright
Notary Public
DIANNE WRIGHT

LRW 1-45-16

FILM 350 PAGE 60

STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT
4:00 P.M.
FEB 14 1979
NO. 1 26039
BETTE F. McCART
REGISTER OF DEEDS

Pat Kettler
Deputy

AMENDMENT OF RIGHT OF WAY AGREEMENT

Original Compared With Record

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on the 14th day of July, 1930, J. D. BENSON and HORTENSE BENSON, husband and wife, executed and delivered to PHILLIPS PIPE LINE COMPANY, its successors and assigns, a Right of Way Contract covering the following described lands in Sedgwick County, State of Kansas, to wit:

NW 1/4 of the NW 1/4 Section 19, Township 27 South, Range 1 West

Said Right of Way Contract being filed of record in Misc. Book 98, Page 130 of the Deed Records of Sedgwick County, Kansas; and

WHEREAS, Thurman W. Smith and Judy A. Smith, Husband and Wife, ~~ASSOCIATED MATERIAL AND SUPPLY COMPANY, INC.~~, hereinafter called Landowner, whether one or more, represents that he is the present owner, subject to the abovementioned Right of Way Contract, of the following described tract of land:

The NW 1/4 of Section 19, Township 27 South, Range 1 West

WHEREAS, Landowner has requested that PHILLIPS PIPE LINE COMPANY, hereinafter called Phillips, amend said Right of Way Contract only insofar as it affects the owned land, and Phillips is willing to do so subject to the terms and conditions of this instrument;

NOW, THEREFORE, in consideration of the premises and the terms and conditions contained herein Phillips and Landowner do hereby agree to amend said Right of Way Contract, in the following particulars:

I. From and after the date hereof all of Phillips' pipelines and other incidental equipment and facilities heretofore or hereafter laid on the owned land, by authority of said Right of Way Contract or this instrument shall be confined within the strip of land more particularly described as follows:

A 60 foot wide strip of land across the NW/4, NW/4 Section 19, T-27-S, R-1-W, Sedgwick County, Kansas, Said NW/4, NW/4 being that land described in a Right of Way Contract from J. A. Benson and Hortense Benson, husband and wife, to Phillips Pipe Line Company, executed July 14, 1930, and recorded in Miscellaneous Book 98, Page 130, Sedgwick County, Kansas, Deed Records said 60 foot strip being 30 feet on each side of the centerline of the most Southeasterly of three existing Phillips Pipe Line Company pipelines, said centerline being described more particularly as follows:

110.00 [illegible]

Beginning at the intersection of the centerline of said pipeline with the West line of said NW/4, NW/4, being approximately 367 feet South of the Northwest corner thereof;

Thence Northeasterly with the centerline of said pipeline approximately 794 feet to its intersection with the North line of said NW/4, NW/4, being approximately 704 feet East of the Northwest corner thereof, for the terminus of the herein described strip.

hereinafter called "Defined Easement."

II. For and in consideration of the benefits to be derived herefrom, Phillips, its parent, subsidiaries, successors and assigns, shall hereafter have and it is hereby granted by Landowner:

A. The right of way and easement from time to time to maintain, operate, relay, replace, change the size of and remove any or all of Phillips' pipelines currently in place within the owned land; and

B. The right of way and easement from time to time to lay, maintain, operate, relay, replace, change the size of and remove additional pipelines within the Defined Easement, for the transportation of oil, gas, water, petroleum products and any other gases or substances (whether or not of a similar nature) which can be transported through a pipeline;

together with the right of ingress and egress across the owned land for all purposes incident to the exercise of the aforesaid rights and the right to place on the owned lands incidental equipment to facilitate the use of pipelines. No additional compensation shall be payable to Landowner for the exercise of the aforesaid rights or any damage resulting to the property of Landowner, his successors or assigns, except that damages will be paid to Landowner for damage to growing agriculture crops.

III. Landowner, for himself, his successors and assigns, covenants and agrees that no dwellings, buildings, structures, obstructions or engineering works of whatsoever kind shall be erected on said Defined Easement and Landowner further covenants and agrees that no dwellings or buildings shall be erected within 50 feet on either side of said Defined Easement and that no change will be effected in the present grade of

said Defined Easement. Landowner, for himself, his heirs, successors and assigns agrees that no hard surface or regularly traveled streets, roads or highways will cross or be placed over the Defined Easement unless and until Phillips' pipelines or incidental equipment located thereon are properly adjusted and protected in the opinion of Phillips. Any such adjustment or protection shall be done under the supervision and to the specification determined solely by Phillips and at the expense of the Landowner, his successors or assigns.

IV. Nothing herein contained shall be construed as releasing any rights or privileges under said Right of Way Contract insofar as said Right of Way Contract covers said Defined Easement; but said Right of Way Contract, insofar as it relates to said Defined Easement, and insofar as it may be inconsistent and in conflict herewith, is hereby amended so that the rights and obligations of the parties hereto shall be determined under the terms and provisions of this instrument. Said Right of Way Contract, insofar as it may cover and relate to land other than the owned land described above, shall remain in effect in accordance with all of its terms and provisions.

V. It is the intention of both Phillips and Landowner that said Defined Easement shall extend completely across the land owned by Landowner and recited above and be located in such manner that all of Phillips' presently existing pipelines will be within its boundaries. To this extent it is understood and agreed that, in the event it should ever be determined that either of said boundary lines have not been properly located or that there is a conflict between calls for the boundary lines or for the existing pipeline or pipelines and calls for other objects or monuments or calls for course or distance in a description of said Defined Easement, the Defined Easement shall for all purposes be deemed to be extended in length and/or adjusted as to location in order that the intention of the parties will be carried out.

VI. Phillips shall have the right from time to time to assign the rights granted hereunder in whole or in part.

The provisions hereof shall extend to, be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

EXECUTED this 31st day of January, 1979.

LANDOWNER:

By [signature]
Thurman W. Smith

[signature]
Judy A. Smith

PHILLIPS PIPE LINE COMPANY
BY [signature]
Attorney-in-Fact
Perry J. Dickey

POOR QUALITY ORIGINAL

STATE OF OKLAHOMA)
)
COUNTY OF WASHINGTON)

Be it remembered that on this 31st day of January, 1979, before me, Jeanette Spann, the undersigned Notary Public in and for said county and state, personally appeared Perry J. Dickey, to me personally known to be the Attorney-in-Fact of PHILLIPS PIPE LINE COMPANY, a corporation, grantor in the foregoing instrument, and who is to me personally known to be the same person who executed the foregoing instrument as such grantor, and he duly acknowledged the execution of the same for himself and for said Phillips Pipe Line Company.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year above written.

[signature]
Notary Public in and for
Washington County, Okla.
Jeanette Spann

My Commission expires:
Oct. 31, 1982

NOTARY PUBLIC IN AND FOR OKLAHOMA

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

The foregoing instrument was acknowledged before me this 14th day of February, 1979, by Thurman W. Smith and Judy A. Smith, Husband and Wife.

REBECCA ANN RICE
STATE NOTARY PUBLIC
Sedgwick County, Ks.
My Appt. Exp. 4-27-82

Rebecca Ann Rice
Notary Public

My Comm./Appt. Expires:
April 27, 1982

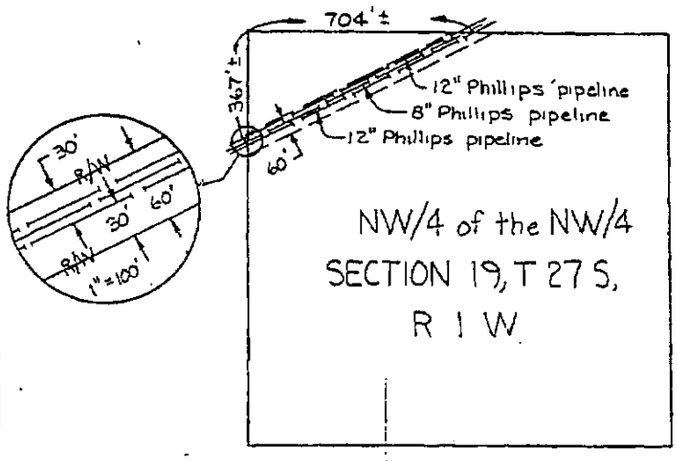
POOR QUALITY ORIGINAL

Right-of-Way to be Retained FILM 350 PAGE 614

A 60 foot wide strip of land across the NW/4, NW/4 Section 19, T-27-S, R-1-W, Sedgwick County, Kansas, Said NW/4, NW/4 being that land described in a Right of Way Contract from J. A. Benson and Hortense Benson, husband and wife, to Phillips Pipe Line Company, executed July 14, 1930, and recorded in Miscellaneous Book 98, Page 130, Sedgwick County, Kansas, Deed Records said 60 foot strip being 30 feet on each side of the centerline of the most Southeasterly of three existing Phillips Pipe Line Company pipelines, said centerline being described more particularly as follows:

Beginning at the intersection of the centerline of said pipeline with the West line of said NW/4, NW/4, being approximately 367 feet South of the Northwest corner thereof;

Thence Northeasterly with the centerline of said pipeline approximately 794 feet to its intersection with the North line of said NW/4, NW/4, being approximately 704 feet East of the Northwest corner thereof, for the terminus of the herein described strip.



NO.	REVISION	BY	DATE	CHKD	APP'D

FOR BIDS
FOR APPR
FOR CONST

DRAWN Whitted 1-17-79
CHECKED
APP'D McKnight 1-17-79

PHILLIPS PIPE LINE COMPANY
BARTLESVILLE, OKLAHOMA

RIGHT OF WAY TO BE RETAINED
ACROSS THE NW/4, NW/4 SECTION 19, T27S, R1W
SEDGWICK COUNTY, KANSAS

AFE NO. FILE CODE
SCALE 1" = 400' UNLESS OTHERWISE NOTED
DWG NO. LRW-1
SH NO. 45-16

FORM 9825 2-75 PRINTED IN U.S.A.

390-K
392-K

RW 064481

Form 574 5M 6-30—344

RIGHT OF WAY CONTRACT

Serial No. 1-45-16 File No.

FOR AND IN CONSIDERATION of the sum of TWENTY ONE & 05/100 Dollars ($ 21.05), in hand paid, the receipt of which is hereby acknowledged, J. A. BENSON and HORTENSE BENSON, HUSBAND & WIFE hereinafter referred to as Grantor, (whether one or more), does hereby grant unto PHILLIPS PIPE LINE COMPANY, a Delaware corporation, hereinafter referred to as Grantee, its successors and assigns, the right to lay, maintain, inspect, alter, repair, operate, remove and relay a pipe line, or pipe lines, for the transportation of oil and gas and products and by-products thereof, water and other substances, and such drips, valves, fittings, meters and other equipment and appurtenances as may be necessary or convenient for such operations, and to erect, maintain, inspect, repair, operate and remove, upon a single line of poles, with necessary anchorage and appurtenances, telephone, telegraph or electrical lines, or any of them, over, through, upon, under and across the following described land in Sedwick County, State of Kansas, to-wit:

NW¼ NW¼ SEC. 19 TWP. 27 SOUTH, RANGE 1 WEST.

It is expressly provided that any poles set for the purposes above mentioned, shall be so set on or along the line designated as follows: Inside the fence line, around the field.

Together with the rights of ingress and egress to and from said line or lines, or any of them, for the purpose aforesaid. Grantor to have the right to fully use and enjoy the above described premises, except as to the rights hereinbefore granted; and Grantee hereby agrees to pay any damages which may arise to crops, pasturage, fences or buildings of said Grantor from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantor, one by Grantee, and the third by the two so appointed, and their written determination of amount to be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration equal to the consideration hereinabove recited, shall be paid for each line so laid after the first line.

Grantee shall bury pipe lines below plow depth.

TO HAVE AND TO HOLD said easement, rights, and rights of way unto the said PHILLIPS PIPE LINE COMPANY, its successors and assigns until said easement be exercised, and so long as any structure installed hereunder is used or remains thereon.

It is understood that the person securing this grant is without authority from Grantee to make any agreement in respect of the subject matter hereof not herein expressed.

This agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Executed this 14th day of July 1930.

In the presence of: [signature]

J. A. Benson (SEAL)
Hortense Benson (SEAL)
(SEAL)
(SEAL)

(M)

(Individual Acknowledgment for Kansas, Oklahoma, Texas, Missouri.)

STATE OF Kansas } SS.
COUNTY OF Sedgwick }

Before me, the undersigned, a Notary Public, within and for said County and State, on this 15th day of July, 1930, personally appeared J. A. Benson and Hortense Benson, husband & wife to me known to be the identical person 2 described in and who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses, purposes, and consideration therein set forth.

My commission expires
4/3/31

[signature]
Notary Public.

(Texas Acknowledgment for Married Woman.)

STATE OF _____ } SS.
COUNTY OF _____ }

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____, wife of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said _____, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same, for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the _____ day of _____, 19____.

My commission expires

_____

_____
Notary Public.

(Texas Acknowledgment, for Man and Wife.)

STATE OF _____ } SS.
COUNTY OF _____ }

Before me, the undersigned authority, on this day personally appeared _____, and his wife, _____, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed; and the aforesaid wife having been examined by me privily and apart from her husband, and having the same fully explained to her, she acknowledged said instrument to be her act and deed, and declared that she had willingly signed the same for the purpose and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the _____ day of _____, 19____.

My commission expires

_____

_____
Notary Public.

The Grantor represents that the above describ[illegible] land is Not rented for the period beginni[illegible] _____ 19__, to _____ 19__ on _____ basis to _____.

CASH PRICE

2954

Original Compared with Record

STATE OF KANSAS } SS. This is to certify
[illegible] COUNTY } [illegible] instrument was filed for record on the 6 day of April A. D. 1931 at 1 o'clock P. M., and duly recorded in book Mass 130 Lester E. Neal

1.00

P.P. [illegible]

B

EXHIBIT A (Page 1/2)

JUN 15 2009

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 8th day of June, 2009,

by and between Olderbak Enterprises South, LLC, a Kansas limited liability company,
(Property Owner and/or Company)

of the first part and the City of Wichita, of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a temporary construction easement for the purpose of access for constructing, maintaining, and repairing a drainage system along the following described real estate situated in Sedgwick, County, Kansas to wit:

A tract of land lying in Lot 1, Block 12, Westlink Nineteenth Addition, an addition to Wichita, Sedgwick County, Kansas, said tract more particularly described as follows:

COMMENCING at the southwest corner of said Lot 1, thence along a west line of said Lot 1, on a measured Kansas coordinate system of 1983 south zone grid bearing of, N13°22'31"E, 60.85 feet to the POINT OF BEGINNING, thence continuing along said west line, N13°22'31"E, 42.23 feet, thence continuinig along a west line of said Lot 1, N00°39'39"W, 29.10 feet; thence parallel with and 147.26 feet south of the north line of said Lot 1, N88°16'16"E, 113.23 feet to a point lying 50.00 feet north of the south line of said Lot 1; thence N67°07'59"E, 141.27 feet to a point lying 35.00 feet north of said south line on an extended east line bearing of Lot 8, said Block 12; thence along said extended east line bearing, S28°57'44"E, 20.00 feet to a point 15.00 feet north of said south line; thence parallel with and 15.00 feet north of said south line, S61°02'16"W, 225.14 feet; thence parallel with and 217.12 feet south of said north line, S88°16'16"W, 65.51 feet to the POINT OF BEGINNING.

Said temporary construction easement is to be valid from **May 25, 2009**, and **expires November 1, 2009**. As part of the agreement for said temporary construction easement, damages to pavement and curb within said Lot 1 caused by construction equipment and personnel used during, and for, the construction of the drainage utility within the drainage easement within the pipeline easement within said Lot 1, shall be repaired and paid for by the City of Wichita, or Contractor.

As to that portion of said Lot 1, commonly known as 11931 W. Central Ave.
Olderbak Enterprises South, LLC, a Kansas limited liability company

Mark Olderbak, Member — Michael D. Olderbak, Member
(Signature) *(Print: Name and Title)* *(Signature)* *(Print: Name and Title)*

STATE OF Nebraska, in Lancaster COUNTY) SS:
Personally appeared before me a notary public in and for the County and State aforesaid

(Property Owner's name, title, and company, if applicable)
to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Lincoln, Nebraska, this 8th day of June, 2009.
(City) *(State)*

PAMELA S. BORNEMEIER

Sign and Print Name: Pamela S. Bornemeier *SEAL:*
Notary Public

GENERAL NOTARY-State of Nebraska
PAMELA S. BORNEMEIER
My Comm. Exp. Feb. 17, 2010

(My Commission expires 2-17-2010)

JUN 15 2009

DRAINAGE EASEMENT

THIS EASEMENT made this 8th day of June, 2009,

by and between **Olderbak Enterprises South, LLC,** a Kansas limited liability company,
(Property Owner and/or Company)

of the first part and the **City of Wichita** of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing a drainage system along the following described real estate situated in Sedgwick, County, Kansas to wit:

A tract of land lying in Lot 1, Block 12, Westlink Nineteenth Addition, an addition to Wichita, Sedgwick County, Kansas, said tract more particularly described as follows:

BEGINNING at the southwest corner of said Lot 1, thence along a west line of said Lot 1, on a measured Kansas coordinate system of 1983 south zone grid bearing of, N13°22'31"E, 60.85 feet; thence parallel with and 217.12 feet south of the north line of said Lot 1, N88°16'16"E, 65.51 feet; thence parallel with and 15.00 feet north of the south line of said Lot 1, N61°02'16"E, 225.14 feet; thence on an extended east line bearing of Lot 8, S28°57'44"E, 15.00 feet to said south line; thence along said south line, S61°02'16"W 324.36 feet to the POINT OF BEGINNING.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

As to that portion of said Lot 1, commonly known as 11931 W. Central Ave.
Olderbak Enterprises South, LLC, a Kansas limited liability company

Mark Olderbak, Member — Michael D. Olderbak, Member
(Signature) *(Print: Name and Title)* *(Signature)* *(Print: Name and Title)*

STATE OF Nebraska, in Lancaster COUNTY) SS:
Personally appeared before me a notary public in and for the County and State aforesaid

_____
(Property Owner's name, title, and company, if applicable)

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

Dated at Lincoln, Nebraska this 8th day of June, 2009.
(City) *(State)*

Sign and Print Name: PAMELA S. BORNEMEIER Pamela S. Bornemeier *SEAL:*
Notary Public

(My Commission expires 2-17-2010)

GENERAL NOTARY-State of Nebraska
PAMELA S. BORNEMEIER
My Comm. Exp. Febr. 17, 2010

GENERAL NOTARY-State of Nebraska
PAMELA S. BORNEMEIER
My Comm. Exp. Febr. 17, 2010

GENERAL NOTES

1. CONTRACTOR WILL BE REQUIRED TO PROVIDE A MINIMUM ADVANCE NOTICE OF FORTY-EIGHT (48) HOURS TO PIPELINE AND UTILITY COMPANIES PRIOR TO STARTING ANY EXCAVATION AS FOLLOWS:

   KANSAS ONE-CALL 1-800-344-7233
   OR 687-2470 (LOCAL WICHITA)

2. CONTRACTOR SHALL CONTACT THE FOLLOWING PIPELINE COMPANY REPRESENTATIVES TO ARRANGE FOR OBSERVATION DURING ANY CONSTRUCTION ACTIVITY WITHIN THE PIPELINE EASEMENT. 48 HOUR PRIOR NOTICE WILL BE REQUIRED.

   JOE FOWLER
   FIELD SUPERVISOR
   QUEST PIPELINES (KPC)
   19970 W. 161st STREET
   OLATHE, KANSAS 66062
   913-764-6015 DIRECT
   913-764-6021 FAX
   913-522-2544 CELL
   jfowler@qmlpkpc.net

   JIM NOLAND
   CONOCO PHILLIPS COMPANY
   PROPERTY TAX, REAL ESTATE,
   RIGHT OF WAY AND CLAIMS
   510A PLAZA OFFICE BUILDING
   BARTLESVILLE, OKLAHOMA 74004
   918-661-0138 DIRECT
   918-662-2212 FAX
   405-627-4691 CELL

3. HIGH PRESSURE GAS LINE TOP OF PIPE ELEVATIONS ARE INTERPOLATED FROM PRELIMINARY PROBES BY ENBRIDGE/QUEST PIPELINES IN 2005 AND 2006. CONTRACTOR SHALL COORDINATE WITH QUEST TO CONFIRM PIPELINE ELEVATIONS AT LOCATIONS REQUIRED BY QUEST.

4. CONTRACTOR SHALL SEED, FERTILIZE AND MULCH ALL DISTURBED AREAS USING THE METHODS OUTLINED IN THE BACK OF CURB PROTECTION DETAIL, SHEET 8 AND USING CURLEX II FOR EROSION PROTECTION. COST FOR SEED, FERTILIZER, MULCH AND EROSION CONTROL BMPS SHALL BE CONSIDERED SUBSIDIARY TO SITE RESTORATION.

5. CONNECTION OF PROPOSED STORM SEWER CONDUITS TO EXISTING CURB AND GUTTER SHALL INCLUDE ALL MATERIAL, EQUIPMENT AND LABOR. THESE CONNECTIONS SHALL NOT BE PAID FOR DIRECTLY, BUT SHALL BE CONSIDERED SUBSIDIARY TO THE VARIOUS PROPOSED CONDUITS OR STRUCTURES. THIS WORK SHALL BE AS DIRECTED BY THE ENGINEER AND SHALL BE SUBSIDIARY TO THE SPECIFIC STRUCTURE BID ITEMS.

6. THE CONTRACTOR MUST NOTIFY THE FOLLOWING IN CASE OF AN EMERGENCY:

SBC (TELEPHONE)	800-870-8390
COX COMMUNICATIONS (CABLE)	(316) 262-0661
WESTAR (ELECTRIC)	(316) 383-8600
KANSAS GAS SERVICE (GAS)	(316) 832-3101
CITY OF WICHITA WATER & SEWER MAINT.	(316) 262-6000
BLACK HILLS ENERGY (GAS)	(800) 303-0357

   JOE FOWLER
   FIELD SUPERVISOR
   QUEST PIPELINES (KPC)
   19970 W. 161st STREET
   OLATHE, KANSAS 66062
   913-764-6015 DIRECT
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   jfowler@qmlpkpc.net

   JIM NOLAND
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   510A PLAZA OFFICE BUILDING
   BARTLESVILLE, OKLAHOMA 74004
   918-661-0138 DIRECT
   918-662-2212 FAX
   405-627-4691 CELL

7. CONTRACTOR RESPONSIBLE TO MAINTAIN EXISTING RESIDENTIAL FENCES IN THEIR CURRENT CONDITION.

PLAN AND PROFILE OF PROPOSED

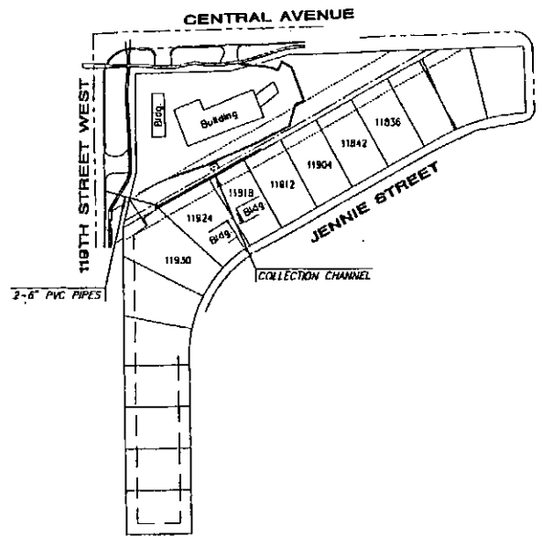
JENNIE HOTSPOT DRAINAGE

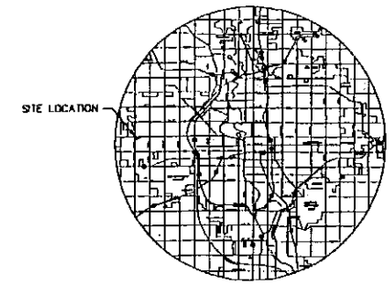
CITY OF WICHITA
SEDGWICK COUNTY, KANSAS

OCA 680499

JIM ARMOUR, P.E. - CITY ENGINEER

468-84533





LOCATION MAP

N

SCALE: 1" = 100'

INDEX TO DRAWINGS

SHEET NO.	DESCRIPTION
1	TITLE SHEET
2	COLLECTION CHANNEL & PIPE PLAN
3	GRADING PLAN
4	PIPE PROFILE AND DETAILS
5	CHANNEL PROFILE AND SECTIONS
6-10	EROSION CONTROL DETAILS

TIMOTHY K. MEYER
11402
4-22-09
KANSAS
PROFESSIONAL ENGINEER

CONTRACTOR REQUIREMENTS PER QUEST PIPELINE

1. NO EXCAVATION SHALL BE PERFORMED WITHIN THE PIPELINE EASEMENT WITHOUT QUEST PERSONNEL BEING PRESENT AND PROVIDED A MINIMUM 48 HOUR NOTICE.

2. CONTRACTOR TO IDENTIFY ALL LOCATIONS FOR PIPELINE CROSSINGS. A MAXIMUM OF 2 CROSSINGS WILL BE ALLOWED. ONLY LIGHT EQUIPMENT WILL BE ALLOWED TO CROSS THE PIPELINES (MAX. 8,500# GVW RUBBER TIRE VEHICLES). ANY EQUIPMENT EXCEEDING THIS WEIGHT WILL REQUIRE INSTALLATION OF NON-FLEXIBLE BRIDGING OVER THE PIPELINES PRIOR TO CROSSING AND PREVIOUS APPROVAL BY QUEST PIPELINE CO. ALL SUCH CROSSING POINTS TO BE SUBMITTED BY CONTRACTOR FOR REVIEW AND APPROVAL BY QUEST. VEHICLES EXCEEDING GVW OF 8,500# SHALL NOT BE OPERATED WITHIN THE PIPELINE EASEMENT WITHOUT PREVIOUS WRITTEN APPROVAL.

3. CROSSINGS SHALL BE LIMITED TO 50 FT IN WIDTH, AND SHALL BE FENCED TO PREVENT DRIVING AROUND CROSSINGS. CONTRACTOR SHALL PROVIDE CONSTRUCTION FENCING INCLUDING ALONG EDGE OF PAVEMENT OF BANK DRIVE-THROUGH AND AT EAST END OF PROJECT, TO PREVENT UNAUTHORIZED ENCROACHMENT DURING CONSTRUCTION. FENCING SHALL CONSIST OF MIN. 4' ORANGE MESH CONSTRUCTION FENCING ON T-POSTS. CONTRACTOR TO CONTACT PIPELINE COMPANIES AT LEAST 48 HRS. PRIOR TO DRIVING POSTS IN PIPELINE EASEMENT.

4. CONTRACTOR TO CONTACT QUEST PIPELINE AND CONOCO-PHILLIPS PIPELINE TO COORDINATE SAFETY MEETING(S) PRIOR TO AND DURING CONSTRUCTION.

5. CONTRACTOR TO PLACE FILL OVER ALL QUEST PIPELINES WITHIN PROJECT LIMITS AS SHOWN ON THE GRADING PLAN. ALL DISTURBED OR FILLED AREAS SHALL BE SEEDED AND MULCHED AS PROVIDED IN THE GENERAL NOTES.

BENCHMARK

COW benchmark disc on southeast corner of
119th Street West and Central
39.8" east of centerline 119th Street West
44.0" south of centerline Central
21.7" west of west side of north-south sidewalk
13.8" north of north side of east-west sidewalk
3.3" southeast of back of curb (approx. middle of radius)
Elev. = 156.98 (COW) 1344.38 NGVD 29.

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-681-8400

JENNIE HOTSPOT DRAINAGE

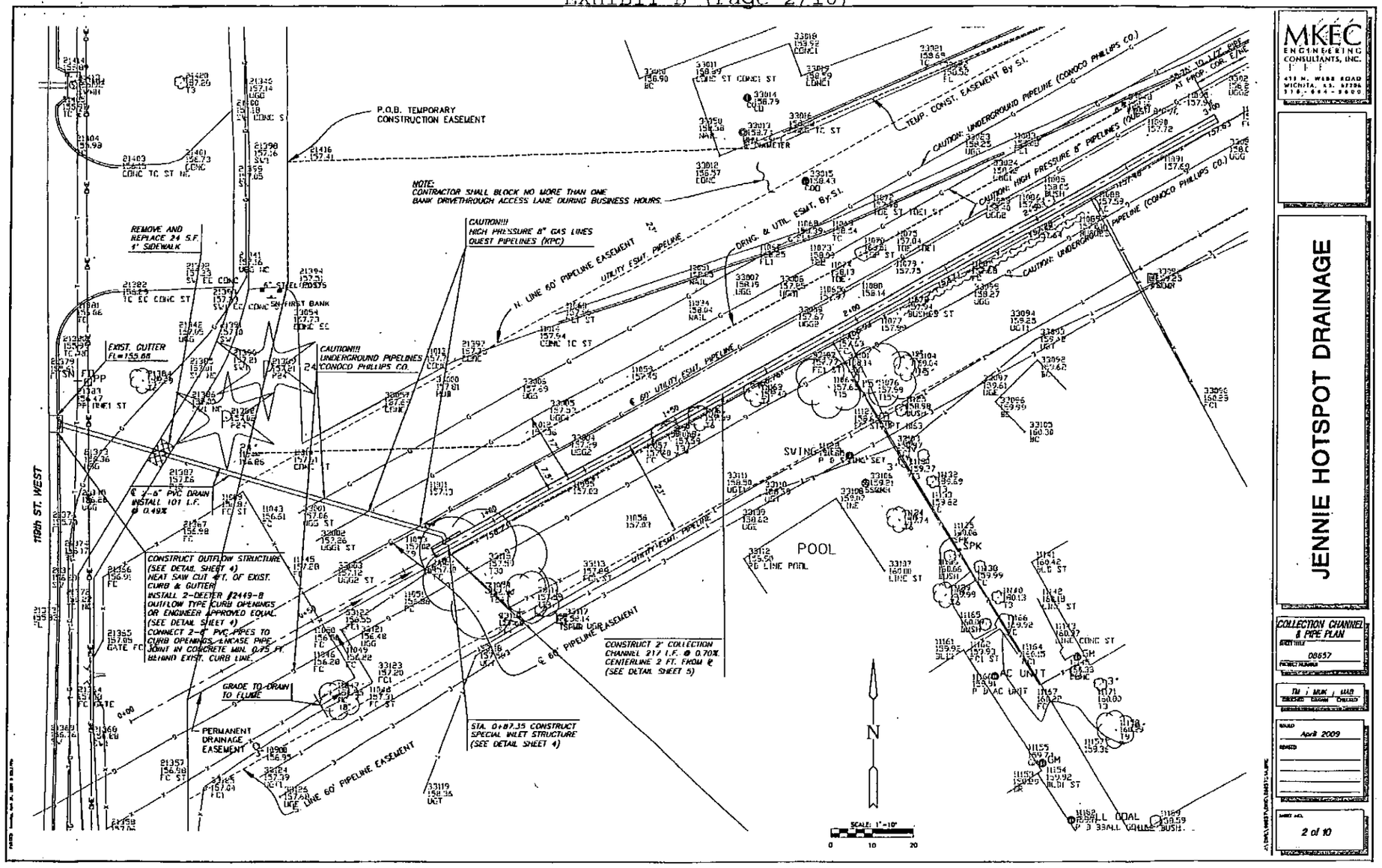
TITLE SHEET
DWG TITLE
03651
PROJECT NUMBER

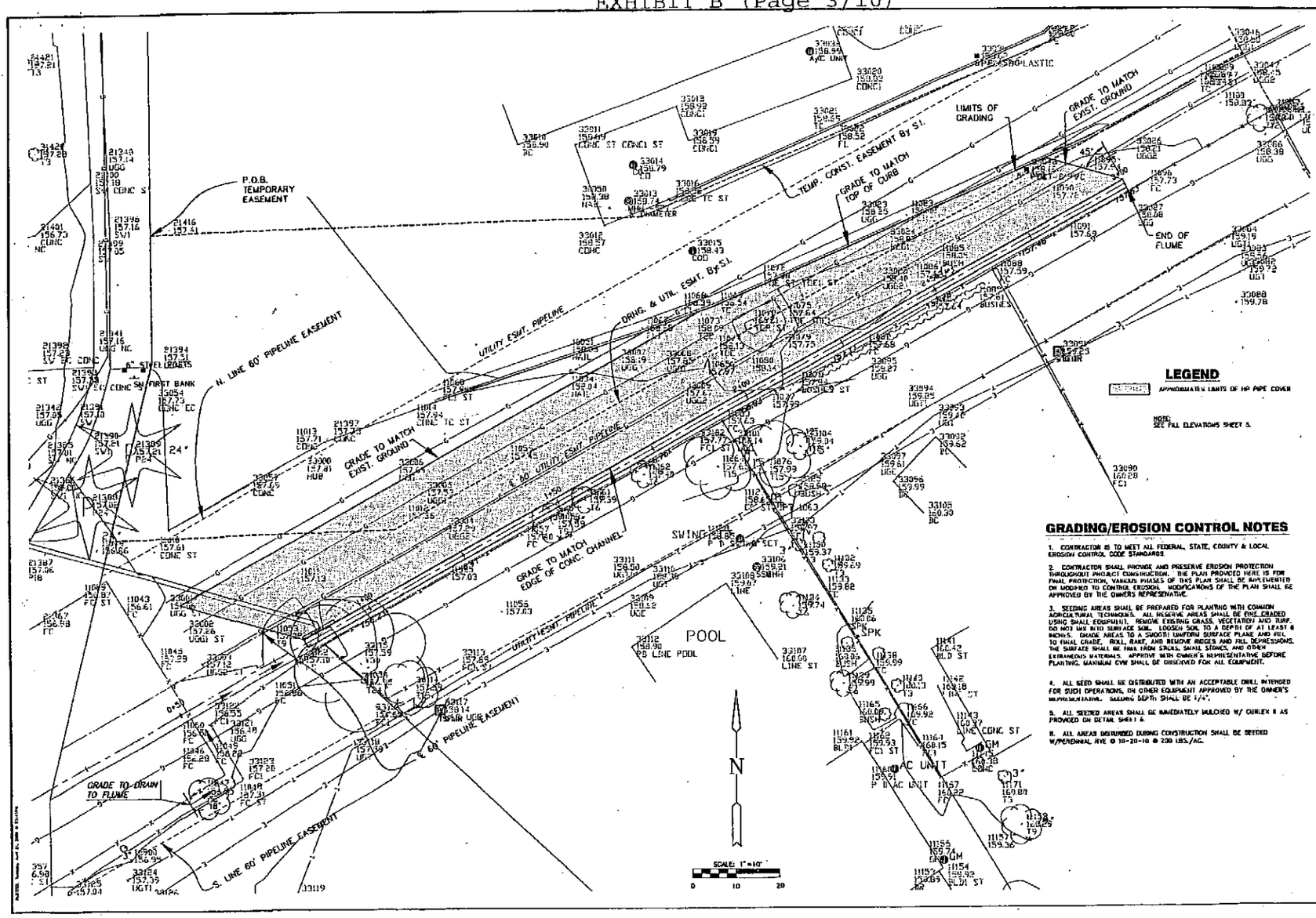
TM | MUK | MAB
DESIGNED DRAWN CHECKED

ISSUED
April 2009
REVISED

SHEET NO.
1 of 10

EXHIBIT B (Page 2/10)





LEGEND

APPROXIMATES LIMITS OF HP PIPE COVER

NOTE: SEE FILL ELEVATIONS SHEET 5.

GRADING/EROSION CONTROL NOTES

1. CONTRACTOR IS TO MEET ALL FEDERAL, STATE, COUNTY & LOCAL EROSION CONTROL CODE STANDARDS.

2. CONTRACTOR SHALL PROVIDE AND PRESERVE EROSION PROTECTION THROUGHOUT PROJECT CONSTRUCTION. THE PLAN PROVIDED HERE IS FOR FINAL PROTECTION. VARIOUS PHASES OF THIS PLAN SHALL BE IMPLEMENTED OR MODIFIED TO CONTROL EROSION. MODIFICATIONS OF THE PLAN SHALL BE APPROVED BY THE OWNERS REPRESENTATIVE.

3. SEEDING AREAS SHALL BE PREPARED FOR PLANTING WITH COMMON AGRICULTURAL TECHNIQUES. ALL RESERVE AREAS SHALL BE FINE GRADED USING SMALL EQUIPMENT. REMOVE EXISTING GRASS, VEGETATION AND TURF. DO NOT MIX INTO SURFACE SOIL. LOOSEN SOIL TO A DEPTH OF AT LEAST 6 INCHES. GRADE AREAS TO A SMOOTH UNIFORM SURFACE PLANE AND FILL TO FINAL GRADE. ROLL, RAKE, AND REMOVE RIDGES AND FILL DEPRESSIONS. THE SURFACE SHALL BE FREE FROM STICKS, SMALL STONES, AND OTHER EXTRANEOUS MATERIALS. APPROVE WITH OWNER'S REPRESENTATIVE BEFORE PLANTING. MAXIMUM OVER SHALL BE OBSERVED FOR ALL EQUIPMENT.

4. ALL SEED SHALL BE DISTRIBUTED WITH AN ACCEPTABLE DRILL INTENDED FOR SUCH OPERATIONS, OR OTHER EQUIPMENT APPROVED BY THE OWNER'S REPRESENTATIVE. SEEDING DEPTH SHALL BE 1/4".

5. ALL SEEDED AREAS SHALL BE IMMEDIATELY MULCHED W/ CURLEX II AS PROVIDED ON DETAIL SHEET 6.

6. ALL AREAS DISTURBED DURING CONSTRUCTION SHALL BE SEEDED W/PERENNIAL RYE @ 10-20-10 @ 200 LBS./AC.

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

JENNIE HOTSPOT DRAINAGE

GRADING PLAN

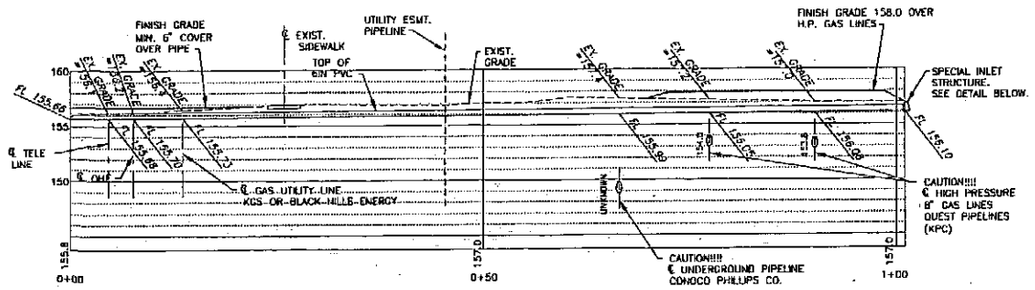
08657

TM MUK MAB
DESIGNED DRAWN CHECKED

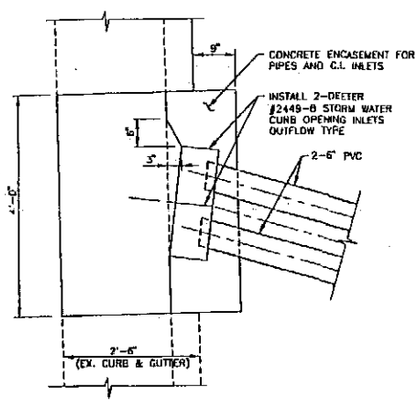
ISSUED April 2009

REVISED

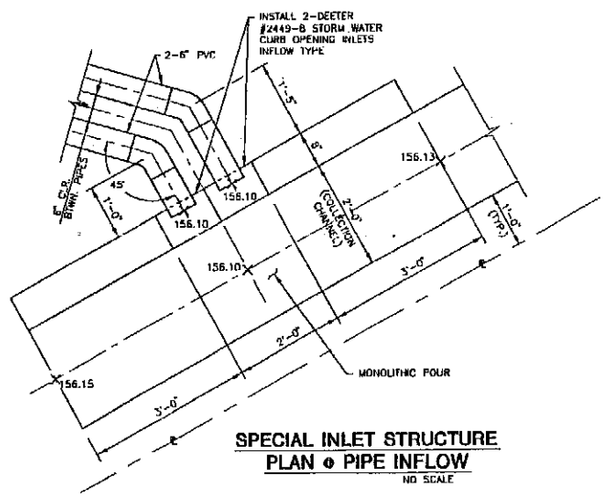
SHEET NO. 3 of 10



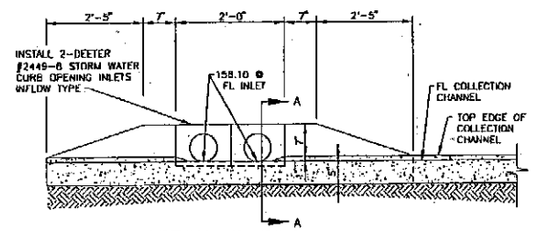
℄ ALONG 6" PVC STORMWATER DISCHARGE PIPES



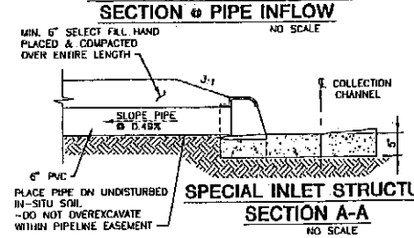
OUTFLOW STRUCTURE
PLAN @ PIPE OUTFLOW
NO SCALE



SPECIAL INLET STRUCTURE
PLAN @ PIPE INFLOW
NO SCALE



SPECIAL INLET STRUCTURE
SECTION @ PIPE INFLOW
NO SCALE



SPECIAL INLET STRUCTURE
SECTION A-A
NO SCALE

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

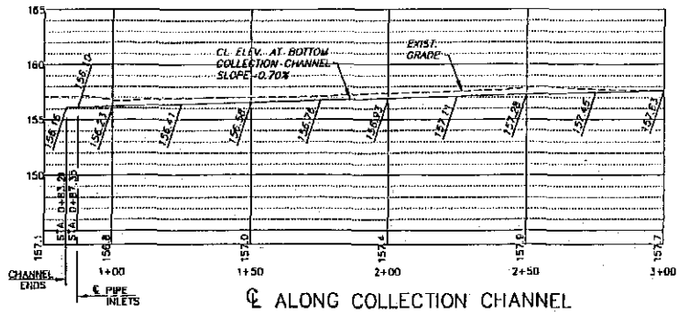
JENNIE HOTSPOT DRAINAGE

PIPE PROFILE AND DETAILS
SHEET TITLE
08657
PROJECT NUMBER

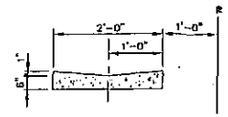
TM | MUK | MAS
DESIGNED DRAWN CHECKED

ISSUED April 2009
REVISED

SHEET NO. 4 of 10



NOTE:
PIPE DEPTHS BASED ON PROBE BY QUEST PIPELINE CO. 3/25/09



COLLECTION CHANNEL SECTION
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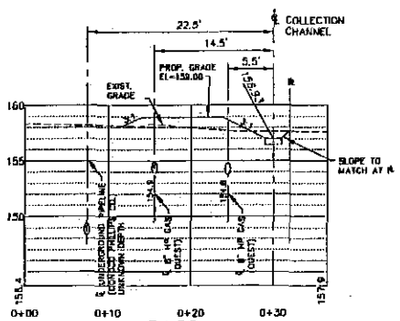
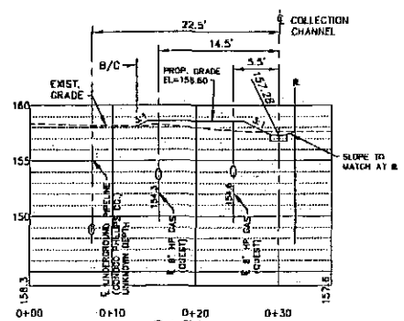
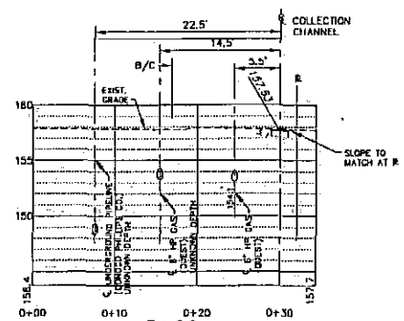
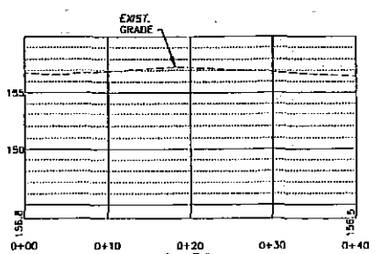
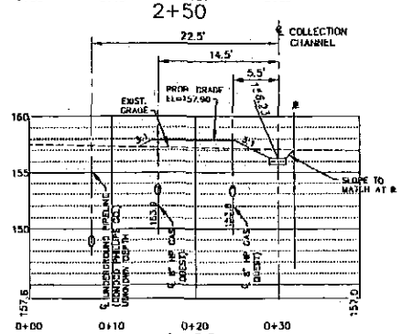
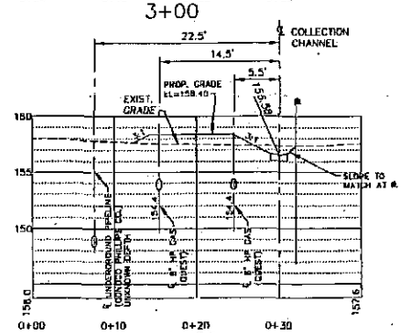












MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

JENNIE HOTSPOT DRAINAGE

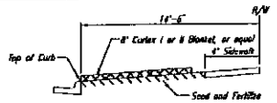
CHANNEL PROFILE AND SECTIONS

08657

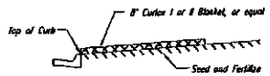
TM | MJK | MAB

April 2009

5 of 10



SECTION B-B



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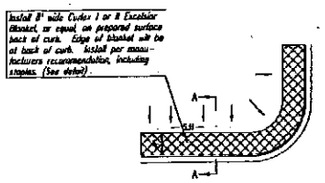
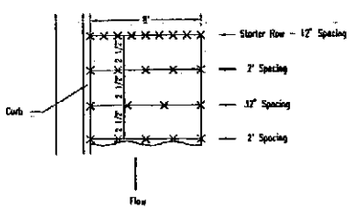


NOTES:

1. EXCELSIOR MAT TO BE INSTALLED WHEN SOD IS NOT SPECIFIED ON PROJECT.
2. EXCELSIOR BLANKET TO BE INSTALLED OVER SEED AND FERTILIZER, AS SPECIFIED IN THE PROJECT SPECIFICATIONS.
3. AFTER INSTALLATION OF EXCELSIOR BLANKET, AT LOCATIONS WHERE CONCENTRATED FLOW CARRIES SEDIMENT OVER THE CURB AND INTO THE GUTTER, SUPPLEMENTAL EROSION CONTROL DEVICES WILL BE INSTALLED BY THE CONTRACTOR AS NEEDED, TO FIX THE PROBLEM.

BACK OF CURB PROTECTION DETAIL



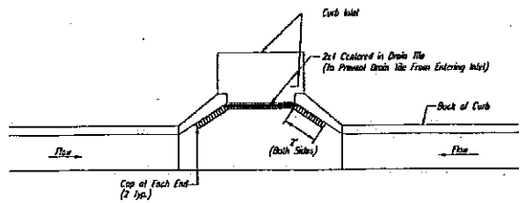
STAPLE PATTERN

NOTES: Use 6" seam overlap

11 ga. Wire

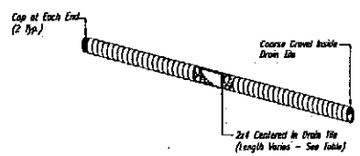
STAPLE

DETAILS FOR CURLEX I OR II BLANKETS

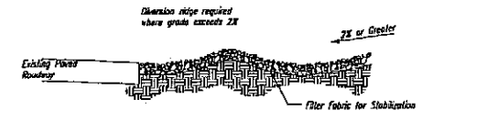


Note:
Place 4" perforated PVC pipe, filled with 1/2"-1" dia. gravel, in front of curb inlet as shown.

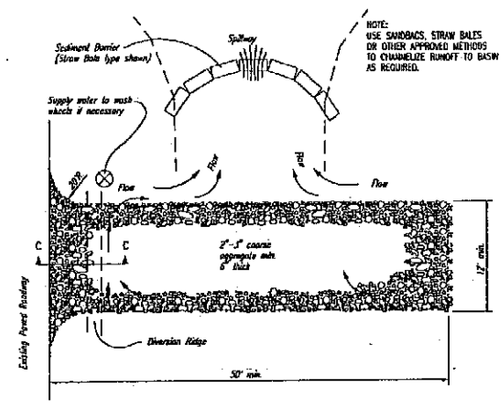
2x4 LENGTH	INLET TYPE	INLET OPENING
5'-6"	I-A	5'-0"
10'-6"	I-A	10'-0"
15'-6"	I-A	15'-0"



CURB INLET PROTECTION
4" PERFORATED PIPE W/ GRAVEL



SECTION C-C



STABILIZED CONSTRUCTION ENTRANCE

NOTES:

1. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE TOP DRESSING, REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT.
2. WHEN NECESSARY, WHEELS SHALL BE CLEANED PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY.
3. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP, OR SEDIMENT BASIN, AS SHOWN ABOVE.
4. DRIVE ENTRANCES ONTO RESIDENTIAL LOTS WILL NOT BE REQUIRED TO HAVE THE SEDIMENT BARRIER SHOWN, BUT WHEEL WASHING MAY BE REQUIRED IF STABILIZED ENTRANCE IS NOT SUFFICIENT TO KEEP MUD FROM BEING TRACKED ONTO ADJACENT STREET. ENTRANCE SHALL EXTEND FROM BACK OF CURB TO DWELLING.

CITY OF WICHITA
PUBLIC WORKS
ENGINEERING
CITY ENGINEER'S OFFICE

SOIL EROSION DWG

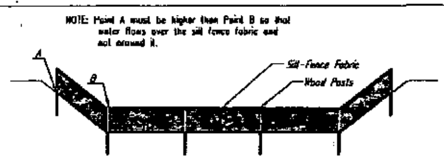
BACK OF CURB PROTECTION, CURB INLET PROTECTION AND CONSTRUCTION ENTRANCE

JAMES L. ARMOUR, P.E. - CITY ENGINEER

PROJECT NUMBER	WICS CODE
468-84533	680499

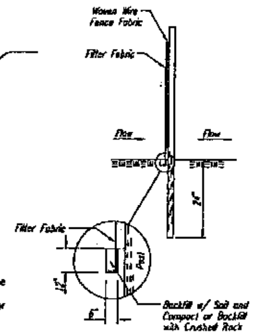
DATE: April 09

Sheet 6 of 10



ELEVATION

SILT FENCE DITCH CHECKS
(STREAM PROTECTION)



ANCHOR TRENCH DETAIL

Material Specification:

Silt fence fabric should conform to the AASHTO M288 96 silt fence specification.
The posts used to support the silt fence fabric should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
Silt fence fabric should be attached to the wooden posts with staples, wire, zip ties, or nails.

Placement:

Place silt fence in ditches where it is unlikely that it will be overtopped.
Water should flow through a silt fence ditch check, not over it. Silt fence ditch checks often fail when overtopped.
Silt fence ditch checks should be placed perpendicular to the flowline of the ditch.
The silt fence should extend far enough so that the ground level at the ends of the fence is higher than the top of the low point of the fence. This prevents water from flowing around the check.
Silt fence ditch checks should not be placed in ditches where high flows are expected. Rock checks should be used instead.
Silt fence should be placed in ditches with slopes of 6% or less. For slopes steeper than 6%, rock checks should be used.

The following table provides check spacing for a given ditch grade:

Ditch Check Ditch grade (%)	Spacing Check Spacing (feet)
0.5	200
1.0	200
2.0	100
3.0	65
4.0	50
5.0	40
6.0	30

Proper Installation method:

Excavate a trench perpendicular to the ditch flowline that is at least 12" deep by 6" wide.
Extend the trench in a straight line along the entire length of the proposed ditch check.
Place the soil on the upstream side of the trench for later use.
Roll out a continuous length of silt fence fabric on the downstream side of the trench.
Place the edge of the fabric in the trench starting at the top upstream edge of the trench. Line two sides of the trench with the fabric as shown on detail. Backfill over the fabric in the trench with the excavated soil and compact. After filling the trench, approximately 24" to 36" of silt fence fabric should remain exposed.
Lay the exposed silt fence on the upstream side of the trench to clear an area for driving in the posts. Just downstream of the trench, drive posts into the ground to a depth of at least 24". Place posts no more than 4' apart.
Attach the silt fence to the anchored post with staples, wire, zip ties, or nails.

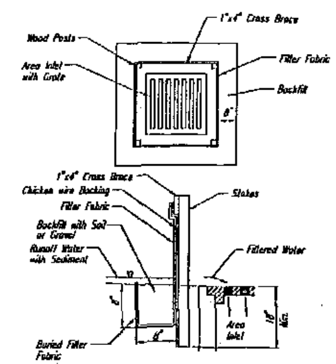
List of common placement/installation mistakes to avoid:

Water should flow through a silt fence ditch check—not over it. Place silt fence in ditches where it is unlikely that it will be overtopped. Silt fence installations quickly deteriorate when water overtops them.
Do not place silt fence posts on the upstream side of the silt fence fabric. In this configuration, the force of the water is not restricted by the posts, but only by the staples (wire, zip ties, nails, etc.). The silt fence will rip and fail.
Do not place a silt fence ditch check directly in front of a culvert outlet. It will not stand up to the concentrated flow.
Do not place silt fence ditch checks in ditches that will likely experience high flows. They will not stand up to concentrated flow.
Follow prescribed ditch check spacing guidelines. If spacing guidelines are exceeded, erosion will occur between the ditch checks.
Do not allow water to flow around the ditch check. Make sure that the ditch check is long enough so that the ground level at the ends of the fence is higher than the low point on the top of the fence.
Do not place silt fence ditch checks in channels with shallow soils underlain by rock. If the check is not anchored sufficiently, it will wash out.

Inspection and Maintenance:

Silt fence ditch checks should be inspected every 7 days and within 24 hours of a rainfall of 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Does water flow around the ditch check?
Does water flow under the ditch check?
Does the silt fence sag excessively?
Has the silt fence torn or become detached from the posts?
Does sediment need to be removed from behind the ditch check?



SILT FENCE BARRIERS FOR AREA INLETS
(INLET PROTECTION)

Material Specification:

Silt fence fabric should conform to the AASHTO M288 98 silt fence specification.
The wire or polymeric mesh backing used to help support the silt fence fabric should conform to the AASHTO M288 98 silt fence specification.
The posts used to support the silt fence fabric should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
The material used to frame the tops of the posts should be 1" by 4" boards.
Silt fence fabric and support backing should be attached to the wooden posts and frame with staples, wire, zip ties, or nails.

Placement:

Place a silt fence drop inlet barrier in a location where it is unlikely to be overtopped.
Water should flow through silt fence, not over it. Silt fence barriers for area inlets often fail when repeatedly overtopped.
When used as a barrier for area inlets, silt fence fabric and posts must be supported at the top by a wooden frame.
When a silt fence barrier for area inlets is located near an inlet that has steep approach slopes, the storage capacity behind the barrier is drastically reduced. Timely removal of sediment must occur for a barrier to operate properly in this location.

Proper installation method:

Excavate a trench around the perimeter of the area inlet that is at least 8" deep by 8" wide.
Drive posts to a depth of at least 18" around the perimeter of the area inlet.
The distance between posts should be 4' or less. If the distance between two adjacent corner posts is more than 4', add another post(s) between them.
Connect the tops of all the posts with a wooden frame made of 1" by 4" boards. Use nails or screws for fastening.
Attach the wire or polymeric-mesh backing to the outside of the post/frame structure with staples, wire, zip ties, or nails.
Roll out a continuous length of silt fence fabric long enough to wrap around the perimeter of the area inlet. Add more length for overlapping the fabric joint. Place the edge of the fabric in the trench, starting at the outside edge of the trench. Line all three sides of the trench with the fabric. Backfill over the fabric in the trench with the excavated soil and compact. After filling the trench, approximately 24" to 36" of silt fence fabric should remain exposed.
Attach the silt fence to the outside of the post/frame structure with staples, wire, zip ties, or nails. The joint should be overlapped to the next post.

Note: When a silt fence barrier for area inlet is placed in a shallow median ditch, make sure that the top of the barrier is not higher than the paved road. In this configuration, water may spread onto the roadway causing a hazardous condition.

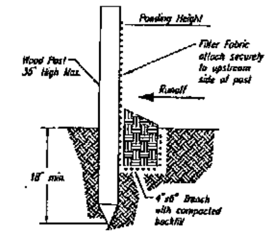
List of common placement/installation mistakes to avoid:

Water should flow through a silt fence barrier for area inlet—not over it. Place a silt fence barrier for area inlet in a location where it is unlikely to be overtopped. Silt fence barrier for area inlets often fail when repeatedly overtopped.
Do not place posts on the outside of the silt fence barrier for area inlet. In this configuration, the force of the water is not resisted by the posts, but only by the staples (wire, zip ties, nails, etc.). The silt fence will rip and fail.
Do not install silt fence barrier for area inlets without framing the top of the posts. The corner posts around area inlets are stressed in two directions whereas a normal silt fence is only stressed in one direction. This added stress requires more support.

Inspection and Maintenance:

Silt fence barrier for area inlets should be inspected every 7 days and within 24 hours of a rainfall of 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Does water flow under the silt fence?
Does the silt fence sag excessively?
Has the silt fence torn or become detached from the posts?
Does sediment need to be removed from behind the area inlet barrier?



SILT FENCE BARRIERS

Material Specification:

Silt fence fabric should conform to the AASHTO M288 98 silt fence specification.
The posts used to support the silt fence fabric should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
Silt fence fabric should be attached to the wooden posts with staples, wire, zip ties, or nails.

Placement:

A slope barrier should be used at the toe of a slope when a ditch does not exist. The slope barrier should be placed on nearly level ground 5' to 10' away from the toe of a slope. The barrier is placed away from the toe of the slope to provide adequate storage for settling out sediment.
When practicable, silt fence slope barriers should be placed along contours to avoid a concentration of flow.
Silt fence slope barriers can also be placed along right-of-way fence lines to keep sediment from crossing onto adjacent property. When placed in this manner, the slope barrier will not likely follow contours.

Proper installation method:

Excavate a trench the length of the planned slope barrier that is 6" deep by 4" wide. Make sure that the trench is excavated along a single contour. When practicable, slope barriers should be placed along contours to avoid a concentration of flow. Place the soil on the upslope side of the trench for later use.
Roll out a continuous length of silt fence fabric on the downslope side of the trench.
Place the edge of the fabric in the trench starting at the top upslope edge. Line all three sides of the trench with the fabric. Backfill over the fabric in the trench with the excavated soil and compact. After filling the trench, approximately 24" to 36" of silt-fence fabric should remain exposed.
Lay the exposed silt fence upslope of the trench to clear an area for driving in the posts. Just downslope of the trench, drive posts into the ground to a depth of at least 18". Place posts no more than 4' apart.
Attach the silt fence to the anchored post with staples, wire, zip ties, or nails.

List of common placement/installation mistakes to avoid:

When practicable, do not place silt fence slope barriers across contours. Slope barriers should be placed along contours to avoid a concentration of flow. When the flow concentrates, it overtops the barrier and the silt fence slope barrier quickly deteriorates.
Do not place silt-fence posts on the upslope side of the silt fence fabric. In this configuration, the force of the water is not restricted by the posts, but only by the staples (wire, zip ties, nails, etc.). The silt fence will rip and fail.
Do not place silt fence slope barriers in areas with shallow soils underlain by rock. If the barrier is not sufficiently anchored, it will wash out.
Silt fence slope barriers must be dug into the ground—silt fence at ground level does not work because water will flow underneath.

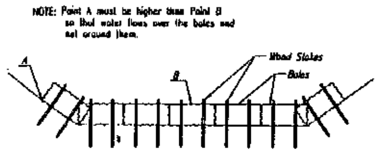
Inspection and Maintenance:

Silt fence slope barriers should be inspected every 7 days and within 24 hours of a rainfall of 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Are there any points along the slope barrier where water is concentrating?
Does water flow under the slope barrier?
Do the silt fences sag excessively?
Has the silt fence torn or become detached from the posts?
Does sediment need to be removed from behind the slope barrier?

CITY OF WICHITA PUBLIC WORKS ENGINEERING CITY ENGINEER'S OFFICE	SILT FENCE DITCH CHECK AND BARRIER DETAILS
	JAMES L. ARMOUR, P.E. – CITY ENGINEER
	468-84533
	April 09 — Sheet 7 of 10

EXHIBIT B (Page 8/10)



STRAW BALE DITCH CHECKS

Material Specification:

Bale ditch checks may be constructed of wheat straw, oat straw, prairie hay, or bromegrass hay that is free of weeds declared noxious by the Kansas State Board of Agriculture.
The stakes used to anchor the bales should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
Optional: The downstream scour apron should be constructed of a double-netted straw erosion-control blanket at least 6' wide.
Optional: The metal landscape staples used to anchor the erosion-control blanket should be at least 6" long.

Placement:

Bale ditch checks should be placed perpendicular to the flowline of the ditch.
The ditch check should extend far enough so that the ground level at the ends of the check is higher than the top of the lowest center bale. This prevents water from flowing around the check.
Straw bale ditch checks should not be placed in ditches where high flows are expected. Rock checks should be used instead.
Bales should be placed in ditches with slopes of 6% or less. For slopes steeper than 6%, rock checks should be used.
The following table provides check spacing for a given ditch grade:

Ditch Check Spacing

Ditch grade (%)	Check Spacing (feet)
0.5	200
1.0	200
2.0	100
3.0	65
4.0	50
5.0	40
6.0	30

Proper installation method:

Excavate a trench perpendicular to the ditch flowline that is 4" deep and a bale's width wide. Extend the trench in a straight line along the entire length of the proposed ditch check. Place the soil on the upstream side of the trench—it will be used later.
Optional: On the downstream side of the trench, roll out a length of erosion-control blanket (scour apron) equal to the length of the trench. Place the upstream edge of the erosion-control blanket along the bottom upstream edge of the trench. The erosion control blanket should be anchored in the trench with one row of 6" landscape staples placed on 18" centers. The remainder of the erosion-control blanket (the portion that is not lying in the trench) will serve as the downstream scour apron. This section of the blanket should be anchored to the ground with 6" landscape staples placed around the perimeter of the blanket on 18" centers. The remainder of the blanket should be anchored using two evenly spaced rows of 6" landscape staples on 18" centers placed perpendicular to the flowline of the ditch.
Place the bales in the trench, making sure that they are butted tightly. Two stakes should be driven through each bale along the centerline of the ditch check, approximately 6" to 8" in from the bale ends. Stakes should be driven at least 12" into the ground.
Once all the bales have been installed and anchored, place the excavated soil against the upstream side of the check and compact it. The compacted soil should be no more than 3" to 4" deep and extend upstream no more than 24".

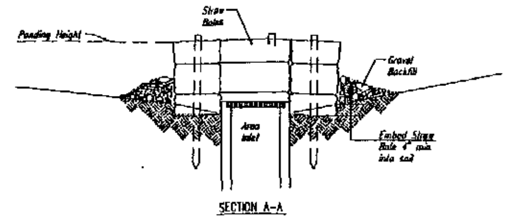
List of common placement/installation mistakes to avoid:

Do not place a bale ditch check directly in front of a culvert outlet. It will not stand up to the concentrated flow.
Do not place bale ditch checks in ditches that will likely experience high flows. They will not stand up to concentrated flow.
Follow prescribed ditch-check spacing guidelines. If spacing guidelines are exceeded, erosion will occur between the ditch checks.
Do not allow water to flow around the ditch check. Make sure that the ditch check is long enough so that the ground level at the ends of the check is higher than the top of the lowest center bale.
Do not place bale ditch checks in channels with shallow soils underlain by rock. If the check is not anchored sufficiently, it will wash out.
Bale ditch checks must be dug into the ground. Bales at ground level do not work because they allow water to flow under the check.

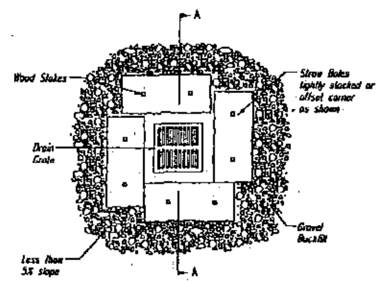
Inspection and Maintenance:

Bale ditch checks should be inspected every 7 days and within 24 hours of a rainfall of 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Does water flow around the ditch check?
Does water flow under the ditch check?
Does water flow through spaces between abutting bales?
Are any bales and/or scour aprons (optional) dislodged?
Are bales decomposing due to age and/or water damage?
Does sediment need to be removed from behind the ditch check?



SECTION A-A



STRAW BALE BARRIERS FOR AREA INLETS

(INLET PROTECTION)

Material Specification:

Bale area inlet barriers should be constructed of wheat straw, oat straw, prairie hay, or bromegrass hay that is free of weeds declared noxious by the Kansas State Board of Agriculture.
The stakes used to anchor the bales should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
Twine should be used to bind bales. The use of wire binding is prohibited because it does not biodegrade readily.

Placement:

Bale area inlet barriers should be placed directly around the perimeter of a drop inlet.
When a bale area inlet barrier is located near an inlet that has steep approach slopes, the storage capacity behind the barrier is drastically reduced. Timely removal of sediment must occur for a barrier to operate properly in this location.

Proper Installation Method:

Excavate a trench around the perimeter of the area inlet that is at least 4" deep by a bale's width wide.
Place the bales in the trench, making sure that they are butted tightly. Some bales may need to be shortened to fit into the trench around the area inlet. Two stakes should be driven through each bale, approximately 6" to 8" in from the bale ends.
Stakes should be driven at least 12" into the ground.
Once all the bales have been installed and anchored, place the excavated soil against the receiving side of the barrier and compact it. The compacted soil should be no more than 3" to 4" deep.
Note: When a bale area inlet barrier is placed in a shallow median ditch, make sure that the top of the barrier is not higher than the paved road. In this configuration, water may spread onto the roadway causing a hazardous condition.

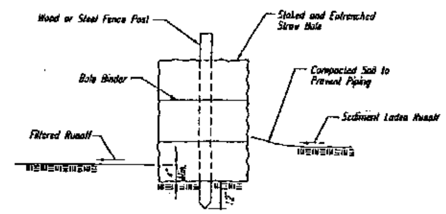
List of common placement installation mistakes to avoid:

Bales should be placed directly against the perimeter of the area inlet. This allows overtopping water to flow directly into the inlet instead of onto nearby soil causing scour.
Bale area inlet barriers must be dug into the ground. Bales at ground level do not work because they allow water to flow under the barrier.

Inspection and Maintenance:

Bale area inlet barriers should be inspected every 7 days and within 24 hours of a rainfall 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Does water flow under the area inlet barrier?
Does water flow through spaces between abutting bales?
Are any bales dislodged?
Are bales decomposing due to age and/or water damage?
Does sediment need to be removed from behind the area inlet barrier?



STRAW BALE BARRIERS

Material Specification:

Bale slope barriers may be constructed of wheat straw, oat straw, prairie hay, or bromegrass hay that is free of weeds declared noxious by the Kansas State Board of Agriculture.
The stakes used to anchor the bales should be a hardwood material with the following minimum dimensions: 2" square (nominal) by 4' long.
Twine should be used to bind bales. The use of wire binding is prohibited because it does not biodegrade readily.

Placement:

A slope barrier should be used at the toe of a slope when a ditch does not exist. The slope barrier should be placed on nearly level ground 5' to 10' away from the toe of a slope. The barrier is placed away from the toe of the slope to provide adequate storage for settling out sediment.
When practicable, bale slope barriers should be placed along contours to avoid a concentration of flow.
Bale slope barriers can also be placed along right-of-way fence lines to keep sediment from crossing onto adjacent property. When placed in this manner, the slope barrier will not likely follow contours.

Proper installation method:

Excavate a trench the length of the planned slope barrier that is 4" deep and a bale's width wide. Make sure that the trench is excavated along a single contour. When practicable, slope barriers should be placed along contours to avoid a concentration of flow. Place the soil on the upslope side of the trench for later use.
Place the bales in the trench, making sure that they are butted tightly. Two stakes should be driven through each bale along the centerline of the ditch check, approximately 6" to 8" in from the bale ends. Stakes should be driven at least 12" into the ground.
Once all the bales have been installed and anchored, place the excavated soil against the upslope side of the check and compact it. The compacted soil should be no more than 3" to 4" deep.

List of common placement/installation mistakes to avoid:

When practical, do not place bale slope barriers across contours. Slope barriers should be placed along contours to avoid a concentration of flow. Concentrated flow over a slope barrier creates a scour hole on the downslope side of the barrier. The scour hole eventually undermines the bales and the barrier fails.
Do not place bale slope barriers in areas with shallow soils underlain by rock. If the barrier is not anchored sufficiently, it will wash out.
Bale slope barriers must be dug into the ground. Bales at ground level do not work because they allow water to flow under the barrier.

Inspection and Maintenance:

Bale slope barriers should be inspected every 7 days and within 24 hours of a rainfall of 1/2" or more. The following is a list of questions that should be addressed during each inspection:

Are there any points along the slope barrier where water is concentrating?
Does water flow under the slope barrier?
Does water flow through spaces between abutting bales?
Are any bales dislodged?
Are bales decomposing due to age and/or water damage?
Does sediment need to be removed from behind the slope barrier?

CITY OF WICHITA
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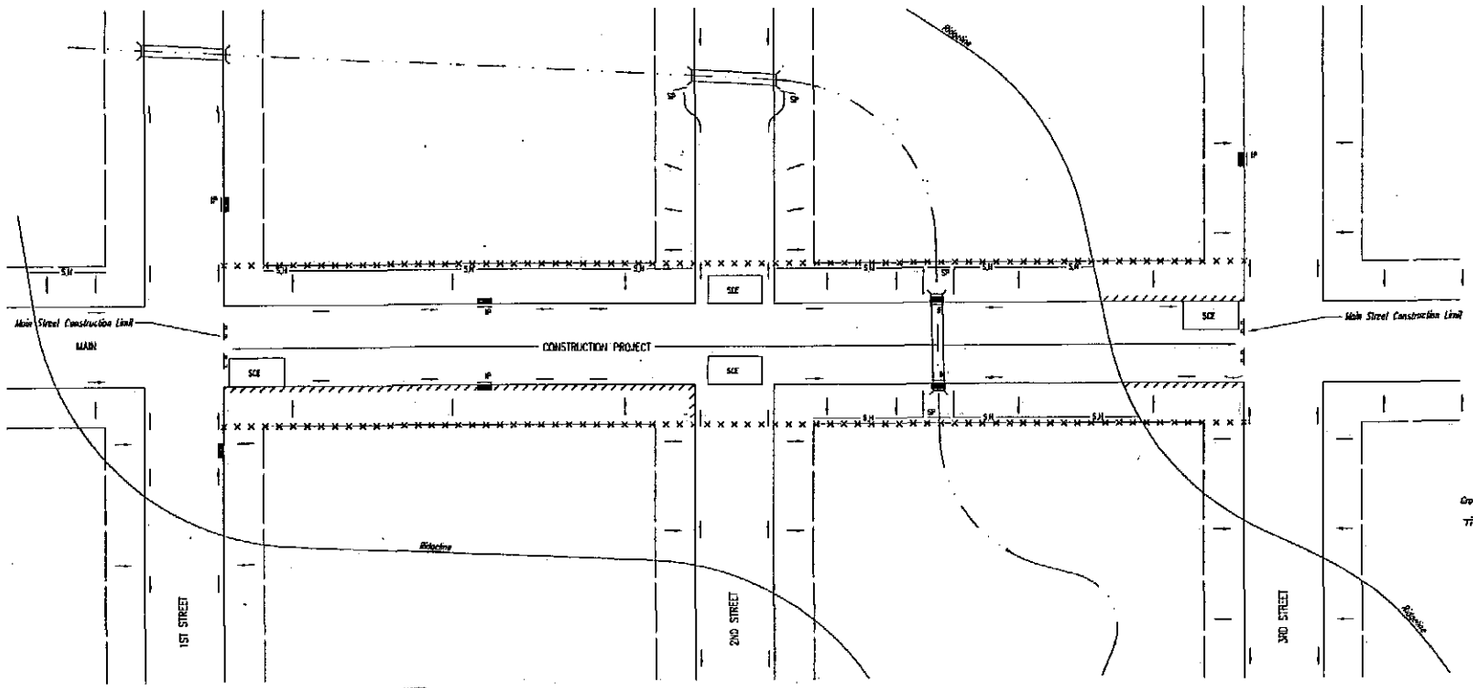
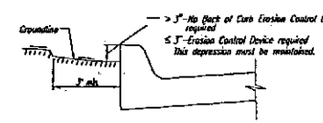
SOIL EROSION BMPs STRAW BALE DITCH CHECK AND BARRIER DETAILS	
JAMES L. ARMOUR, P.E. – CITY ENGINEER	
PROJECT NUMBER 468-84533	000499
DATE April 09	Sheet 8 of 10

GENERAL NOTES:

1. THIS SHEET IS INTENDED TO PROVIDE GUIDELINES AS TO WHAT TYPES OF EROSION CONTROL DEVICES WILL BE INSTALLED DURING THE CONSTRUCTION PROCESS. CONTRACTORS ARE EXPECTED TO DO PROJECTS ACCORDINGLY.
2. EROSION CONTROL DEVICES MUST BE MAINTAINED BY THE CONTRACTOR THROUGHOUT THE CONSTRUCTION PROCESS AND UNTIL THE DISTURBED EARTH IS RESTABILIZED.
3. IF THE PROJECT WILL DISTURB 1 ACRE OR MORE, A FEDERAL/STATE NPDES STORMWATER PERMIT IS REQUIRED. A DETAILED STORMWATER POLLUTION PREVENTION PLAN, IS REQUIRED. THE EROSION CONTROL DEVICES SHOWN ON THIS SHEET ARE CONSIDERED TO BE THE MINIMUM TO BE SHOWN IN THE POLLUTION PREVENTION PLAN.
4. FOR PROJECTS DISTURBING LESS THAN 1 ACRE, CONTRACTORS ARE ENCOURAGED TO PREPARE STORMWATER POLLUTION PREVENTION PLANS PRIOR TO CONSTRUCTION. EROSION CONTROL DEVICES MUST BE USED ON ALL PROJECTS.
5. FAILURE TO USE AND MAINTAIN EROSION CONTROL DEVICES IS A VIOLATION OF SECTION 16.32 OF THE CITY CODE AND WILL SUBJECT THE CONTRACTOR TO THE PENALTIES PROVIDED FOR THEREIN.
6. THE APPLICATION OF EROSION CONTROL DEVICES SHOWN ON THIS SHEET IS FOR SITUATIONS NORMALLY ENCOUNTERED. FROM TIME TO TIME, SITUATIONS WILL ARISE THAT MAY REQUIRE A DIFFERENT DEVICE OTHER THAN THOSE SHOWN. EROSION CONTROL DEVICES, OTHER THAN THOSE SHOWN, MAY BE UTILIZED AS LONG AS THEY ARE EFFECTIVE AND MAINTAINED.





CURB BACKFILL DETAIL

LEGEND

- R-O-W LIMITS
- DRAINAGE FLOW PATH
- R/W LIMIT WITHIN CONSTRUCTION LIMIT
- STORM WATER INLETS
- INLET PROTECTION
- SILT FENCE OR HAY BALE BARRIER
- STREAM PROTECTION
- SCE — STABILIZED CONSTRUCTION ENTRANCE
- BACK OF CURB PROTECTION

NOTES:

1. THE INTENT OF ALL EROSION CONTROL DEVICES IS TO KEEP ALL SEDIMENT CONFINED TO THE CONSTRUCTION SITE, AND OUT OF ALL UNDERGROUND PIPES, DITCHES, LAKES, AND OTHER DRAINAGE FACILITIES, AND OFF OF STREETS.
2. THE POINT OF COMPLIANCE IS GENERALLY THE RIGHT-OF-WAY LINES WITHIN THE LIMITS OF CONSTRUCTION.
3. EROSION CONTROL DEVICES WILL BE REQUIRED AT ALL POINTS ALONG THE PROJECT WHERE DISTURBED EARTH CAN DRAIN OUTO PRIVATE PROPERTY.
4. INLET PROTECTION DEVICES WILL BE REQUIRED WHEREVER WATER CAN DRAIN OFF THE PROJECT SITE INTO AN INLET, INCLUDING ANY SIDE STREET INLETS.
5. EROSION CONTROL DEVICES SHALL BE INSTALLED AT CREEK CROSSINGS SO AS TO PREVENT SEDIMENT FROM ENTERING SIEMENS.
6. STABILIZED CONSTRUCTION ENTRANCES SHALL BE PROVIDED, AS NEEDED, TO PREVENT MUD FROM TRACKING ONTO STREETS NOT UNDER CONSTRUCTION AND ON STREETS WITHIN THE PROJECT LIMITS IF TRAFFIC IS BEING MAINTAINED THROUGH THE PROJECT.
7. ANY MUD TRACKED ONTO STREETS MUST BE REMOVED AT THE END OF EACH WORK DAY.
8. THE CONTACTOR WILL BE REQUIRED TO PLACE EROSION CONTROL DEVICES BACK OF CURB, WHENEVER WATER CAN DRAIN OVER CURB, TO KEEP ERODED SOIL OUT OF THE GUTTERLINES, IN ACCORDANCE WITH THE FOLLOWING:
   A. THE DEVICE REQUIRED WILL BE CURLEX I OR II EXCELSIOR BLANKET, OR EQUAL. SAID BLANKET SHALL BE PLACED OVER THE APPROPRIATE SEED AND FERTILIZER, AS SPECIFIED IN THE PROJECT SPECIFICATIONS. (SEE SOIL EROSION BMPs – BACK OF CURB SEDIMENT BARRIER DETAILS)
   B. THIS DEVICE SHALL BE INSTALLED IMMEDIATELY WHENEVER THE CURB IS BACKFILLED TO WITHIN 3" OF THE TOP OF CURB. (SEE CURB BACKFILL DETAIL) OTHER BMPS MAY BE REQUIRED AT LOCATIONS WHERE CONCENTRATED FLOW CARRIES SEDIMENT OVER THE CURB.
   C. ADDITIONALLY, OTHER EROSION CONTROL DEVICES (HAY BALES, SILT FENCE, ETC.) WILL BE INSTALLED AT LOCATIONS OF CONCENTRATED FLOW RESULTING IN SEDIMENT OVERRUNNING THE MAT.
   D. SHOULD THE PROJECT PLANS SPECIFY THAT THE RIGHT-OF-WAY IS TO BE SODDED, THE EXCELSIOR MAT WILL NOT BE REQUIRED SO LONG AS THE SOD IS PLACED WITHIN 48 HOURS AFTER CURB BACKFILL REACHES A HEIGHT OF 3" OR LESS FROM TOP OF CURB. (SEE CURB BACKFILL DETAIL)

CITY OF WICHITA
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455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1635
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SOIL EROSION BMPs

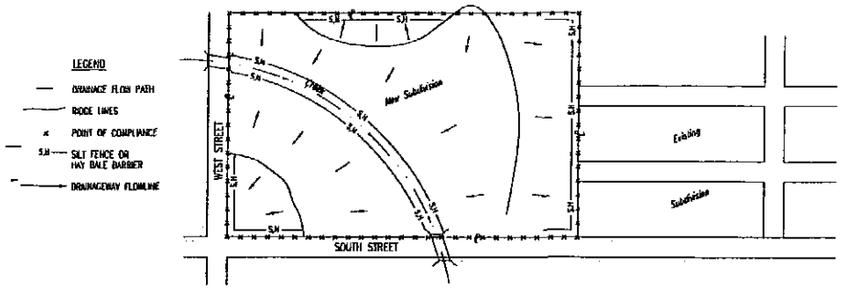
STREET IMPROVEMENT PROJECTS

JAMES L. ARMOUR, P.E. – CITY ENGINEER

PROJECT NUMBER	SHEET CODE
468-84533	650459

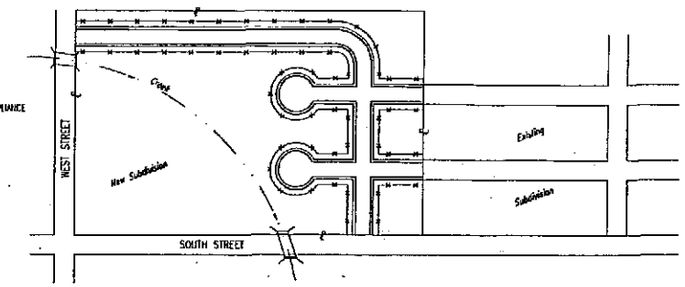
DATE: April 09 — Sheet 9 of 10

PHASE 1 – INITIAL EARTHWORK AND UTILITIES (EXCEPT STORM SEWER)



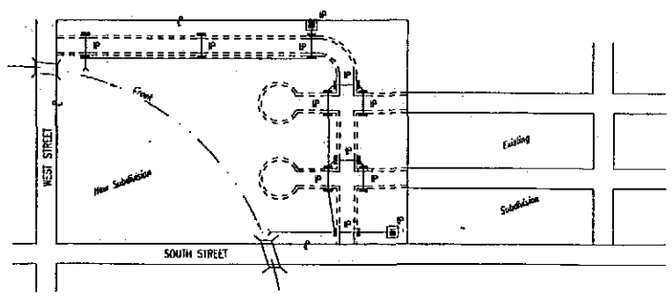
1. DURING THIS PHASE OF SUBDIVISION CONSTRUCTION, THE POINTS OF COMPLIANCE ARE THE PERIMETER BOUNDARIES AND ANY DRAINAGE WAYS OR STORM SEWERS DRAINING THROUGH OR FROM THE SITE. SHOULD LAKES BE CONSTRUCTED WITHIN THE SUBDIVISION THAT WILL DISCHARGE DURING STORMS, THEY ARE ALSO A POINT OF COMPLIANCE.
2. HAY BALES OR SILT FENCE MUST BE CONSTRUCTED ALONG THE PROPERTY LINE WHERE ON SITE WATER CAN DRAIN OFF THE PROPERTY. THESE EROSION CONTROL DEVICES WILL ALSO BE INSTALLED ALONG ANY DRAINAGE DITCH OR LAKE THAT CAN DISCHARGE.
3. SHOULD SILT OR SEDIMENT ENTER THE DITCHES OR STREETS ON THE ADJACENT BOUNDARY STREETS, APPROPRIATE EROSION CONTROL DEVICES WILL BE PLACED WITHIN THE SUBDIVISION TO PREVENT THIS.
4. ANY MUD TRACKED ONTO ADJACENT STREETS WILL BE REMOVED WITHIN 48 HOURS OR BY FRIDAY AT 6:00 PM, WHICHEVER IS EARLIER.
5. CONTRACTORS WORKING WITHIN THE SITE WILL NOT BE REQUIRED TO USE INDIVIDUAL EROSION CONTROL DEVICES AS LONG AS THOSE SPECIFIED ABOVE ARE IN PLACE AND EFFECTIVE. CONTRACTORS WORKING ON THE BOUNDARY LINE STREETS OR ON ADJACENT PROPERTIES TO EXTEND UTILITIES ARE EXPECTED TO USE EROSION CONTROL DEVICES AT THEIR WORK LOCATIONS, AS NEEDED.
6. UTILIZE STABILIZED CONSTRUCTION ENTRANCE AT ENTRANCE AND EXIT ONTO ANY EXISTING PUBLIC STREETS.
7. IF THE INITIAL EARTH WORK AND UTILITIES ARE DONE AS PART OF A PUBLIC IMPROVEMENT PROJECT, THESE EROSION CONTROL DEVICES WILL BE INSTALLED BY THE CONTRACTOR AS SPECIFIED IN THE INDIVIDUAL PROJECT CONTRACTS. THE CONTRACTOR WILL MAINTAIN THE DEVICES UNTIL COMPLETION OF THE CONTRACT, AT WHICH TIME THE DEVELOPER WILL ASSUME MAINTENANCE RESPONSIBILITIES. IF THESE CONTRACTS ARE NOT PUBLIC IMPROVEMENT PROJECTS, THE DEVELOPER WILL BE RESPONSIBLE FOR INSTALLING AND MAINTAINING THESE DEVICES.
8. WITHIN 14 DAYS OF COMPLETION OF EARTHWORK ACTIVITIES IN ANY GIVEN AREA, THAT AREA SHALL BE TEMPORARILY OR PERMANENTLY SEEDED AND MULCHED.

PHASE 3 – STREET CONSTRUCTION



1. DURING THIS PHASE OF SUBDIVISION CONSTRUCTION, NEW STREETS ARE INSTALLED. ALL EROSION CONTROL DEVICES INSTALLED DURING PHASE 1 AND 2 MUST STILL BE MAINTAINED. THE POINT OF COMPLIANCE NOW SHIFTS TO THE BACK OF CURB ALONG EACH STREET.
2. CURB OPENING INLET PROTECTION:
   A. SUMP AREAS – INLET PROTECTION SHALL BE PROVIDED WHEN STREET SUBGRADE WORK IS COMPLETED.
   B. NON-SUMP LOCATIONS – PROVIDE INLET PROTECTION AS SOON AS BASE COURSE ASPHALT IS INSTALLED, BEFORE THE SURFACE COURSE LIFT.
3. EROSION CONTROL DEVICES WILL BE REQUIRED BACK OF CURB WHEREVER WATER CAN FLOW OVER THE CURB AND THE CURB HAS BEEN BACKFILLED TO WITHIN 3" OR LESS OF THE TOP OF CURB (SEE CURB BACKFILL DETAIL). FOR CURBS NOT YET ENTIRELY BACKFILLED (3" OR MORE BELOW TOP OF CURB), ADDITIONAL DEVICES WILL BE REQUIRED AT POINTS WHERE WATER BREAKS OVER CURB WHICH COULD RESULT IN THE PLACEMENT OF SEDIMENT IN THE GUTTER.
4. SEE DETAIL SHEET FOR BACK OF CURB PROTECTION.
5. THE BACK OF CURB PROTECTION SPECIFIED ON THIS PLAN MAY HAVE TO BE SUPPLEMENTED WITH HAY BALE OR SILT FENCE EROSION CONTROL DEVICES AT LOCATIONS WHERE CONCENTRATED FLOW RESULTS IN SEDIMENT BEING CARRIED OVER THE EXCELSIOR MATS.
6. THE STREET CONTRACTOR WILL BE RESPONSIBLE FOR INSTALLING BACK OF CURB EROSION CONTROL DEVICES.
7. THE INDIVIDUAL LOT OWNERS WILL BE RESPONSIBLE FOR MAINTAINING THE BACK OF CURB EROSION CONTROL DEVICES IN FRONT OF THEIR LOTS UNTIL SUCH TIME AS ADJACENT DISTURBED EARTH IS STABILIZED WITH GRASS OR SOD.

PHASE 2 – INSTALLATION OF STORM SEWER

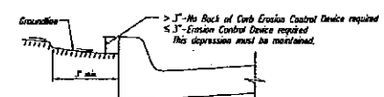


1. DURING THIS PHASE OF SUBDIVISION DEVELOPMENT, ALL EROSION CONTROL DEVICES REQUIRED IN PHASE 1 SHALL REMAIN IN PLACE AND BE MAINTAINED.
2. AS NEW STORM SEWERS, WITH INLETS, ARE INSTALLED, THE STORM SEWERS MUST NOW BE PROTECTED SO ALL NEW INLETS BECOME POINTS OF COMPLIANCE.
3. AREA DRAINS – AS SOON AS WATER CAN FLOW INTO THESE DRAINS, HAY BALE OR SILT FENCE PROTECTION WILL BE INSTALLED AROUND THEM.
4. CURB OPENING INLETS – AS SOON AS WATER CAN FLOW INTO THESE DRAINS, INLET PROTECTION DEVICES MUST BE INSTALLED. IF WATER CANNOT FLOW INTO CURB INLETS UNTIL STREET CONSTRUCTION IS COMPLETE, THEN STREET CONTRACTOR WILL INSTALL INLET PROTECTION. SEE PHASE 3 – STREET CONSTRUCTION.
5. THE STORM SEWER CONTRACTOR WILL BE RESPONSIBLE FOR INSTALLING THESE DEVICES.
6. THE SUBDIVISION DEVELOPER WILL MAINTAIN THESE EROSION CONTROL DEVICES ONCE INSTALLED.
7. ALL DISTURBED GROUND WILL BE FINAL GRADED AND TEMPORARILY OR PERMANENTLY SEEDED WITHIN 14 DAYS IF COMPLETION OF WORK IN ANY GIVEN PART OF THE SUBDIVISION.
8. ONCE ALL DISTURBED GROUND DRAINING TO AN INLET HAS BEEN RESTABILIZED WITH GRASS OR SOD, THE SUBDIVISION DEVELOPER WILL BE RESPONSIBLE FOR PERMANENTLY REMOVING THE INLET PROTECTION.

GENERAL NOTES:

1. THE INTENT OF ALL EROSION CONTROL DEVICES IS TO PREVENT ERODED SOIL FROM ENTERING DITCHES, STORM SEWERS, LAKES, STREETS OR ANY OTHER DRAINAGE FEATURE.
2. THIS SHEET IS INTENDED TO PROVIDE GUIDELINES AS TO WHAT TYPE OF EROSION CONTROL DEVICES WILL BE INSTALLED DURING THE CONSTRUCTION PROCESS. CONTRACTORS ARE EXPECTED TO BID PROJECTS ACCORDINGLY.
3. EROSION CONTROL DEVICES SHALL BE MAINTAINED DURING THE CONSTRUCTION PROCESS TO REMAIN EFFECTIVE. MAINTENANCE SHALL BE AS INDICATED ON SOIL EROSION BMP'S DETAIL SHEETS.
4. PERSONS DESTROYING EROSION CONTROL DEVICES SHALL BE RESPONSIBLE FOR IMMEDIATELY REPAIRING THEM OR INSTALLING SUITABLE REPLACEMENT DEVICES.
5. THE DEVELOPMENT OF ANY SUBDIVISION THAT DISTURBS 1 ACRE OR MORE WILL REQUIRE A FEDERAL/STATE NPDES STORMWATER PERMIT. THE PREPARATION OF A STORMWATER POLLUTION PREVENTION PLAN IS REQUIRED. EROSION CONTROL DEVICES ARE REQUIRED. THE DETAILS SHOWN ON THIS SHEET ARE THE MINIMUM STANDARDS TO BE SHOWN ON POLLUTION PREVENTION PLANS.
6. FOR SUBDIVISIONS SMALLER THAN 1 ACRE, SOIL EROSION DEVICES ARE REQUIRED. ALSO, DEVELOPERS AND CONTRACTORS ARE ENCOURAGED TO DEVELOP POLLUTION PREVENTION PLANS FOR EACH PROJECT PRIOR TO CONSTRUCTION.
7. FAILURE TO USE AND MAINTAIN SOIL EROSION DEVICES IS A VIOLATION OF SECTION 16.32 OF THE CITY CODE AND WILL SUBJECT THE SUBDIVISION DEVELOPER AND CONTRACTORS TO THE PENALTIES PROVIDED THEREIN.
8. THE APPLICATION OF EROSION CONTROL DEVICES SHOWN ON THIS SHEET IS FOR SITUATIONS NORMALLY ENCOUNTERED. FROM TIME TO TIME, SITUATIONS WILL ARISE THAT MAY REQUIRE DEVICES OTHER THAN THAT SHOWN. EROSION CONTROL DEVICES, OTHER THAN THOSE SHOWN, MAY BE UTILIZED SO LONG AS THEY ARE EFFECTIVE AND MAINTAINED.
9. A STABILIZED EARTH SURFACE IS DEFINED AS ONE THAT IS HARD SURFACED WITH CONCRETE, ASPHALT, OR THE LIKE, OR ONE ON WHICH 70% OF THE GRASS HAS GERMINATED ON THE ENTIRE SURFACE.

SEE DETAIL SHEET FOR BACK OF CURB PROTECTION DETAIL



CURB BACKFILL DETAIL
(STREET CONSTRUCTION ONLY)

CITY OF WICHITA
PUBLIC WORKS
ENGINEERING
CITY ENGINEER'S OFFICE

SOIL EROSION BMPs

SUBDIVISION DEVELOPMENT PROCESS

JAMES L. ARMOUR, P.E. – CITY ENGINEER

PROJECT NUMBER	DWG CODE
468-84533	660459
DATE: April 03	Sheet 10 of 10

469

Agenda Item No. XII- 6d.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Program Management Services for Water Supply Projects - Supplemental Agreement

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement No. 4 with R.W. Beck, Inc. for Program Management Services for the Aquifer Storage and Recovery project.

Background: On October 3, 2000, the City Council approved and instructed Staff to begin implementation of the Concept Design Plan for the Integrated Local Water Supply Plan. The Integrated Local Water Supply Plan includes the use of a number of local water supply sources that will be used together to meet the City's water supply needs through the year 2050. On July 10, 2007 the Council authorized Phase II of the Aquifer Storage and Recovery (ASR) project.

An RFP for Program Management services was issued July 11, 2007, with two proposals received by Purchasing on August 8, 2007. The Staff Screening and Selection Committee met August 20, 2007, to hear presentations from R.W. Beck and CH2M-Hill. Based on the proposals and presentations, the SSSC voted unanimously to recommend the proposal from R.W. Beck. On December 20, 2007, the City Council approved a Contract with R.W. Beck for ASR Program Management services through 2008. On December 2, 2008, City Council approved a Supplemental Agreement with R.W. Beck to continue program management services for ASR Phase II.

Analysis: The Integrated Local Water Supply Plan (ILWS) Plan includes a number of components, the most significant of which is the Equus Beds ASR. The project eventually will capture up to 100 million gallons-per-day (MGD) from the Little Arkansas River and recharge it into the Equus Beds Aquifer. Staff estimates that the dewatered component of the aquifer can hold up to 65 billion gallons, or about the same amount of water as is stored in Cheney Reservoir.

Phase II of the project will capture up to 30 MGD with a surface water intake and treat the water prior to transmitting the water into recharge wells. The treatment plant and intake will be constructed assuming that a total of 60 MGD of direct surface water will ultimately be captured and treated at these facilities, with up to 90 MGD possible by completion of the project.

Water Utilities does not have Staff resources to properly manage a project of this scope, which is estimated to cost over $250 million. During preliminary design of ASR Phase II facilities, Staff determined that additional services would be required of the program manager, to wit:

1. Technical advisory services (design review) associated with the ASR Phase II Design-Build Contract for the Surface Water Treatment Plant and Surface Water Intake project. ($100,000)
2. Pilot testing of the advance oxidation process proposed for treatment of atrazine in the surface water. ($340,000)

3. Peer review of the groundwater flow model used by the City for determining recharge credits available as a result of the City's ASR project operation. ($110,000)
4. Program management oversight of a bank storage diversion well investigation. ($20,000)

These services are essential to the successful completion and operation of the ASR Phase II project and/or future phases of the ASR water supply program. This item was originally submitted for City Council approval on June 23, 2009. The original agenda report incorrectly stated the amount of the Supplemental Agreement as $110,000. The correct amount is $570,000.

Financial Considerations: The original Contract for Program Management Services was for an amount not to exceed $1,406,303 through 2008. Supplemental Agreement No. 1 was for $108,000 to provide aerial photography of the project area for use by all project design engineers. Supplemental Agreement No. 2 was for $481,590 to provide surveying for the project area. (Note Supplemental Agreement No. 2 was about $262,000 **less** than the amount quoted by the design firm.) Supplemental Agreement No. 3 was for continuation of Program Management Services through 2009 in the amount of $2,964,561. Supplemental Agreement No. 4 is for an amount not to exceed $570,000. Funding for this service is available in the CIP W-549, Water Supply Projects.

Goal Impact: This project will ensure efficient infrastructure by providing reliable, compliant and secure utilities and will help assure that adequate water supplies are available for future customers.

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

Recommendations/Actions: It is recommended that the City Council approve Supplemental Agreement No. 4 for continued Program Management Services and authorize the necessary signatures.

Attachments: Supplemental Agreement No.4 with R.W. Beck, Inc. for Program Management Services

SUPPLEMENTAL AGREEMENT NO. 4

TO THE

AGREEMENT FOR PROGRAM MANAGEMENT SERVICES

BETWEEN

THE CITY OF WICHITA, KANSAS HEREINAFTER CALLED "CITY"

AND

R. W. BECK, INC. HEREINAFTER CALLED "CONSULTANT"

FOR

PROGRAM MANAGEMENT SERVICES ASSOCIATED WITH INTEGRATED LOCAL WATER SUPPLY PLAN IMPLEMENTATION

WITNESSETH:

WHEREAS, there now exists an Agreement between the two parties covering program management services to be provided by the CONSULTANT in conjunction with the implementation of the Integrated Local Water Supply Plan.

WHEREAS, Paragraph IV.D. of the above referenced Agreement provides that additional services not covered by the original scope of the agreement 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 CONSULTANT provide additional services required for the implementation of the ASR PHASE II PROGRAM, a component of the ILWS Plan, and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

CONSULTANT shall perform the following additional services:

1. Technical Advisory Services associated with the ASR Phase II Design/Build (D/B) of the Surface Water Treatment Plant (SWTP) and River Intake Project.
2. CONSULTANT shall perform Pilot Testing of the Advanced Oxidation Products (AOP) Process.
3. CONSULTANT shall provide Peer Review of the Groundwater Flow Model used by the CITY for Recharge Credit Accounting purposes and provided to the Kansas Division of Water Resources (DWR).

4. CONSULTANT shall provide Program Management Oversight of the Diversion Well Investigation that is being conducted to better define future phases of the ASR Program.

A.1. Technical Advisory Services

The scope of services for the Technical Advisory Services associated with the ASR Phase II D/B of the SWTP and River Intake Project are described in Exhibit A. It is anticipated that these services will be sub-contracted to CDM. The estimated budget for these services is summarized in Exhibit A and shall not exceed $100,000.

A.2. Pilot Testing of the AOP Process

The scope of services for the Pilot Testing of the AOP Process is described in Exhibit B. It is anticipated that these services will be sub-contracted to CDM. The estimated budget for these services is summarized in Exhibit C. Program Management Oversight shall include, consultant procurement activities, management of sub-consultant's contract, site visits, document reviews, workshops and meetings. The estimated budget for Program Management services, during 2009, associated with the AOP Pilot Testing is $15,000. The total estimated budget for Pilot Testing of the AOP Process shall not exceed $340,000.

A.3. Peer Review of the Groundwater Flow Model

The scope and estimated costs for the Groundwater Flow Model Peer review, during 2009, are as follows:

1. Peer Review Kickoff Meeting and Workshop	$ 7,500
2. Peer Review of Groundwater Model	$ 65,000
3. Findings Workshop	$ 7,500
4. Peer Review Findings Report	$ 20,000
5. Program Management Oversight	$ 10,000
The total estimated budget for Peer Review of the Groundwater Flow Model shall not exceed	$110,000.

A.4. Diversion Well Investigation

The scope of services for Program Management Oversight of the Diversion Well Investigation includes; procurement activities, management of the selected consultant, site visits, document reviews, workshops/meetings, coordination with land owners for access, coordination with regulatory agencies, and permitting. The estimated budget for Program Management services associated with the Diversion Well Investigation, during 2009, shall not exceed $20,000.

The estimated budget for Supplemental Agreement No. 4 shall not exceed $570,000 and is summarized as follows:

Tasks	Estimated Budget
A.1. Technical Advisory Services	$100,000
A.2. Pilot Testing of the AOP Process	$340,000
A.3. Groundwater Flow Model Peer Review	$110,000
A.4. Diversion Well Investigation	$20,000
Total	**$570,000**

B. PAYMENT PROVISIONS

Payment to the CONSULTANT for the performance of the services described by this Supplemental Agreement shall be in accordance with Paragraph IV of the original Agreement, and shall not exceed the amount designated in this Supplemental Agreement.

C. PROJECT SCHEDULE

The project schedule shall include no additional time to Supplemental Agreement No. 3.

D. PROVISIONS OF THE ORIGINAL AGREEMENT

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

IN WITNESS WHEREOF, the CITY and the DESIGNER have executed this Supplemental Agreement No. 4 as of this _____day of _____ in the year 2009.

CITY OF WICHITA

By:_____
Carl Brewer, Mayor

ATTEST:

By:_____
Karen Sublett, City Clerk

APPROVED AS TO FORM

By:_____
Gary Rebenstorf, Director of Law

R. W. BECK, Inc.

By:_____

Title:_____

EXHIBIT A
TO AGREEMENT BETWEEN
CONSULTANT AND SUBCONSULTANT
Technical Advisory Services

This is an exhibit attached to and made a part of the Agreement dated , 2009, between R.W. Beck (CONSULTANT) and Camp Dresser & McKee Inc. (SUBCONSULTANT) for professional services. CONSULTANT holds a prime agreement with the City of Wichita, Kansas (CITY). Under its prime agreement with the CITY, CONSULTANT is providing TECHNICAL ADVISORY SERVICES related to the final design of the ASR Phase II Surface Water Treatment Plant (SWTP) & River Intake (PROJECT) associated with CONSULTANT's Program Management Services for the Integrated Local Water Supply Plan Implementation - ASR Phase II Program.

CITY has awarded final design and construction of the PROJECT to ABC Partners. CONSULTANT intends to request TECHNICAL ADVISORY SERVICES from SUBCONSULTANT as CONSULTANT's need arises.

1.0 SUBCONSULTANT SERVICES

CONSULTANT will request services, hereinafter referenced as a Work Request, of SUBCONSULTANT on a case-by-case basis as CONSULTANT's need for TECHNICAL ADVISORY SERVICES arises. Each Work Request request will be made in writing, via email, or documented phone call.

SUBCONSULTANT will review each Work Request upon receipt and respond in writing or via email to notify CONSULTANT that the Work Request is accepted or that SUBCONSULTANT wishes to negotiate the terms of the Work Request.

SUBCONSULTANT shall commence work on a given Work Request only upon mutual agreement between SUBCONSULTANT and CONSULTANT.

2.0 TIME PERIOD FOR PERFORMANCE

The time period for the performance of SUBCONSULTANT's Services are as follows:

Contract Completion: December 31, 2009

3.0 METHOD OF PAYMENT

The method of payment for Services rendered by SUBCONSULTANT shall be as set forth below:

CONSULTANT agrees to pay SUBCONSULTANT as follows:

For work done by the SUBCONSULTANT at the hourly billing rate for the category of the individual performing the work, for all time directly chargeable to the project plus actual out-of-pocket expense cost. The SUBCONSULTANT's schedule of Hourly Billing Rates is attached as Exhibit D.

Actual out-of-pocket expense costs are all costs other than SUBCONSULTANT's labor costs that are incurred during the progress of the work. The actual out-of-pocket expense costs include: air fare, automobile rental if required, mileage charges, parking, tolls, taxi, meals, lodging, telephone, printing and reproduction costs, and

other miscellaneous costs incurred specifically for this project.

The total cost of all TECHNICAL ADVISORY SERVICES shall not exceed $100,000.00.

Unless this contract is otherwise amended, SUBCONSULTANT'S services shall terminate upon completion of all mutually agreed upon Work Requests, upon the contract completion date, or upon reaching the not-to-exceed limit.

EXHIBIT B
TO AGREEMENT BETWEEN
CONSULTANT AND SUBCONSULTANT
Field Verification of the Advanced Oxidation Products Process for Atrazine Destruction and 4-Log Virus Inactivation

This is an exhibit attached to and made a part of the Agreement dated , 2009, between R.W. Beck (CONSULTANT) and Camp Dresser & McKee Inc. (SUBCONSULTANT) for professional services. CONSULTANT holds a prime agreement with the City of Wichita, Kansas (CITY).

1.0 SUBCONSULTANT'S SERVICES

The purpose of these services are to:

- Field-confirm at the pilot –scale level the ability of the proprietary HiPOx™ advanced oxidation products (AOP) System using ozone and hydrogen peroxide to reduce atrazine concentrations to below the 3 microgram per liter (ug/L) Primary Drinking Water Standard (PDWS) without exceeding 10 ug/L PDWS for bromate.

- Field-confirm at the pilot –scale level the intended use of the AOP process to provide the required 4-log virus inactivation as a "technology-based" methodology as opposed to a "disinfectant residual – contact time product (Ct)" methodology.

The Scope of Work to be provided by SUBCONSULTANT includes the following additional BASIC SERVICES relating to the project consulting activities:

- Task 1 – Project Kickoff Meeting and Workshop

- Task 2 – Ultrafiltration (UF)/Advanced Oxidation Products (AOP) Pilot Equipment Pilot Plants and Ancillary Equipment

- Task 3 – UF/AOP Pilot Plant Testing Protocol

- Task 4 – UF/AOP Pilot Plant Testing

- Task 5 – UF/AOP Pilot Study Technical Memorandum

- Task 6 – Special Studies (IF REQUIRED)

The specific anticipated products of the scope of work to be delivered to the CITY include the following:

- Task 1 - Workshop Agenda, Preliminary Technical Information Package, and Draft / Final Meeting Minutes

- Task 2 – Pilot Plant Process Flow Diagram, Draft / Final Ancillary Materials and Equipment List, Draft / Final Materials and Equipment Workshop Minutes, and Pilot Plant Rental Agreements

- Task 3- Draft / Final Pilot Plant Protocol and Draft / Final Pilot Testing Coordination Workshop Minutes
- Task 4 – Monthly Summary of Testing Data
- Task 5 - Draft / Final Pilot Study Technical Memorandums and Draft / Final Workshop Minutes
- Task 6 – Draft / Final Special Testing Protocols, Special Testing Agreements and Draft / Final Workshop Minutes (IF REQUIRED)

The work to be performed is described in detail as a series of tasks presented in the following sections of this exhibit.

Task 1 – Project Kickoff Meeting and Workshop

SUBCONSULTANT will prepare for and participate in a one-day project kickoff meeting and technical workshop with CITY to discuss project goals and objectives, management issues, lines of communication, project deliverables, and schedule. In addition, regulatory constraints and CITY-supplied services will be clearly identified and thoroughly discussed to facilitate pilot testing planning and execution. The technical workshop will be focused on the pilot plant testing program including discussions relating to applicable treatment goals and operational issues, pilot plant source water and location issues, site security, necessary support services, pilot plant procurement, pilot plant monitoring, water quality sampling and analytical services, permitting, and coordination with applicable regulatory agencies. A particular focus will be placed upon the desired operational protocol and raw water quality spiking. Prior to the meeting SUBCONSULTANT will prepare and distribute a Workshop Agenda and Preliminary Technical Information Package relating to the pilot plant testing. SUBCONSULTANT will visit the assumed pilot plant test site to confirm site conditions and prepare hand-sketches of the proposed pilot plant layout. Subsequent to the meeting, SUBCONSULTANT will produce Draft Workshop Minutes for CITY review. SUBCONSULTANT will receive comments, edit the Workshop Minutes appropriately, and submit the Final Workshop Minutes to the participating CITY staff.

Task 2 – Ultrafiltration (UF) /Advanced Oxidation Products (AOP) Pilot Equipment Pilot Plants and Ancillary Equipment

SUBCONSULTANT will coordinate the procurement, mobilization, set-up, calibration, and demobilization of the required pilot plant components as described herein.

Task 2.1 –UF / AOP Pilot Plant and Ancillary Equipment Identification and Sizing

The major unit processes to be utilized in the pilot plant testing have been preliminarily identified and sized. The UF pilot plant will be a unit supplied by GE/Zenon. The AOP pilot plant will be a field unit using the HiPOx™ process as supplied by Applied Process Technology, Inc. (APT). SUBCONSULTANT will utilize vendor-specific data to design all ancillary equipment required to operate these pilot units including raw water supply, chemical feed, and residuals handling. SUBCONSULTANT will prepare and submit to the CITY a process flow diagram (PFD) that provides all necessary information (flow, pressure, line size and materials, interstage pumping, break tanks, etc.) to perform equipment ordering and field work for pilot plant set-up. SUBCONSULTANT will specifically detail the necessary chemicals, solution make-up, storage, and feed methods for the chemicals used to spike the raw water (atrazine, bromide, alkalinity, and MS2 coliphage). Note that raw water alkalinity will not be field-adjusted.

It has been agreed by the CITY that the UF membrane process has been proven to meet the requirements of the Project. The primary purpose of the UF process will be to merely supply membrane filtered water for the AOP process.

Task 2.2 – Develop Ancillary Materials and Equipment List
SUBCONSULTANT will develop and submit a Draft Ancillary Materials and Equipment List that will identify ancillary equipment and materials needed to complete the testing established in Tasks 1 and 2. Ancillary equipment and materials not provided by the membrane manufacturer such as temporary pumping, break tanks and mixers, piping, and temporary power supply will be identified in Task 2.1 and an estimated cost assigned to this equipment in this task.

Task 2.3 – Ancillary Materials and Equipment Workshop
SUBCONSULTANT will prepare for and participate in a half-day workshop with CITY staff to evaluate and establish a preliminary list of ancillary equipment and materials items based upon the Draft Equipment and Materials List. CITY will be responsible for procurement and installation of ancillary equipment and materials required for SUBCONSULTANT to complete the work defined in this Agreement. SUBCONSULTANT will prepare and submit Draft Workshop Minutes, receive comments from the CITY, and revise and submit a Final Equipment and Materials List.

Task 2.4 – Negotiate Rental Agreements
SUBCONSULTANT will provide services related to the preparation of appropriate Pilot Plant Rental Agreements and will assist the CITY in its negotiations with the selected manufacturers for procurement of the necessary pilot plant equipment by the CITY. SUBCONSULTANT will coordinate equipment layout and assist the CITY with coordinating pilot equipment delivery schedules.

Task 2.5 – Pilot Plant Setup Assistance
SUBCONSULTANT will provide services related to the site preparation, delivery, inspection, and initial setup of the UF/AOP pilot plants. SUBCONSULTANT will coordinate with the CITY on site-specific coordination issues including electrical power supply. SUBCONSULTANT will coordinate the delivery of the UF/AOP pilot plants to the pilot testing site and provide the following services:

- Inspect the delivered pilot plants for damage and completeness of shipment. SUBCONSULTANT will coordinate with the pilot plant suppliers to identify any needed repairs that should be made by said suppliers.
- ~~Observe, advise, and direct CITY installation of pilot equipment and ancillary equipment and materials.~~ [Removed]
- Perform initial setup of the pilot plants with manufacturer's staff including loading membrane modules and calibrating chemical systems. Utility connections shall be performed by CITY.
- Perform, with manufacturer's staff assistance, initial checkout of pilot plants to determine proper performance of all specified components.

Pilot plant demobilization and preparation of rented equipment for shipping shall be the responsibility of the CITY.

Task 3 –UF/AOP Pilot Plant Testing Protocol and Workshop

SUBCONSULTANT will provide the following services related to producing a Pilot Plant Testing Protocol and participating in a Workshop to discuss said protocol.

Task 3.1 – Pilot Plant Testing Protocol

SUBCONSULTANT will prepare and submit a Draft Pilot Plant Testing Protocol to CITY and the State of Kansas Department of Health and Environment (KDHE) for review and comments. The protocol will address the items as included in the Proposed Table of Contents attached to this document as Attachment 1. Comments from the KDHE and CITY from the Protocol Workshop specified in Task 3.2 will be reviewed and incorporated as appropriate into the Final Pilot Plant

Testing Protocol. Following the Protocol Workshop specified in Task 3.2, SUBCONSULTANT will revise and submit the Final Pilot Plant Testing Protocol to the CITY.

Task 3.2 – Protocol Workshop

A half-day Protocol Workshop will be held with CITY and KDHE personnel to review the Draft Pilot Plant Testing Protocol and address specific operations issues. A specific goal of this Protocol Workshop would be the establishment of treatment goals, pilot-study objectives, sampling requirements, and water quality analyses. Final equipment setup, testing, equipment, and analytical needs will also be identified and responsibilities determined in this Protocol Workshop. Comments from the KDHE and CITY will be reviewed and incorporated as appropriate into the Final Pilot Plant Testing Protocol. SUBCONSULTANT will edit the draft protocol as necessary and submit the final protocol to the CITY. SUBCONSULTANT will produce and submit a Draft Protocol Workshop Minutes to the CITY, receive comments from the CITY, and produce and submit the Final Protocol Workshop Minutes.

Task 4 – UF/AOP Pilot Plant Testing

SUBCONSULTANT will provide services related to the performance of the pilot plant tests identified in Task 3 for up to 30 days of on-site operation provided by SUBCONSULTANT as river conditions allow. The pilot testing duration will begin in the Spring of 2009 and conclude prior to Fall 2009. It is important that pilot tests represent real-world conditions to the greatest extent possible; therefore, testing will mimic the anticipated future operation of the ASR system with periodic shutdowns corresponding to periods of low river flow to the extent possible. However, because the frequency, duration, and turbidity levels of above base-flow events in the Little Arkansas River are somewhat unpredictable, in the event that the river discharge remains insufficient to operate the pilot equipment, it may be necessary for the CITY to acquire a term permit from the Division of Water Resources (DWR) for the relatively small volume of water required to run the pilot equipment at times when the river is below base-flow or to collect and store water during qualifying river events for later testing. Another critical component of the testing will be spiking of the raw water to match, as closely as possible, the Design Raw Water Quality as provided in the ASR Phase 2 Surface Water Treatment Plant (ASR Phase 2 SWTP) Preliminary Design Report. The duration of the testing at the maximum concentrations will be field determined and intended, as weather conditions allow, to be sufficiently long to meet expected actual conditions experienced by a full-scale ASR Phase 2 SWTP.

SUBCONSULTANT will coordinate with the pilot plant manufacturers to establish procedures for short-term shutdown procedures.

It is intended that the pilot plant equipment will be wet-tested using water available in the Little Arkansas River. The first rain event will be used to further refine chemical feeds under changing river flow and quality conditions. The remainder of this event and probably the second rain event will be used to assess operational criteria at design raw water quality. Remaining rain events will be used for process optimization. If naturally occurring events do not provide sufficient river flow during these testing periods, temporary pumping and water quality spiking will be required. Since this condition, and the labor required to accommodate this condition, is unknown at this time the costs, including labor, required to spike raw water during non-qualifying river events are not included in this Agreement. SUBCONSULTANT will provide personnel to conduct all tests and supervise CITY personnel that may assist during the pilot testing. SUBCONSULTANT will provide a Monthly Status Report to CITY that summarizes all pilot plant operations and obtained data.

Task 5 –UF / AOP Pilot Study Report

SUBCONSULTANT will prepare an analysis of the pilot testing data, interpretation of results, and preparation of a Draft Pilot Study Report. The Draft Pilot Study Report will be submitted to the CITY for review and comment in a half-day Workshop setting. Concurrently, the draft report will be submitted to KDHE for review and approval. Another half-day workshop will be conducted with the

KDHE to present and review the findings of the study. Comments from KDHE and the CITY will be reviewed and incorporated as appropriate into the Final Pilot Study Report and submitted to the CITY.

The information included in the report will include testing procedures, tabulated data, test results, and conclusions. The selected Design-Builder for the ASR Phase 2 Surface Water Treatment Plant shall be responsible for interpretation of the results as they pertain to full-scale design.

Special Studies (If Required)

The Scope of Work to be provided by SUBCONSULTANT includes the following additional SPECIAL STUDIES relating to the project consulting activities:

Task 6 – Special Studies
As required by KDHE and upon written authorization from the CITY, SUBCONSULTANT will provide services for coordination, negotiation, preparation of Draft and Final Special Testing protocols, preparation of Draft and Final Special Testing Agreements, conducting Workshops, and preparing Draft and Final Workshop Minutes for any required Special Testing. At the time of scope preparation it was unknown whether KDHE would require special testing to correlate the inactivation of MS2 coliphage with poliovirus inactivation using AOPs such as hydroxyl radicals in a specialized testing laboratory. This testing would represent a Special Testing event. These services are not included in this Agreement.

2.0 CITY AND CONSULTANT'S RESPONSIBILITIES

2.1 SUBCONSULTANT may rely upon the accuracy and completeness of all reports, data, and other information furnished by the CITY to the SUBCONSULTANT. SUBCONSULTANT may use such reports, data, and information in performing or furnishing services under this Agreement.

2.2 Provide access to and make all provisions for SUBCONSULTANT to enter upon public and private property as required for SUBCONSULTANT to perform services under this Agreement.

2.3 Provide labor and safety equipment to operate existing processes and equipment as required by the SUBCONSULTANT.

3.0 SUBCONSULTANT'S EXCLUSIONS

3.1 SUBCONSULTANT shall not be responsible for the following:

3.1.1 Kansas Division of Water Resources for a Temporary Term Permit for the acquisition of water from the Little Arkansas River to obtain water in sufficient quantities and duration for SUBCONSULTANT to complete all of the services herein.

3.1.2 Purchase or rental, and supply and shipping, of pilot equipment and installation thereof.

3.1.3 Purchase, supply, and installation of materials and equipment necessary for SUBCONSULTANT to complete all of the services herein.

3.1.4 Purchase and supply of all spiking chemicals necessary for SUBCONSULTANT to complete all of the services herein.

3.1.5 Analytical testing in support of pilot activities and as defined by the testing protocol as adjusted throughout the services contained herein.

3.0 TIME PERIOD FOR PERFORMANCE

The time periods for the performance of SUBCONSULTANT's Services as set forth in Article 2 of said Agreement are as follows:

Contract Start: _____, 2009

Contract Completion: October 1, 2009

4.0 METHOD OF PAYMENT

The method of payment for Services rendered by SUBCONSULTANT shall be as set forth below:

In the SUBCONSULTANT's SERVICES performed under the work herein described in Exhibit B, the CITY agrees to pay the SUBCONSULTANT as follows:

For work done by the SUBCONSULTANT at the hourly billing rate for the category of the individual performing the work, for all time directly chargeable to the project plus actual out-of-pocket expense cost. The SUBCONSULTANT's schedule of Hourly Billing Rates is attached as Exhibit D.

Actual out-of-pocket expense costs are all costs other than SUBCONSULTANT's labor costs that are incurred during the progress of the work. The actual out-of-pocket expense costs include: air fare, automobile rental if required, mileage charges, parking, tolls, taxi, meals, lodging, telephone, printing and reproduction costs, and other miscellaneous costs incurred specifically for this project.

The charges for rental of field equipment such as analytical instruments, if provided by SUBCONSULTANT, will be at the SUBCONSULTANT's regular rates.

For work done by subcontract or consultants, at the actual cost to the SUBCONSULTANT of such services.

The total cost of all SUBCONSULTANT's SERVICES (Exhibit B) shall not exceed $325,000.00.

Costs for TASK 6 – SPECIAL STUDIES are not included in this Agreement.

Wichita Water Utilities
City of Wichita, Kansas
ASR Program - Phase II Projects Consulting Services
Exhibit C
Advance Oxidation Products Pilot Testing
Fee Estimate

Task	Subtask	Item	Prin. $240 hrs	Project Mgr. $190 hrs	Sr. Tech. Eng. $200 hrs	Eng. 6/7 $160 hrs	Eng. 4/5 $135 hrs	Eng. 2/3 $105 hrs	Sr. Technician $105 hrs	Draft $80 hrs	Admin $60 hrs	Total Labor Hrs	Total Labor $	OP $	ODC $	Totals $
General Tasks																
	G1	Project Management	24	96							40	160	$26,400	$ -	$ 1,320	$ 27,720
	G2	Protocol QA/QC	4	8	8						16	36	$5,760	$ -	$ 250	$ 6,010
	G3	Report QA/QC	4	8	24						24	60	$10,080	$ -	$ 500	$ 11,380
		SUBTOTAL														$ 45,200
Task 1 - Project Kickoff Meeting and Workshop			8	12	12	16	8	8				64	$12,160	$ -	$ 1,500	$ 13,660
		SUBTOTAL														$ 13,700
Task 2 - UF/AOP Equipment and Ancillary Equipment																
	2.1	UF/AOP Ancillary Equipment Identification and Sizing	4	8	8	24			16	8	4	72	$11,200	$ -	$ 550	$ 11,750
	2.2	Develop Ancillary Materials and Equipment Estimate	4	8	8	24					4	48	$8,880	$ 7,500	$ 400	$ 16,780
	2.3	Ancillary Materials and Equipment Workshop	4	8	8	4					4	28	$5,680	$ -	$ 250	$ 5,930
	2.4	Negotiate Rental Agreements	4	8		40					4	56	$9,120	$ -	$ 450	$ 9,570
	2.5	Pilot Plant Setup Assistance	4	8	8	40						60	$11,200		$ 550	$ 11,750
		SUBTOTAL														$ 55,800
Task 3 - UF/AOP Testing Protocol and Workshop																
	3.1	Pilot Plant Testing Protocol	4	24	40	24	24				8	124	$24,680	$ -	$ 1,200	$ 25,880
	3.2	Protocol Workshop	8	16	12	16	8					60	$12,080	$ -	$ 1,500	$ 13,580
		SUBTOTAL														$ 39,500
Task 4 - UF/AOP Pilot Plant Testing			8	60	36	120	360					584	$91,560		$ 15,000	$ 106,560
		SUBTOTAL														$ 106,600
Task 5 - UF/AOP Pilot Study Report																
	5.1	Draft Pilot Study Report	4	24	40	40	40		24		20	192	$32,640	$ -	$ 1,500	$ 34,140
	5.2	Draft Report Workshop	4	8	8	4					4	28	$5,680	$ -	$ 1,500	$ 7,180
	5.3	KDHE Report Workshop	4	8	8	4					4	28	$5,680	$ -	$ 1,500	$ 7,180
	5.4	Final Report	4	20	20	8	8		8		20	88	$14,960	$ -	$ 700	$ 15,660
		SUBTOTAL														$ 64,200
TOTAL PILOT TESTING SERVICES			96	324	240	364	448	8	48	8	152	1,688	$ 288,600	$ 7,500	$ 28,700	$ 325,000

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Change Order: Storm Water Drain for area south of 29th Street North, along Maize (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the change order.

Background: On August 5, 2008, the City Council approved a construction contract with Bergkamp Construction, Inc. to construct drainage improvements for an area south of 29th Street North, along both sides of Maize Road, generally known as the Cadillac Lake area. Due to the height of fill material, traffic signal equipment at the northeast corner of Maize and Central Park were adjusted.

Analysis: A change order has been prepared for the cost of adjusting the signal equipment. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is $15,125 with $6,299 paid by Special Assessments and $8,925 by the Storm Water Utility. The original contract amount is $1,562,825. This change order represents 0.97% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by proving drainage improvements for existing neighborhoods and new development.

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

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

Attachments: Change order.

PUBLIC WORKS-ENGINEERING

May 20, 2009

CHANGE ORDER

To: Bob Bergkamp Construction Co.

Change Order No.: 1
Purchase Order No.: 800854
CHARGE TO OCA No.: 751463

Project: Storm Water Drain #332, Pahse 1; Pearson Comm'l & new Market V Addition
Project No.: 468-84396
OCA No.: 751463
PPN: 485354

Please perform the following extra work at a cost not to exceed **$ 15,125.00**

Due to grade change as a result of the fill material placed on the Pearson site, the traffic signal equipment on the northeast corner of Maize and Central Park had to adjusted and relocated.

ADD

Rework Traffic Signal	1.0	LS	@	$15,125.00	=	$15,125.00

CIP Budget Amount: $2,900,000.00

Consultant: Poe & Associates
Total Exp. & Encum. To Date: $2,135,975.68
CO Amount: $15,125.00
Unencum. Bal. After CO: $748,899.32

Original Contract Amt.: $1,562,825.45

Current CO Amt.: $15,125.00
Amt. of Previous CO's: $0.00
Total of All CO'S: $15,125.00
% of Orig. Contract / 25% Max.: 0.97%
Adjusted Contract Amt.: $1,577,950.45

Recommended By:

Greg Baalman, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

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

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____
City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Change Order: MacArthur Improvement, between Meridian and Seneca (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the change order.

Background: On December 11, 2007, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve MacArthur, between Meridian and Seneca. The work includes new traffic signals at the intersection of MacArthur and Meridian. Count down signals were installed to match current city standards. In addition, bus stop bench pads were installed and a modular rock retaining wall was needed to match adjacent private property.

Analysis: A change order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is $15,148 with $3,030 paid by City General Obligation bonds and $12,118 paid by Federal grants. The original contract amount is $3,576,003. This change order plus previous change orders represents 1.50% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic capacity and safety along a major transportation corridor.

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

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

Attachments: Change order.

PUBLIC WORKS-ENGINEERING

May 18, 2009

CHANGE ORDER

To: Cornejo & Sons, Inc.

Change Order No.: 3
Purchase Order No.: 701449
CHARGE TO OCA No.: 706966

Project: MacArthur Road from Meridian Avenue to Seneca Street
Project No.: 87N-0347-01 / 472-84580
OCA No.: 706966 / 636192
PPN: 207432 / 777583

Please perform the following extra work at a cost not to exceed $15,147.52

Countdown signals will be added to the traffic signals at Meridian. An area inlet is added along Clarence to drain a low area. Bus stop bench pads were constructed. Modular block retaining wall had to be constructed due to elevation differences. Measured quantity bid items were adjusted based on final field measurements.

CIP Budget Amount: $5,520,000.00 (706966) **$ 90,000.00 (636192)**	**Original Contract Amt.: $3,576,003.30**
Consultant: Baughman	**Current CO Amt.: $15,147.52**
Exp. & Encum. To Date: $4,158,779.92 (706966)	**Amt. of Previous CO's: $37,694.75**
CO Amount: $15,147.52	**Total of All CO's: $52,542.27**
Unencum. Bal. After CO: $1,346,072.56 (706966)	**% of Orig. Contract / 25% Max.: 1.50%**
	Adjusted Contract Amt.: $3,628,845.57

Recommended By:

Greg Baalman, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

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

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____
City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Change Order: Kellogg-Rock Interchange (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the change order.

Background: On January 9, 2007, the City Council approved a construction contract with Wildcat Construction Company, Inc. to construct the Kellogg-Rock Interchange. The undersides of the bridges at Rock need to be coated in order to match the aesthetic elements of the project. In addition, the traffic marking standards have been upgraded to match the Kansas Department of Transportation's current requirements.

Analysis: A change order has been prepared for the cost of this change. Funding is available within the existing project budget.

Financial Considerations: The cost of the work is $50,939 with the total paid by available project funds from a combination of Local Sales Tax and State Transportation Funds. The original contract amount is $47,525,160. This change order plus previous change orders represents 00.38% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic capacity and safety along a vital transportation corridor.

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

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

Attachment: Change order.

PUBLIC WORKS-ENGINEERING

June 1, 2009

CHANGE ORDER

To: Wildcat Construction Co., Inc.

Project: Kellogg/Rock (US-54, US-400) Mainline & Bridges from Governeour to Cypress, not including the Eastern Bridge

Change Order No.: 5
Purchase Order No.: 601882
CHARGE TO OCA No.: 702349

Project No.: 472-84457 (54-87K-8258-01)
OCA No.: 702349/624506/635681
PPN: 401363/696006/766732

Please perform the following extra work at a cost not to exceed <u>$ 50,939.00</u>

OVERRUN			
Concr. Masonry Coating	2645 sq m @ $13.00	=	$34,385.00
EXTRA WORK			
Pavement Markings	1 LS @ $16,554.00	=	$16,554.00
Total Adjustment for Change Order #5			$50,939.00

CIP Budget Amount: $48,000,000.00 (702349); $55,000.00 (724506); $550,000.00 (635681)
Consultant: CF&S
Total Exp. & Encum. To Date: $47,156,688.93 (702349)
CO Amount: $50,939.00
Unencum. Bal. After CO: $792,372.07 (702349)

Original Contract Amt.: $47,525,159.90

Current CO Amt.: $50,939.00
Amt. of Previous CO's: $127,699.75
Total of All CO's: $178,638.75
% of Orig. Contract / 25% Max.: 0.38%
Adjusted Contract Amt.: $47,903,798.65

Recommended By:

Michael Jacobs, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

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

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____
City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Change Order: Waterline extension at Ridge and K-42 Highway (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the change order.

Background: On March 10, 2009, the City Council approved a construction contract with McCullough Excavation, Inc. to extend a 16" waterline at Ridge and K-42 Highway. A part of the pipeline is encased in steel pipe. The diameter of the pipe was increased from 26" to 30" to allow sufficient space to insert fill sand between the waterline and the steel pipe.

Analysis: A change order has been prepared for the cost of this change. Funding is available within the within the project budget.

Financial Considerations: The cost of the work is $16,247 with the total paid by the Water Utility. The original contract amount $132,950. The change order represents 12.2% of original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing needed expansion of the City's water system.

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

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

Attachment: Change order.

May 15, 2009

PUBLIC WORKS-ENGINEERING

CHANGE ORDER

To: McCullough Excavation, Inc.

Change Order No.: 1
Purchase Order No.: 930265
CHARGE TO OCA No.: 635694

Project: 16" Water Main Extension at Ridge Rd and K-42
Project No.: 448-90370
OCA No.: 635694
PPN: 769742

Please perform the following extra work at a cost not to exceed **$16,247.02**

Steel casing size was increased from 26" to 30" due to change in specifications and to allow blown and sand to fill the annular space around the carrier pipe better. To limit the inconvenience to Cessna employees, the shutdown required to connect the existing waterline was performed on a Sunday.

UNDERRUN						
Casing Bored & Jacked (26" ID), Steel	(234.0)	lf	@	175	=	(40,950.00)
ADD						
Casing Bored & Jacked (30" ID), Steel	234.0	lf	@	240.03	=	56,167.02
Special Shutdown	1.0	LS	@	1030.00	=	1,030.02

CIP Budget Amount: $275,000.00

Consultant: CED
Total Exp. & Encum. To Date: $149,809.55
CO Amount: $16,247.02
Unencum. Bal. After CO: $108,943.43

Original Contract Amt.: $132,950.00

Current CO Amt.: $16,247.02
Amt. of Previous CO's: $0.00
Total of All CO's: $16,247.02
% of Orig. Contract / 25% Max.: 12.2%
Adjusted Contract Amt.: $149,197.02

Recommended By:

_____ _____
Greg Baalman, P.E. Date
Construction Engineer

Approved:

_____ _____
Jim Armour, P.E. Date
City Engineer

Approved:

_____ _____
Contractor Date

Approved:

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

Approved as to Form:

_____ _____
Gary Rebenstorf Date
Director of Law

By Order of the City Council:

_____ _____
Carl Brewer Date
Mayor

Attest:_____
City Clerk

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of a Portion of 789 North Saint Paul for the 9th Street Drainage Outfall Project. (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The 9th Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13th Street and McLean. The project requires the acquisition of easements from 10 tracts. One of the impacted parcels is located at 789 North Saint Paul. The property consists of two city lots totaling 38,332 square feet and is improved with a 1920s single-family residence. From the northern fifteen feet of the property, it is necessary to obtain a 3,900 square foot permanent easement. Alongside the permanent easement it is necessary to obtain a 3,900 square foot temporary easement to utilize during construction. The project will not directly impact the improvements however; the mature tree row along the north property line will be razed.

Analysis: The property owner accepted the offer, based on market comparisons, of $7,145. This figure includes payment for the 3,900 square foot permanent easement ($0.50 per square foot), 3,900 square foot temporary easement ($0.05 per square foot) and $5,000 for damages to the mature tree row.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $8,000 is requested. This includes $7,145 for acquisition and $855 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the storm water drainage and control through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 13 day of June, 2009 by and between Kathleen Brown, a single person, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a permanent easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The north 15 feet of Lot 77, Sim Park Gardens, Sedgwick County, Kansas

   The Seller does hereby agree to sell and convey to the Buyer by a temporary construction easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The south 15 feet of the north 30 feet of Lot 77, Sim Park Gardens, Sedgwick CO., KS

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Seven Thousand One Hundred Forty-Five Dollars and Zero Cents ($7,145.00) in the manner following to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above-described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0 % by Seller and 100 % by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including but not limited to general landscaping and large trees located thereon and deliver possession of the same in the same condition as they now are,

reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 10, 2009 subject to the conditions of Item 11 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

BUYER
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

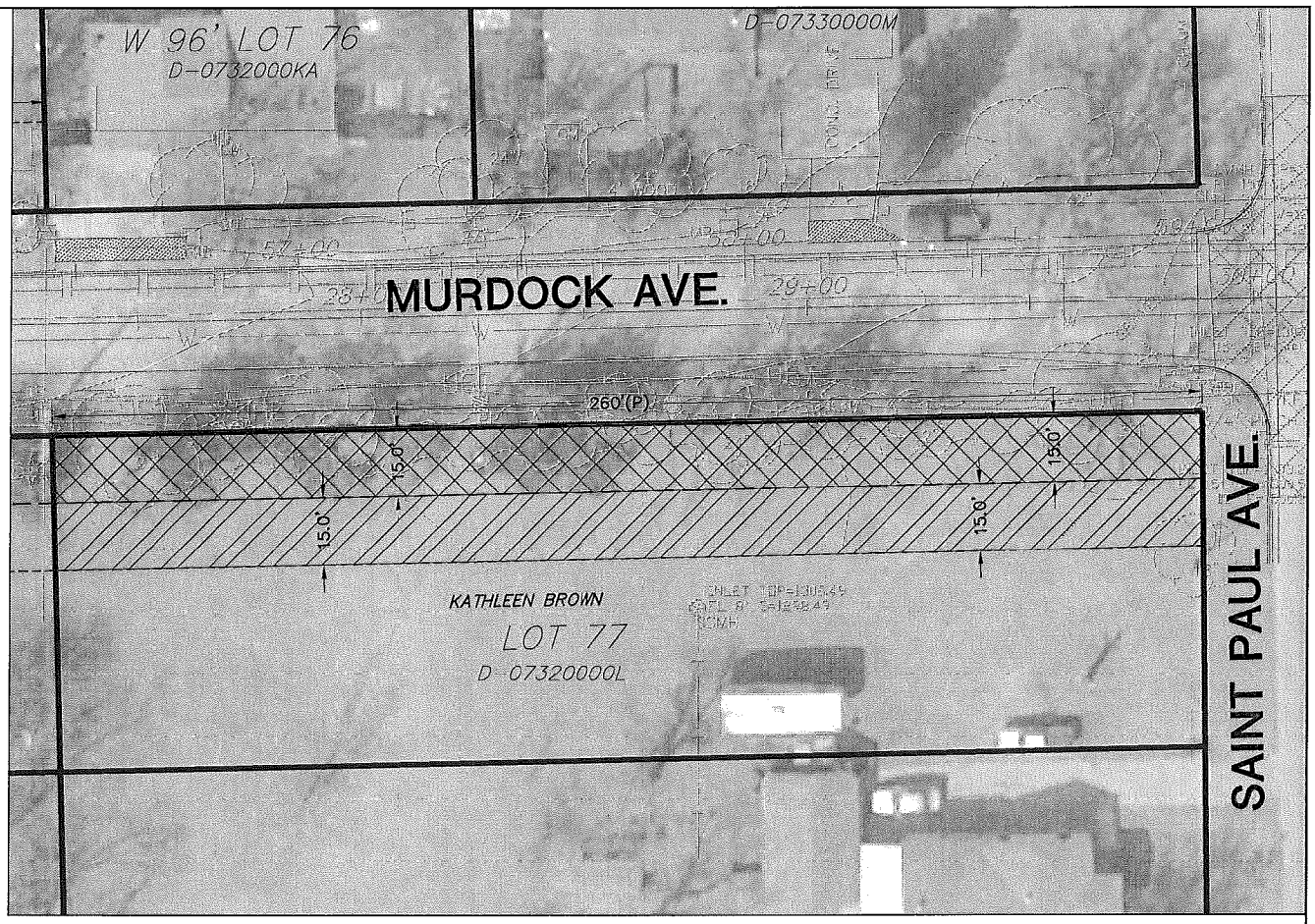
APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

SELLER

Kathleen Brown

Leo Brown



LEGAL DESCRIPTION:

Right of Entry / Temporary Construction Easement:

The south 15 feet of the north 30.00 feet of Lot 77, Sim Park Gardens, Sedgwick County, Kansas.

40 0 40

LEGEND:

Temporary Construction Esmt. Area = 3,900 s.f.

Easement Area = 3,900 s.f

Right of Way / Property line

N

LEGAL DESCRIPTION:

Easement Area:

The north 15.00 feet of Lot 77, Sim Park Gardens, Sedgwick County, Kansas.

Owner:

Kathleen Brown
789 N. St. Paul
Wichita, KS 67203

Property Address:
N.A.

Tax Key Property Identification:

D 07320000L

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

West Street to Arkansas River 9th Street Storm Sewer Outfall (PROJECT NAME)		
TRACT MAP #6 - Easement Exhibit (SHEET TITLE)		
JRA (DESIGN BY)	BDL (DRAWN BY)	JRA / JCM (CHECKED BY)
Dec. 2008 (DATE)	06205 v6 (JOB NO.)	1 / 1 (SHEET/OF)

789 N St Paul

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-8b.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of Sewer Easement at 10915 West Kellogg for the Lateral 23, Main 13 Southwest Interceptor Sewer Project at West Kellogg and 111th. (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 1, 2007, City Council approved the resolution authorizing construction of the Lateral 23, Main 13 Southwest Interceptor Sanitary Sewer. This line will provide sewer service to properties currently on private septic systems, some of which have started to fail. The project will be paid for by the benefit district. There are ten tracts with seven owners where easements are necessary. On January 27, 2009, the City Council authorized an eminent domain action to acquire those easements not yet purchased. The property at 10915 West Kellogg was included in that request. The property at 10915 W. Kellogg is zoned commercial and improved with a furniture retail store together. Included as part of 10915 W. Kellogg is an unimproved, vacant lot. It is necessary to obtain a 1,025 square foot easement from the southern twenty feet of the vacant lot. A chain link fence will be impacted during construction.

Analysis: The owner rejected the estimated market value offer of $1,560 (or $0.60 per square foot and $945 for fencing). The owner has agreed to convey the necessary easement for $5,045, or $4.00 per square foot for the easement area and $945 for fencing. The amount is not supported by market comparables however; due to the complexity of appraising the subject property, the cost of an appraisal for eminent domain purposes exceeds the amount the owner is willing to settle for. City staff recommends accepting the counter value as it is reasonable and prudent.

Financial Considerations: A budget of $6,500 is requested. This includes $5,045 for the easement and $1,455 for filing fees, legal fees and other acquisition related fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

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

Recommendation/Action: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, permanent easement and tract map.

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this 11th day of June, 2009 by and between M&E Properties, L.L.C., a Kansas Limited Liability Company, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a Municipal Corporation, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to convey to the Buyer by a permanent easement for the construction and maintenance of sanitary sewer in, upon and under the following described tract, to wit:

Permanent Easement:
The south 20 feet of the east 50 feet of Lot 2, Block A, Horton Add., Wichita, KS, said 20 feet being measured perpendicular to the south line of said Lot 2.

2. The Buyer hereby agrees to purchase and pay to the Seller as consideration for the Conveyance, to him, of the above-described easement the sum of Five Thousand Forty-Five Dollars and No Cents ($5,045.00) in the manner following, to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above-described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the City of Wichita Office of Property Management for examination by the Buyer as promptly and expeditiously as possible; and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any, shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including general landscaping located thereon, except improvements listed in Item 7 below, and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller hereby agrees to remove chain link fencing within the proposed easement area within 60 days of receipt of compensation payment described in Item 2 above.

8. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

9. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 10, 2009 subject to the conditions of Item 12 below.

10. Possession to be given to Buyer at closing.

11. Closing costs shall be paid 100% by Buyer and 0% by Seller.

12. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

SELLER:
M&E PROPERTIES, L.L.C., A KANSAS LIMITED LIABILITY COMPANY:

Lori B. Craig
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 10-22-11

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

PUBLIC UTILITY EASEMENT

THIS EASEMENT made this 11TH day of JUNE, 20 09,

by and between **M & E PROPERTIES LLC**, a Kansas Limited Liability Company.

of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first part_____, in consideration of the sum of One Dollar ($1), the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party right-of-way and easement for the purpose of construction and maintenance of utilities along and under the following described real estate situated in Sedgwick, County, Kansas, to wit:

The south 20.00 feet of the east 50 feet of Lot 2, Block A, Horton Addition, Wichita, Kansas, said 20.00 feet being measured perpendicular to the south line of said Lot 2.

Said parcel of land contains 1,025 square feet, more or less.

IN WITNESS WHEREOF: The said first part_____ ha_____ signed these presents the day and year first written.

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Personally appeared before me a notary public in and for the County and State aforesaid Steven Elpers and Dilman Morris

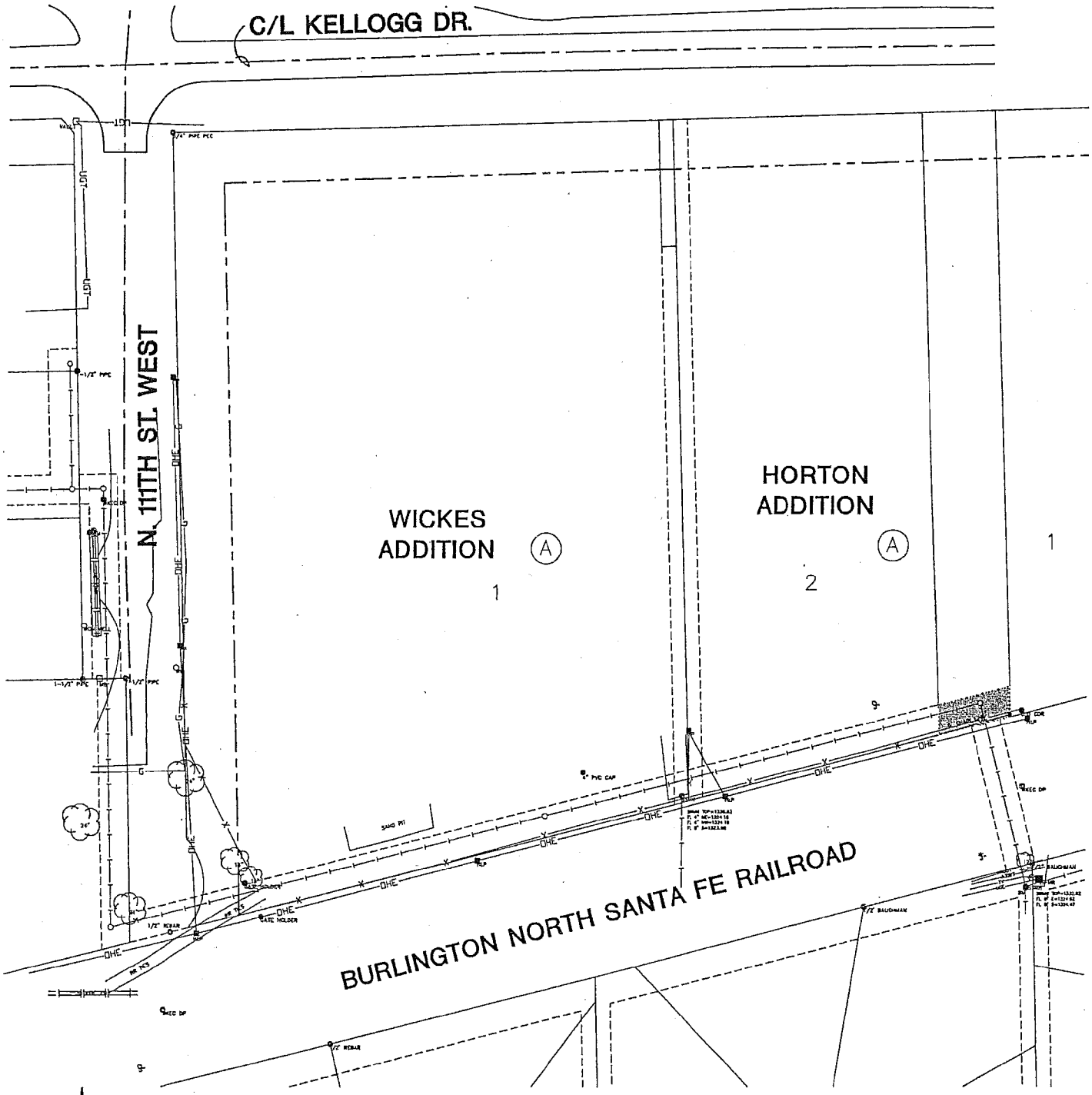
to me personally known to be the same person S who executed the foregoing instrument of writing and said person S duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 11 day of June, 20 09.

Notary Public

Lori B. Craig
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 10-22-11

(My Commission expires 10-22-11)



M & E PROPERTIES, LLC

The south 20.00 feet of the east 50 feet of Lot 2, Block A, Horton Addition, Wichita, Kansas, said 20.00 feet being measured perpendicular to the south line of said Lot 2.

Said parcel of land contains 1,025 square feet, more or less.

N

SCALE: 1"=50'

0 50 100 150

J:\CIVIL\07428 LAT 23\DWG\SAN\PROPOSED EASEMENTS_.DWG

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

C.O.W. LATERAL 23, MAIN 13, SWI SANITARY SEWER PROJECT
PROJECT NAME

PROPOSED EASEMENT M & E PROPERTIES, LLC
SHEET TITLE

MKEC	MKEC	MKEC
DESIGN BY:	DRAWN BY:	CHECKED BY:
DECEMBER 2007	07428	1 / 1
DATE	JOB NO.	SHEET/OF

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of Sewer Easements in the 15300 Block of East Kellogg/US Highway 54 for the Crestview Country Club Interceptor, Phase II (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 18, 2004, City Council approved the resolution authorizing construction of the Crestview Country Club Sanitary Sewer Interceptor. The second phase of the sanitary sewer project will run parallel with the existing service line. This second line will provide capacity relief due to the rapid growth in northeast Wichita. In some areas, the additional sewer line will co-locate within the existing easement however due to space limitations, it is necessary to acquire six new permanent easements. Eighteen temporary construction easements are also required. This particular site is irregular in shape, unimproved and heavily wooded. It is more accurately described as being in the 15300 Block of East Kellogg/US Highway 54, along the north side of the road. The proposed sewer line will co-locate within a portion of the existing easement however; it is necessary to obtain an additional 1,468 square feet as sewer easement. A 27,779 square foot temporary easement is required during the construction phase.

Analysis: The owner has agreed to accept the estimated market value of $2,425, or $0.46 per square foot and $0.06 per square foot.

Financial Considerations: A budget of $3,000 is requested. This includes $2,425 for the easement and $575 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

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

Attachments: Real estate purchase agreement, tract maps and aerial map.

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this 15 day of June, 2009 by and between Rakan, LLC, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a permanent easement for the construction and maintenance of sanitary sewer in, upon under the following described tracts, to wit:

Attached

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above described easements and all damages and/or claims including but not limited to access, trees, the sum of Two Thousand Four Hundred Twenty-Five Dollars and No Cents ($2,425.00) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division- for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

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

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 30, 2009.

6. The Seller further agrees to convey the above described easement with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer at closing or exchange of easements for funds.

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

9 . Site Assessment

A. At any time prior to the closing of this agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the Property. If an environmental audit or test reveals the presence of a hazardous substance or

waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the Property, the buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that seller shall return to buyer any deposit made hereunder. The buyer or its agents shall have the right, without the obligation, to enter upon the Property prior to closing to undertake an environmental site assessment or testing of the Property, at the buyer's sole expense.

B. Provided, however, buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. The buyer shall, if buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

SELLER:
Rakan, LLC

Waleed H. Shisha, President

BUYER:
By Direction of the City Council

ATTEST:

Carl Brewer, Mayor

Karen Sublett, City Clerk

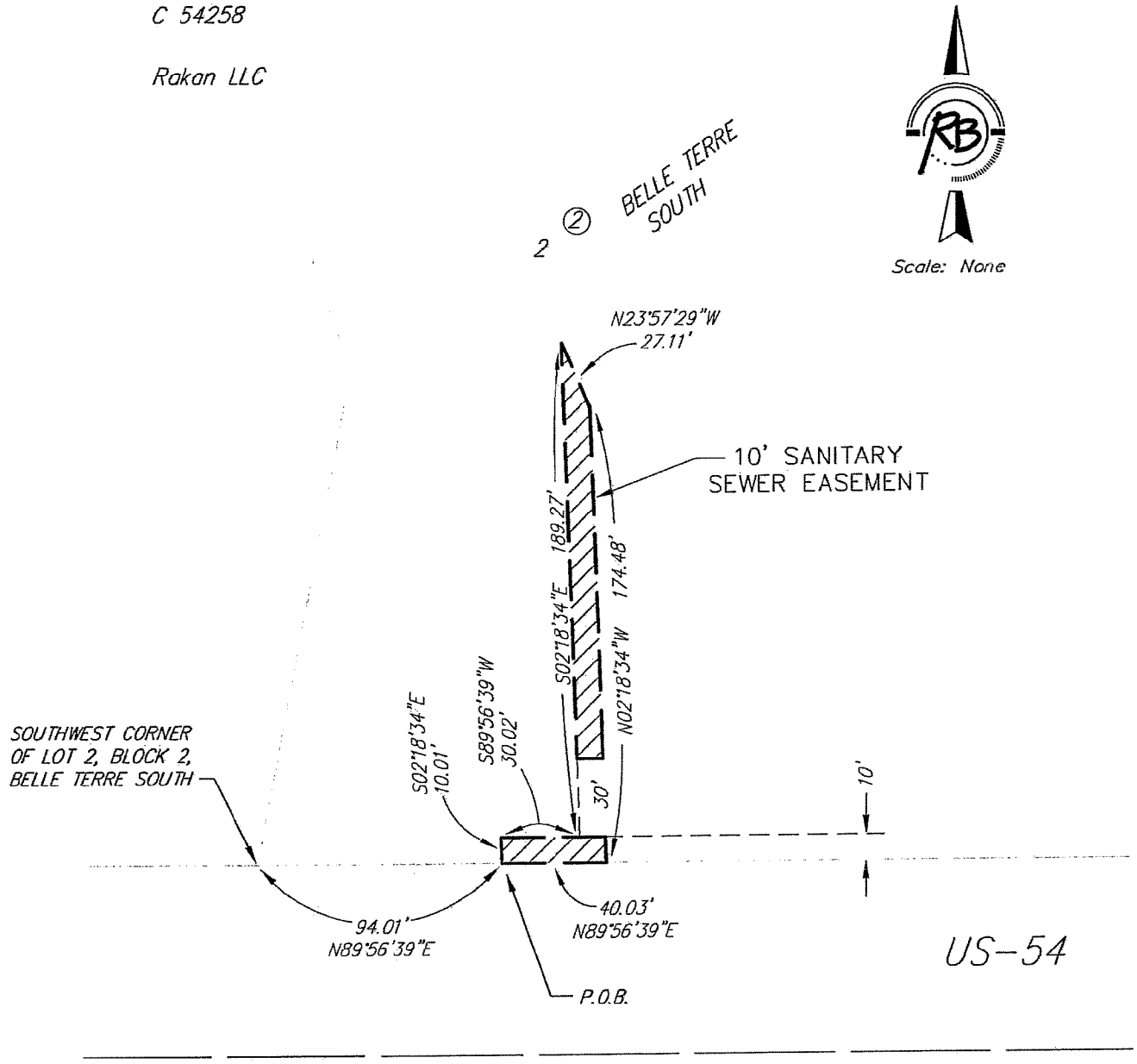
Approved as to Form:

Gary E. Rebenstorf, Director of Law

SANITARY SEWER EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Rakan LLC



Rev. 3/10/09
Rev. 5/29/08

Ruggles & Bohm, P.A.
Engineering, Surveying, Land Planning
924 North Main
Wichita, Kansas 67203
www.rbkansas.com
(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com

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SHEET 1 OF 2	DATE ~~1/22/06~~ 3/10/09

SANITARY SEWER EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Rakan LLC

WILLIAM K. CLEVENGER
LICENSED
LS-1437
3/10/09
KANSAS
LAND SURVEYOR

Legal Description

A tract of land described as follows:

Commencing at the Southwest Corner of Lot 2, Block 2, Belle Terre South, an Addition to Sedgwick County, Kansas; thence N89°56'39"E along the south line of said Lot 2, 94.01 feet for a point of beginning; thence continuing N89°56'39"E along said south line, 40.03 feet; thence N02°18'34"W, 174.48 feet; thence N23°57'29"W, 27.11 feet; thence S02°18'34"E, 189.27 feet to a point on a line 10.00 feet north of and parallel with the south line of said Lot 2; thence S89°56'39"W along said line, 30.02 feet; thence S02°18'34"E, 10.01 feet to the point of beginning; EXCEPT the north 30.00 feet of the south 40.00 feet thereof; containing 1,468 square feet, more or less.

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Rev. 5/29/08

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Wichita, Kansas 67203 (316) 264-4621 fax
www.rbkansas.com E-mail: info@rbkansas.com

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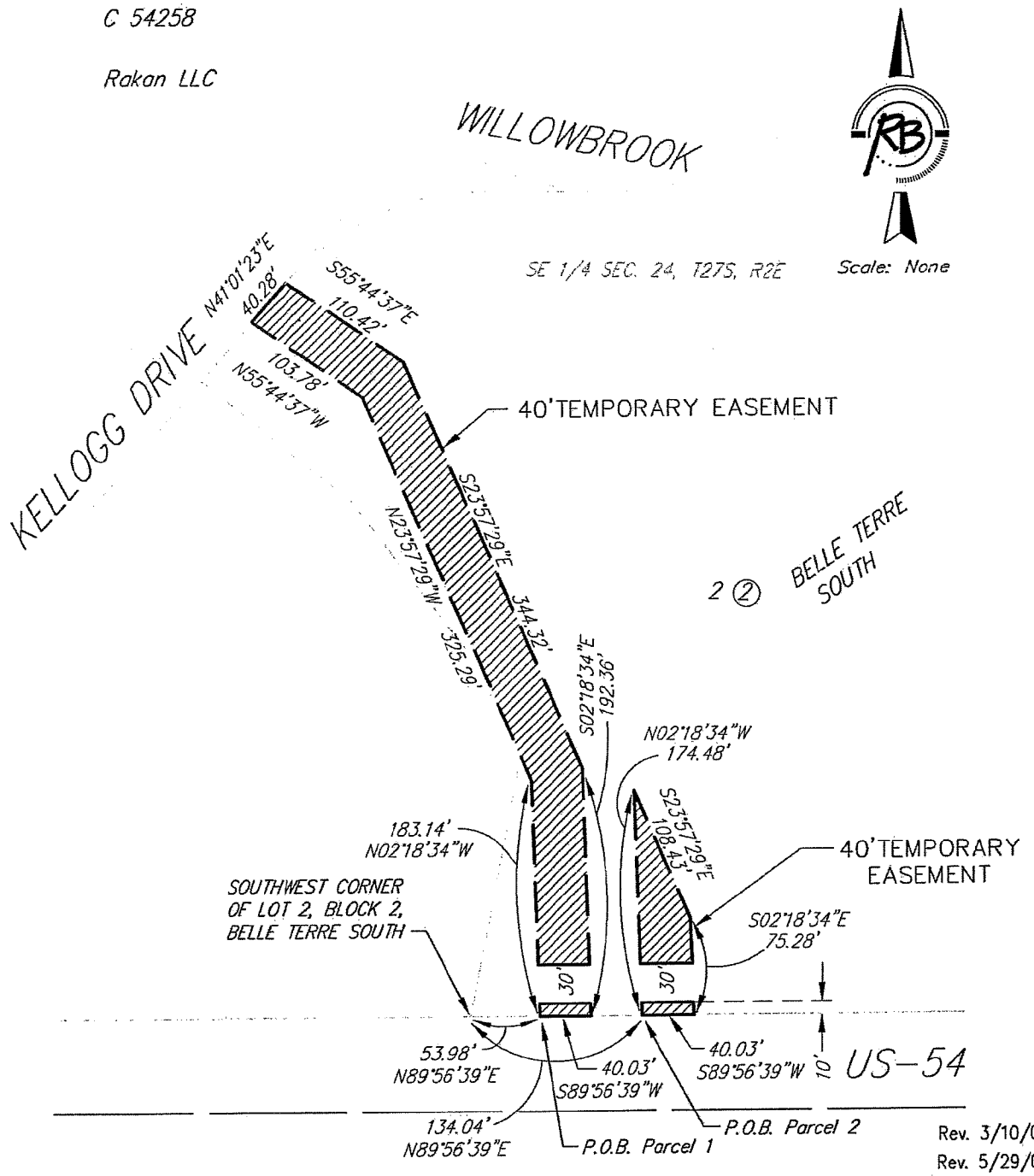
SHEET 2 OF 2	DATE ~~1/22/06~~ 3/10/09

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Rakan LLC



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SHEET 1 OF 2	DATE ~~1/22/06~~ 3/10/09

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

Lot 2 Block 2
Belle Terre South
C 54258

Rakan LLC

WILLIAM K. CLEVENGER
LICENSED
LS-1437
3/10/09
KANSAS
LAND SURVEYOR

Legal Description
PARCEL 1
That part of Lot 2, Block 2, Belle Terre South, an Addition to Sedgwick County, Kansas, described as beginning at the southwest corner of said Lot 2; thence N89°56'39"E along the south line of said Lot 2, 53.98 feet for a point of beginning; thence N02°18'34"W, 183.14 feet; thence N23°57'29"W, 325.29 feet; thence N55°44'37"W, 103.78 feet to the southerly line of Kellogg Drive; thence N41°01'23"E along said southerly line, 40.28 feet; thence S55°44'37"E, 110.42 feet; thence S23°57'29"E, 344.32 feet; thence S02°18'34"E, 192.36 feet to the south line of said Lot 2; thence S89°56'39"W, 40.03 feet to the point of beginning, EXCEPT the north 30.00 feet of the south 40.00 feet thereof; containing 23,985 square feet, more or less.

PARCEL 2
That part of Lot 2, Block 2, Belle Terre South, an Addition to Sedgwick County, Kansas, described as beginning at the southwest corner of said Lot 2; thence N89°56'39"E along the south line of said Lot 2, 134.04 feet for a point of beginning; thence N02°18'34"W, 174.48 feet; thence S23°57'29"E, 108.43 feet; thence S02°18'34"E, 75.28 feet to the south line of said Lot 2; thence S89°56'39"W along said south line, 40.03 feet to the point of beginning, EXCEPT the north 30.00 feet of the south 40.00 feet thereof; containing 3,794 square feet, more or less.

Rev. 3/10/09
Rev. 5/29/08

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SHEET 2 OF 2	DATE ~~1/22/06~~ 3/10/09

Kellogg and 159th

- Identified Features
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Township and Range
- Section
- Quarter Section
- Waterways
- Streams
- Historic Sites
- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O
- City Limits

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII- 8d.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of Sewer Easement in the 15300 Block of East Kellogg Drive for the Crestview Country Club Interceptor, Phase II (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 18, 2004, City Council approved the resolution authorizing construction of the Crestview Country Club Sanitary Sewer Interceptor. The second phase of the sanitary sewer project will run parallel with the existing service line. This second line will provide capacity relief due to the rapid growth in northeast Wichita. In some areas, the additional sewer line will co-locate within the existing easement however due to space limitations, it is necessary to acquire six new permanent easements. Eighteen temporary construction easements are also required. This particular site is irregular in shape, unimproved and heavily wooded. It is more accurately described as being in the 15300 Block of East Kellogg Drive. The proposed sanitary sewer line will co-locate in the existing easement however; it is necessary to obtain a 53,079 square foot temporary construction easement during the construction phase.

Analysis: The owner has agreed to accept the estimated market value of $3,345, or $0.06 per square foot.

Financial Considerations: A budget of $4,000 is requested. This includes $3,345 for the easement and $655 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

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

Attachments: Real estate purchase agreement, tract map and aerial map.

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this 20 day of MAY, 2009 by and between Belle Terre South Homeowners Association, Inc, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a temporary construction easement for the construction and maintenance of sanitary sewer in, upon under the following described tracts, to wit:

Attached as Exhibit A

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above described easement and all damages and/or claims including but not limited to access, trees, the sum of Three Thousand Three Hundred Forty-Five Dollars and No Cents ($3,345.00) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division- for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

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

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before May 29, 2009.

6. The Seller further agrees to convey the above described easement with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer at closing.

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

9. Site Assessment

A. At any time prior to the closing of this agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the Property. If an environmental audit or test reveals the presence of a hazardous substance or

waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the Property, the buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that seller shall return to buyer any deposit made hereunder. The buyer or its agents shall have the right, without the obligation, to enter upon the Property prior to closing to undertake an environmental site assessment or testing of the Property, at the buyer's sole expense.

B. Provided, however, buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. The buyer shall, if buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

10. Grantee agrees to replace or repair, at its own expense, any damages caused by the construction installation, maintenance, operation, repair, removal, of Grantee's improvements, components, systems, etc. within the above referenced easements.

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

SELLER:
Belle Terre South Homeowner's Association:

Ghulam Ahmad

BUYER:
By Direction of the City Council

ATTEST:

Carl Brewer, Mayor

Karen Sublett, City Clerk

Approved as to Form:

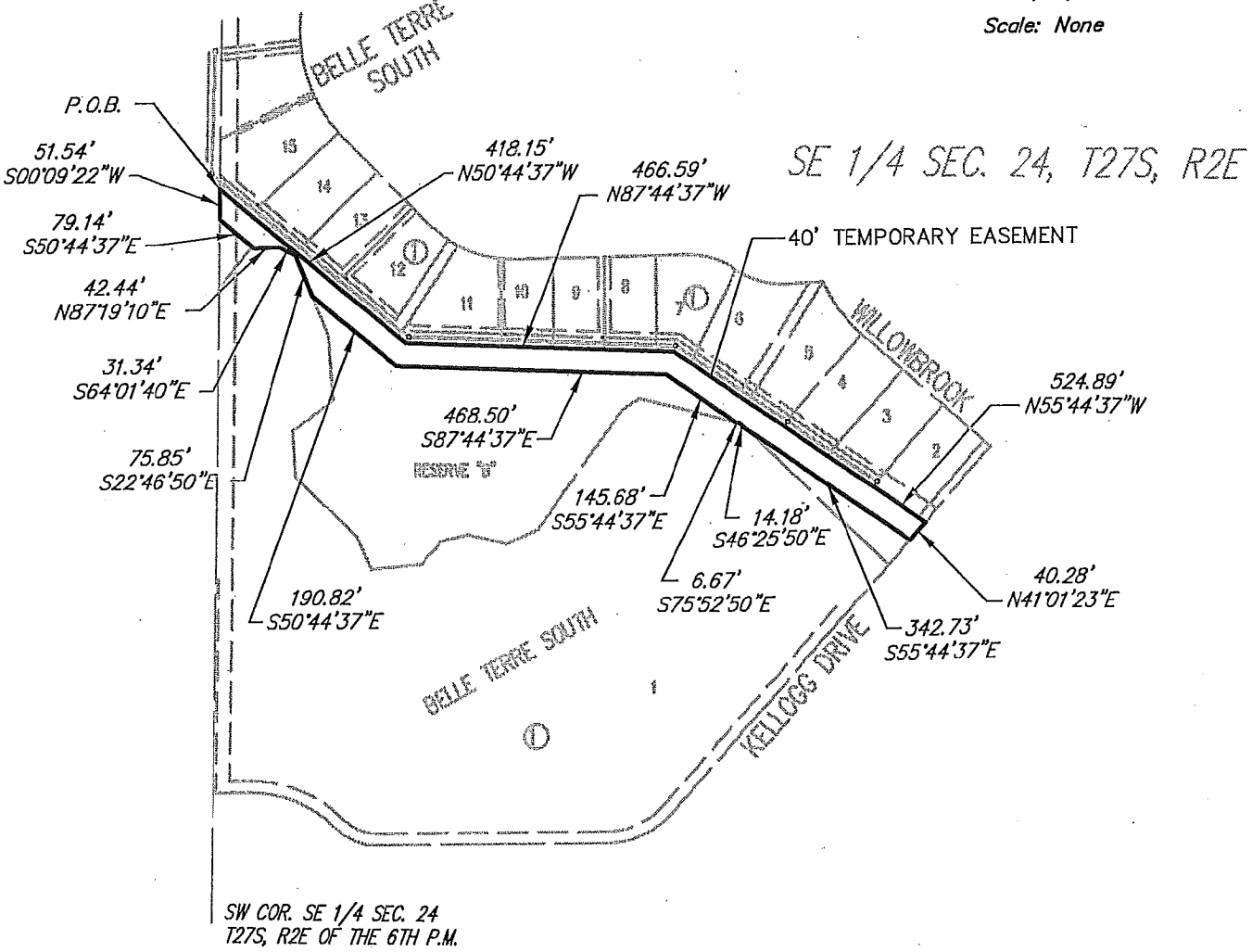
Gary E. Rebenstorf, Director of Law

EXHIBIT 'A'

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

C-54423
Reserve B, Belle Terre South
Belle Terre South Homeowners' Association

Scale: None



Rev. 6/25/08

Ruggles & Bohm, P.A.
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Wichita, Kansas 67203
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E-mail: info@rbkansas.com

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SHEET 1 OF 2	DATE 1/22/06

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

C–54423
Reserve B, Belle Terre South
Belle Terre South Homeowners' Association

Legal Description

That part of Reserve B, Belle Terre South, an Addition to Sedgwick County, Kansas, described as beginning at the northwest corner of said Reserve B; thence S00°09'22"W along the west line thereof, a distance of 51.54 feet; thence S50°44'37"E, a distance of 79.14 feet; thence N87°19'10"E, a distance of 42.44 feet; thence S64°01'40"E, a distance of 31.34 feet; thence S22°46'50"E, a distance of 75.85 feet; thence S50°44'37"E, a distance of 190.82 feet; thence S87°44'37"E, a distance of 468.50 feet; thence S55°44'37"E, a distance of 145.68 feet; thence S75°52'50"E, a distance of 6.67 feet; thence S46°25'50"E, a distance of 14.18 feet; thence S55°44'37"E, a distance of 342.73 feet to the northerly line of Kellogg Drive; thence N41°01'23"E along said line, a distance of 40.28 feet to a corner of said Reserve "B"; thence N55°44'37"W, a distance of 524.89 feet; thence N87°44'37"W, a distance of 466.59 feet; thence N50°44'37"W, a distance of 418.15 feet to the point of beginning; containing 53,079 square feet, more or less.

Rev. 6/25/08

Ruggles & Bohm, P.A.
Engineering, Surveying, Land Planning
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Wichita, Kansas 67203
www.rbkansas.com
(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com

RB JOB	DRAWN
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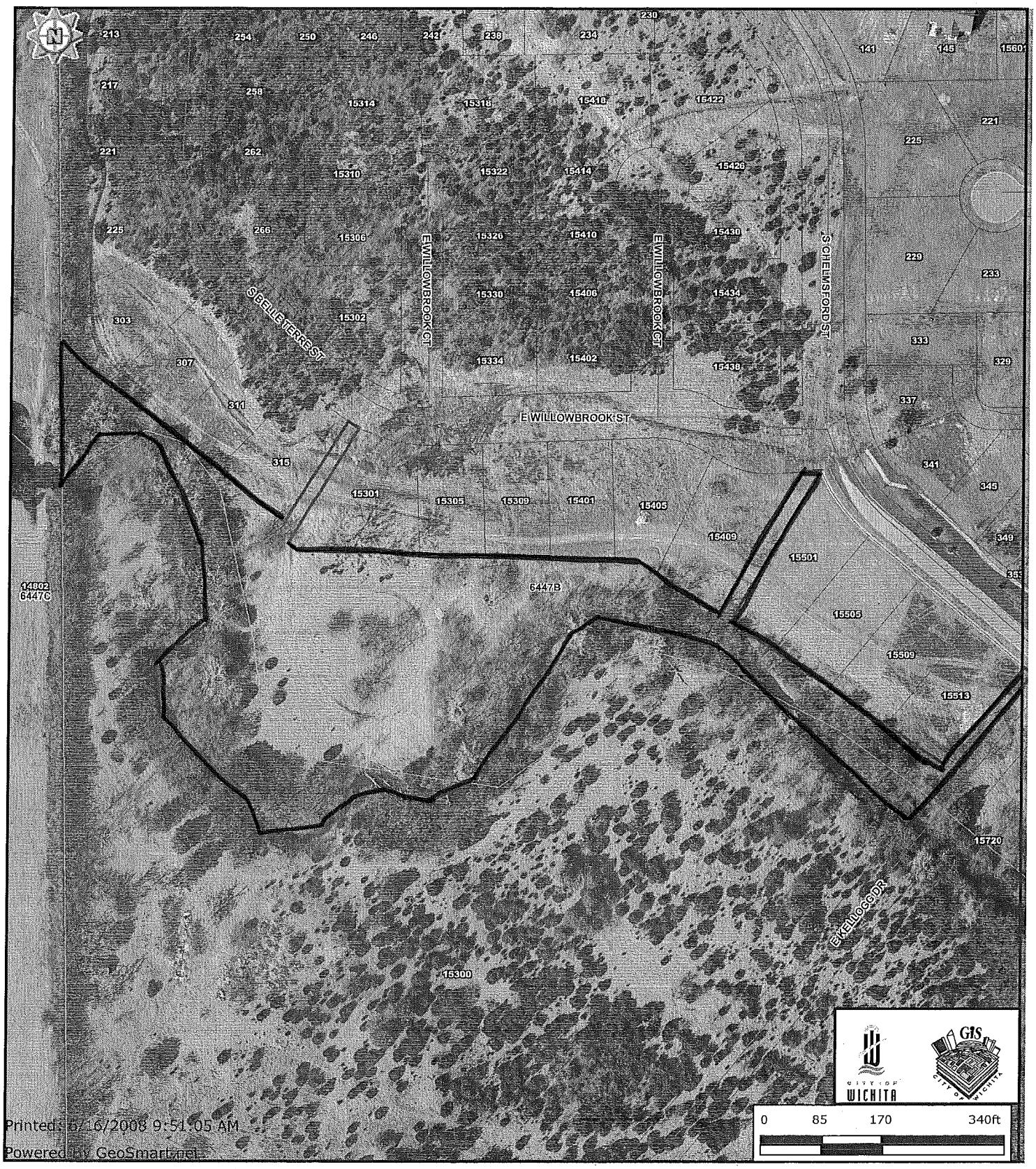
SHEET 2 OF 2	DATE 1/22/06

C 54423



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of a Portion of 3432 and 3426 West 8th Street for the 9th Street Drainage Outfall Project. (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The 9th Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13th Street and McLean. The project requires the acquisition of easements from 10 tracts. A north-south easement is necessary between the properties at 3432 West 8th and 3426 West 8th. The two properties are in under the same ownership. The property at 3432 West 8th is improved as a single-family residence and 3426 is an adjacent vacant lot. Together, the sites consist of 37,697 square feet and each are zoned residential. It is necessary to obtain a 3,783 square foot permanent easement and a 3,938 square foot temporary construction easement. General landscaping, fencing, a gravel driveway and trees are impacted as a result of the project.

Analysis: The property owner accepted the appraised value of $13,100. The $13,100 is comprised of $6,000 for the permanent easement ($1.58 per square foot), $200 for the temporary construction easement ($0.05 per square foot), $800 for fencing and $6,100 for landscaping and trees.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $14,000 is requested. This includes $13,100 for acquisition and $900 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the storm water drainage and control through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this____ day of _____, 2009 by and between Arthur E. Bybee Living Trust dated _____, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a permanent easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The west 20 feet of Lot 23, Sunnyside Gardens, Sedgwick County, Kansas, except, the north 8 feet of thereof, and except the west 5 feet the south 97 feet of the north 100 feet, and except, the south 17 feet of the north 25 feet of the east 10 feet of the west 20 together with, the east 5 feet of the south 100 feet of Lot 24, Sunnyside Gardens, Sedgwick County, Kansas

   And the Seller does hereby agree to sell and convey to the Buyer by a temporary construction easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The east 20 feet of the west 40 feet of Lot 23, Sunnyside Garden, Sedgwick County, Kansas, except, the north 8 feet of thereof.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Thirteen Thousand One Hundred Dollars and Zero Cents ($13,100.00) in the manner following to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0 % by Seller and 100 % by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of

taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including general landscaping and large trees located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 10, 2009 subject to the conditions of Item 11 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

BUYER
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

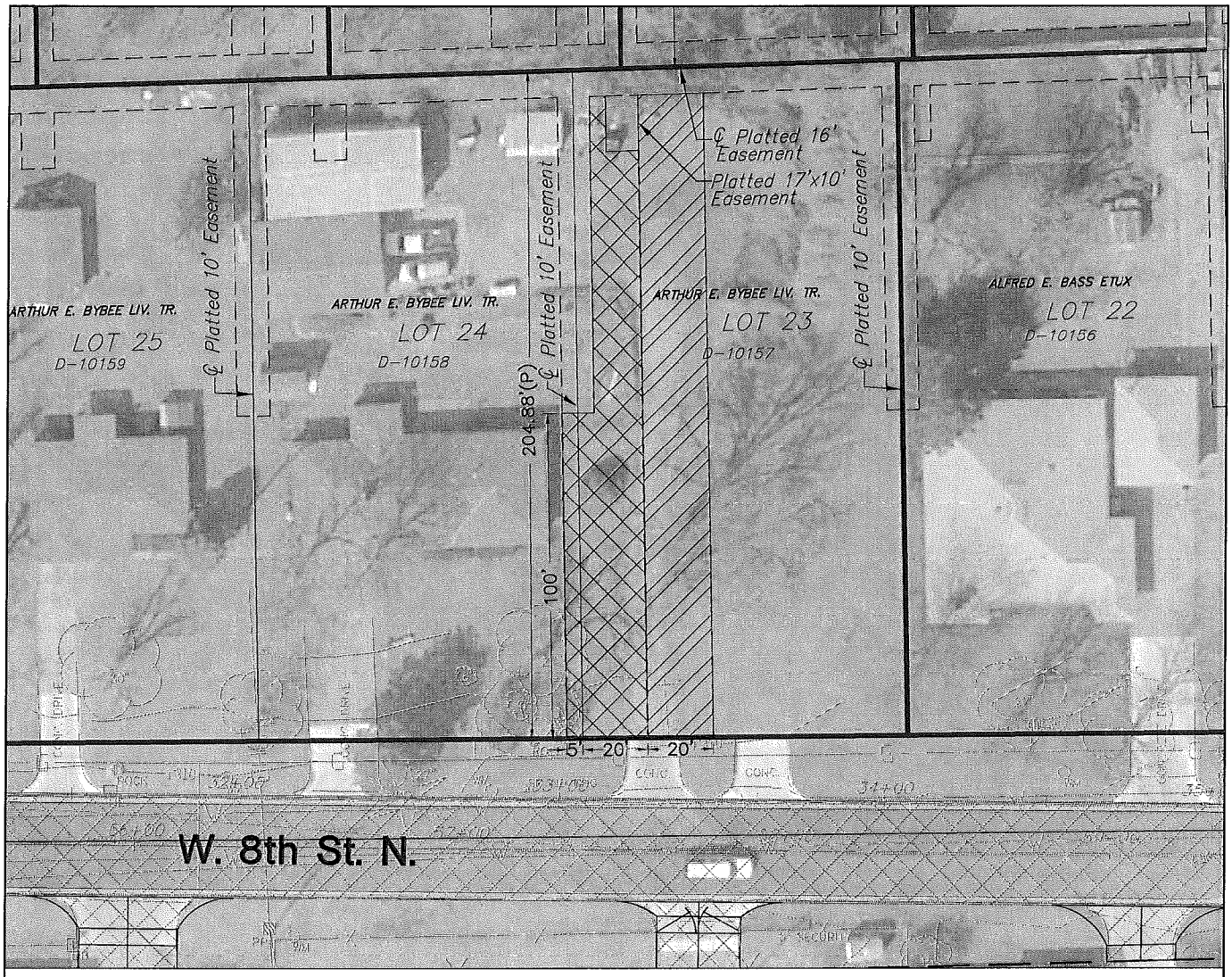
SELLER

Arthur E. Bybee, Trustee

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law



LEGAL DESCRIPTIONS:

Right of Entry / Temporary Construction Easement:

The east 20.00 feet of the west 40.00 feet of Lot 23, Sunnyside Gardens, Sedgwick County, Kansas, EXCEPT, the north 8 feet of thereof.

Easement Area:

The west 20.00 feet of Lot 23, Sunnyside Gardens, Sedgwick County, Kansas, EXCEPT, the north 8 feet of thereof, AND EXCEPT the west 5.00 feet the south 97 feet of the north 100 feet, AND EXCEPT, the south 17 feet of the north 25 feet of the east 10.00 feet of the west 20.00, TOGETHER WITH,

The east 5.00 feet of the south 100 feet of Lot 24, Sunnyside Gardens, Sedgwick County, Kansas.

LEGEND:

Temporary Construction Esmt. Area = 3,938 s.f.

Easement Area = 3,783 s.f.

Right of Way / Property line

N

50 0 50

Owner:

Arthur E. Bybee Living Trust
Arthur E. Bybee, trustee
3432 W. 8th ST. N.
Wichita, KS 67203

Property Addresses:
3432 W. 8th ST. and 3426 W. 8th ST.

Tax Key Property Identification:

D 10158 and D 10157

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

West Street to Arkansas River
9th Street Storm Sewer Outfall
PROJECT NAME

TRACT MAP #14 - Easement Exhibit
SHEET TITLE

DESIGN BY:	DRAWN BY:	CHECKED BY:
JRA	BDL	JRA / JCM

DATE	JOB NO.	SHEET/OF
Dec. 2008	06205 v14	1 / 1

J:\Civil\06205\dwg\tractmaps\06205roe-maps revised.dwg 12/17/2008 10:42:05 AM CST

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of a Portion of 792 North Sheridan for the 9th Street Drainage Outfall Project. (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The 9th Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13th Street and McLean. The project requires the acquisition of easements from 10 tracts. One of the impacted parcels is located at 792 North Sheridan. The property consists of a 14,810 square foot city lot and is improved with a 1920s single-family residence. To facilitate the project it is necessary to obtain a twenty-five foot wide permanent easement consisting of 3,875 square feet. The proposed easement will be within ten feet of the residential improvements and require the removal of several mature trees.

Analysis: The property owner accepted the appraised offer of $11,100. This figure includes $5,500 for the 3,875 square foot permanent easement ($1.42 per square foot) and $5,600 for damages to the mature tree row. The amount allowed for the easement takes into consideration the proximity of the proposed easement to the residential improvements.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $12,700 is requested. This includes $11,100 for acquisition and $1,600 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the storm water drainage and control through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement and tract map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this____ day of _____, 2009 by and between Mark J. Schafer, a single person, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a permanent utility easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The north 25.00 feet of the following described tract of land:

   Beginning 907.5 feet south of the northwest corner of the Southeast Quarter, Section 13, Township 27 South, Range 1 West, of the 6th P.M., Sedgwick County, Kansas; thence south 95.00 feet; thence east 185 feet; thence north 95 feet; thence west 185 feet to the Point of Beginning, except the west 30.00 feet for street.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Eleven Thousand Dollars and Zero Cents ($11,000.00) in the manner following to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0 % by Seller and 100 % by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including general landscaping and trees located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before June 5, 2009 subject to the conditions of Item 10 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

BUYER
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

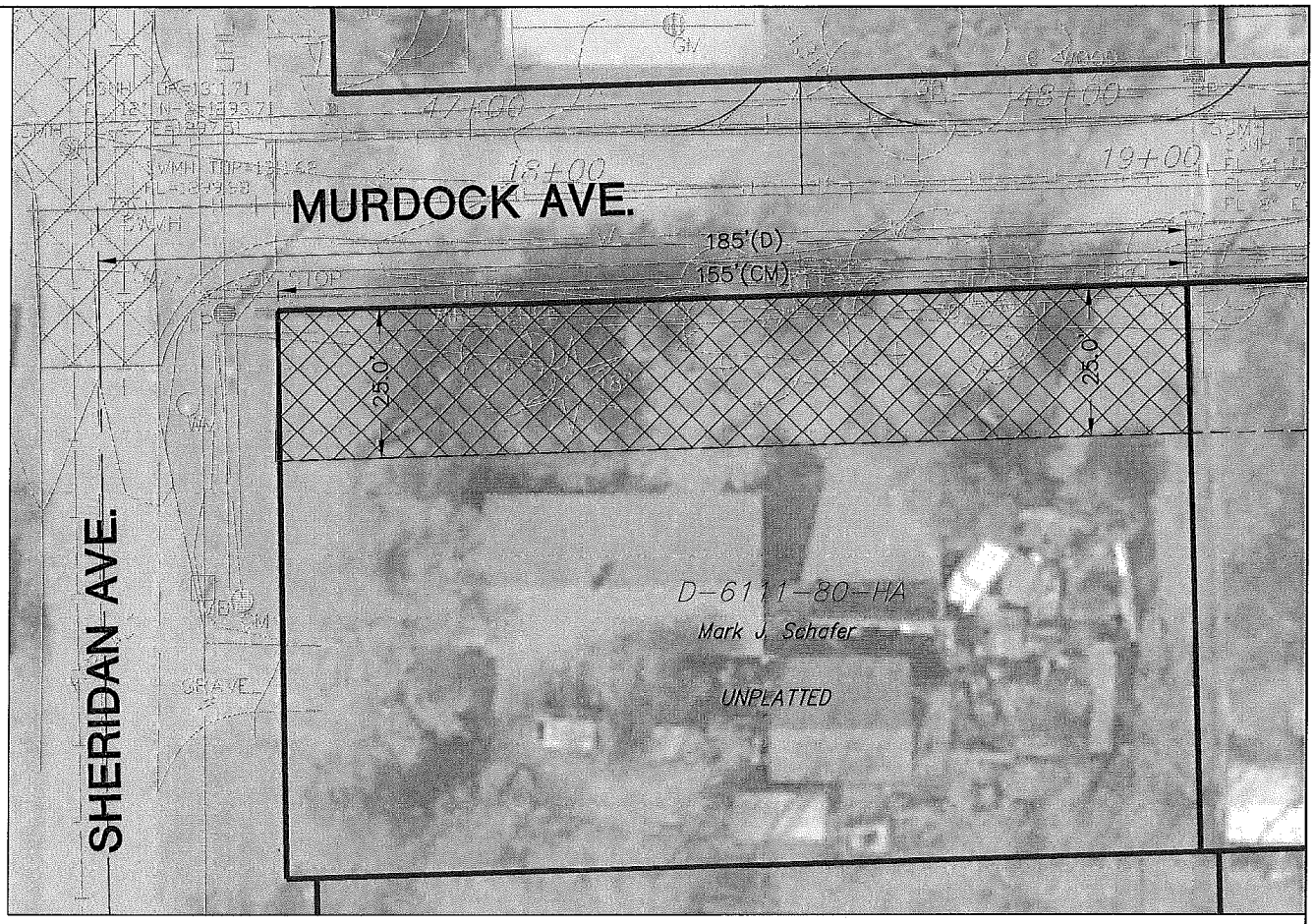
APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

SELLER

Mark J. Schafer

LACY McALLISTER
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 2-7-2012



SCALE: 1"=30'

0 30 60

LEGAL DESCRIPTION:

Easement Area:

The north 25.00 feet of the following described tract of land: BEGINNING 907.5 feet south of the northwest corner of the South~~west~~ EAST Quarter, Section 13, Township 27 South, Range 1 West, of the 6th Principal Meridian, Sedgwick County, Kansas, thence south 95 feet; thence east 185 feet; thence north 95 feet; thence west 185 feet to the POINT OF BEGINNING, except the west 30 feet for street.

N

LEGEND:

Temporary Construction Esmt. Area = none

Easement Area = 3,875 s.f.

Right of Way / Property line

Owner:

Mark J. Schafer
792 N. Sheridan
Wichita, KS 67203

Tax Key Property Identification:

D 06111008000HA

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

West Street to Arkansas River
9th Street Storm Sewer Outfall
PROJECT NAME

TRACT MAP #12 - Easement Exhibit
SHEET TITLE

JRA	BDL	JRA / JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
Dec. 2008	06205 v12	1 / 1
DATE	JOB NO.	SHEET/OF

J:\CIVIL\06205\dwg\tractmaps\06205roe-maps revised.dwg 12/17/2008 10:42:05 AM CST

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of a Portion of 797 North Mount Carmel for the 9th Street Drainage Outfall Project. (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The 9th Street Drainage Outfall project will provide additional storm water drainage for the area bounded by West Street, Central, 13th Street and McLean. The project requires the acquisition of easements from 10 tracts. One of the impacted parcels is located at 797 North Mount Carmel. The property consists of a 14,810 square foot city lot and is improved with a 1920s single-family residence. To facilitate the project it is necessary to obtain a twenty-five foot wide permanent easement consisting of 3,826 square feet. The project will not directly impact the residential improvements however, there are mature trees and a privacy fence within the proposed easement that will have to be razed.

Analysis: The property owner accepted the offer, based on market comparisons, of $9,200. This figure includes $1,900 for the 3,826 square foot permanent easement ($0.50 per square foot), $3,300 for the removal and replacement of the privacy fence and $4,000 as damages to the mature tree row.

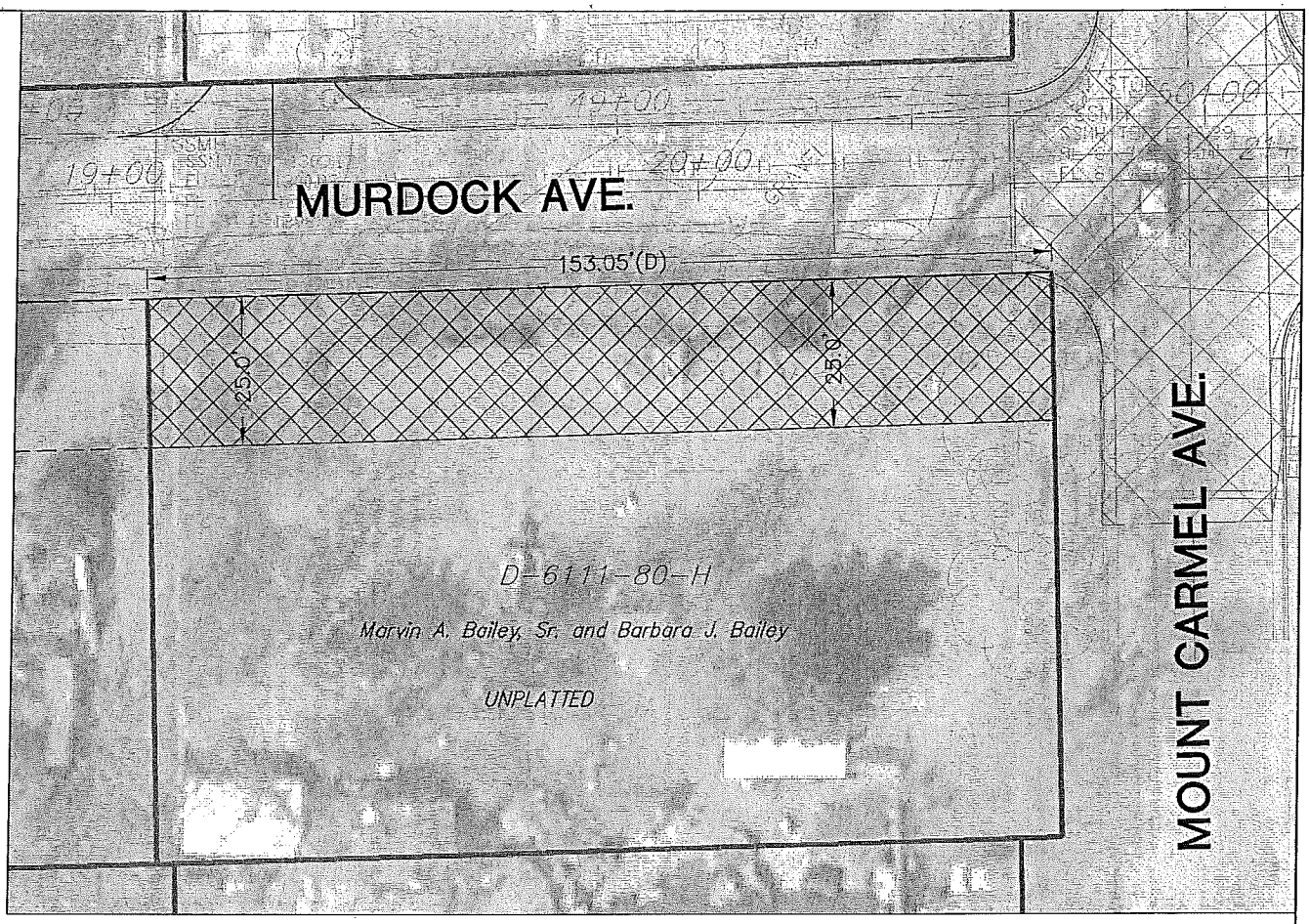
Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $10,700 is requested. This includes $9,200 for acquisition and $1,500 for administrative and filing fees.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the storm water drainage and control through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.



SCALE: 1"=30'

0 30 60

LEGAL DESCRIPTION:

Easement Area:

The north 25.00 feet of the following described tract of land: BEGINNING 907.5 feet south and 185 feet east of the northwest corner of the Southeast Quarter, Section 13, Township 27 South, Range 1 West, of the 6th Principal Meridian, Sedgwick County, Kansas, thence south 95 feet; thence east 153.05 feet; thence north 95 feet; thence west 153.05 feet to the POINT OF BEGINNING.

N

LEGEND:

- Temporary Construction Esmt. Area = none
- Easement Area = 3826 s.f.
- Right of Way / Property line

Owner:

Marvin A. Bailey, Sr. and Barbara J. Bailey
797 N. Mt. Carmel
Wichita, KS 67203

Tax Key Property Identification:

D 06111008000H

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

West Street to Arkansas River 9th Street Storm Sewer Outfall (PROJECT NAME)		
TRACT MAP #11 - Easement Exhibit (SHEET TITLE)		
JRA (DESIGN BY)	BDL (DRAWN BY)	JRA / JCM (CHECKED BY)
Dec. 2008 (DATE)	06205 v11 (JOB NO.)	1 / 1 (SHEET/OF)

J:\civil\06205\dwg\tractmaps\06205roe-maps revised.dwg 12/11/2008 11:42:03 AM CST

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this___ day of _____, 2009 by and between Marvin A. Bailey, Sr. and Barbara J. Bailey, husband and wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a permanet construction easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   The North 25.00 feet of the following described tract of land: Beginning 907.5 feet south and 185 feet east of the northwest corner of the Southeast Quarter, Section 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas; thence south 95 feet; thence east 153.05 feet; thence north 95 feet; thence west 153.05 feet tot eh point of beginning.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Nine Thousand Two Hundred Dollars and Zero Cents ($9,200.00) in the manner following to-wit: cash at closing.

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

4. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

5. The Seller further agrees to convey the above-described premises with all the improvements including trees and shrubs located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted. All of the trees and shrubs in the easement will be removed for the project.

6. Seller shall place no encumbrances on the property during the period from execution of this contract to closing.

7. During construction, Buyer shall cause a temporary fence to be erected along the southerly line of the above described easement. After completion of construction Seller shall have the right to construct a new fence along the north line of the easement area.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before August 31, 2009 subject to the conditions of Item 10 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Buyer shall cause the corners of the easement to be marked.

12. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

BUYER
By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

SELLER

Marvin A. Bailey Sr.
Marvin A. Bailey, Sr.

Barbara J. Bailey
Barbara J. Bailey

797 North Mount Carmel

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 1459 South Greenwich for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. On June 16, 2009, City Council authorized an eminent domain action to acquire the right-of-way and easements not yet purchased. The property at 1459 South Greenwich was included in that request. A portion of this property is platted and zoned commercial and the remainder is unplatted land. To accommodate the project, it is necessary to obtain a temporary easement for construction purposes and a permanent drainage easement. The seller has a decorative, concrete material fence that will be impacted by the project. These easements are in an area that will not cause impact to the remaining improvements at 1459 South Greenwich.

Analysis: The property owner rejected the estimated market value offer of $1,030. Using a value of $2.00 per square foot as the basis for determining compensation for the easement, the $1,030 offer consisted of $0.40 per square foot for the drainage easement and $0.12 per square foot for the temporary easement. The Seller has agreed to convey the necessary easements for $6,055. This amount consists of $222 for the drainage easement (or at $.60 per square foot), $1,068 for the temporary easement ($0.15 per square foot) and $4,765 as compensation to uninstall and reset the existing fence. The compensation to cure the fence is based on an estimate from a professional fencing contractor. The counter offer of $6,055 is considered reasonable and prudent.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $6,500 is requested. This includes $6,055 for the acquisition and $445 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Accept the easements and 3) Authorize the payment.

Attachments: Real estate purchase agreement with tract maps and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2009 by and between Forester Investment, LLC, a Kansas corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a perpetual drainage easement for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "A"

   And

   The Seller does hereby agree to convey to the Buyer by a temporary construction easement, during construction, for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "B"

   Said easement will expire upon completion of the project or at two years from the commencement of construction, whichever comes first.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to Buyer for the above-described real property and fencing, the sum of Six Thousand Fifty-Five Dollars and No Cents ($6,055.00) in the manner following to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including general landscaping located thereon and deliver possession of

the same in the same condition as they now are, reasonable wear and tear excepted.

Buyer and Seller herby agree that Seller will remove the most northern 200 linear feet of fencing along the west right-of-way line of Greenwich at or before the commencement of construction.

7. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 14, 2009 subject to the conditions of Item 10 below.

8. Possession to be given to Buyer at closing

9. Closing costs shall be paid 100% by Buyer and 0% by Seller.

10. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

SELLER:
FORESTER INVESTMENTS, L.L.C.:

Scott Forester

Scott Forester

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

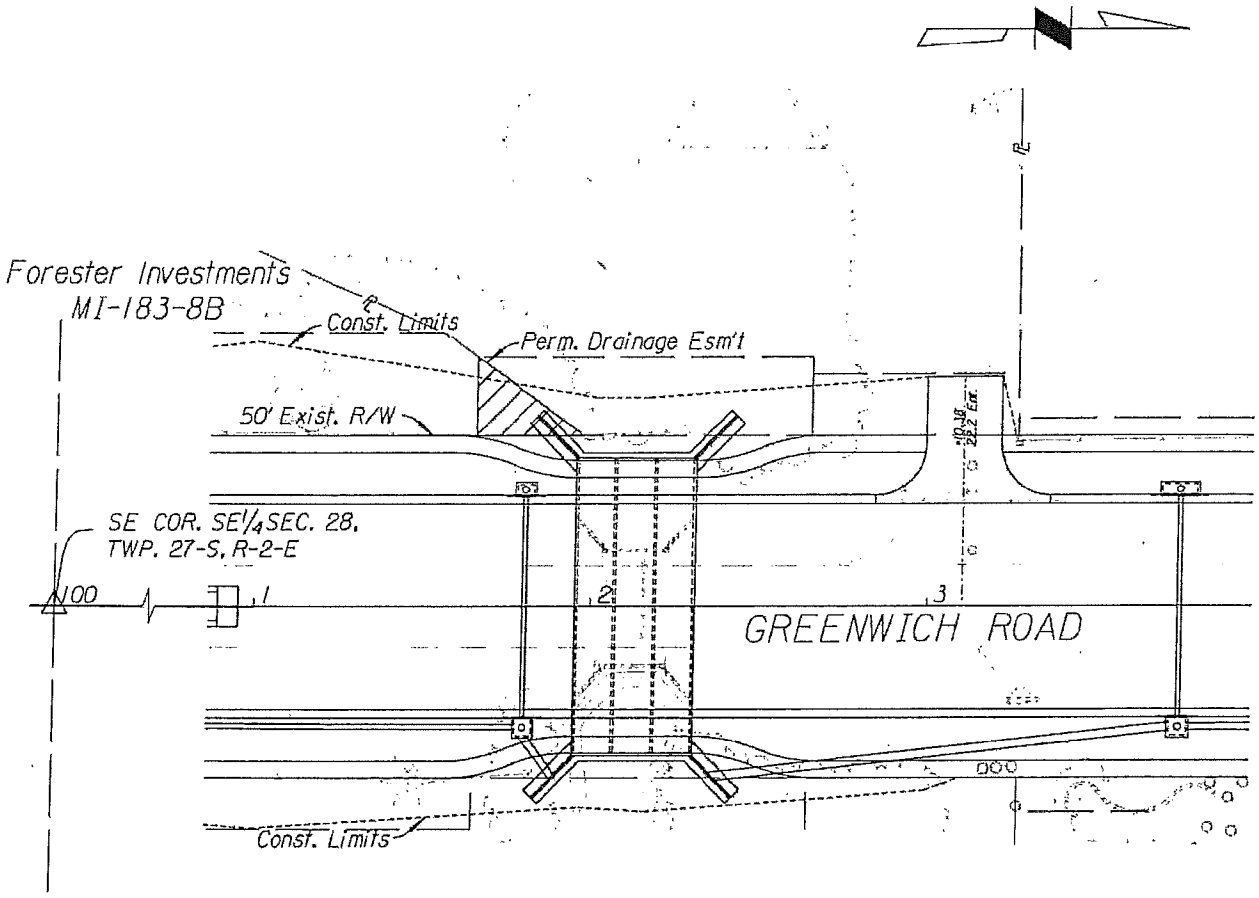
EXHIBIT 'A'

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-4-08



Permanent Drainage Easement

MI-183-8B
A tract of land in the N ½ of the N ½ of the SE ¼ of the SE ¼ of Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas described as: commencing at the SE corner of said N ½ of the N ½ ; thence westerly on the S line of the said N ½ of the N ½ on an assumed bearing of N 89°-10'-39" W a distance of 50.00 feet; thence on an assumed bearing of N 0°-49'-21" W a distance of 168.35 feet to the point of beginning; thence on an assumed bearing of N 89°-10'-39" W a distance of 23.05 feet; thence on an assumed bearing of N 34°-50'-32 E a distance of 39.55 feet; thence on assumed bearing of S 0°-49'-21" E a distance of 32.13 feet more or less to the point of beginning, said tract containing 370 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

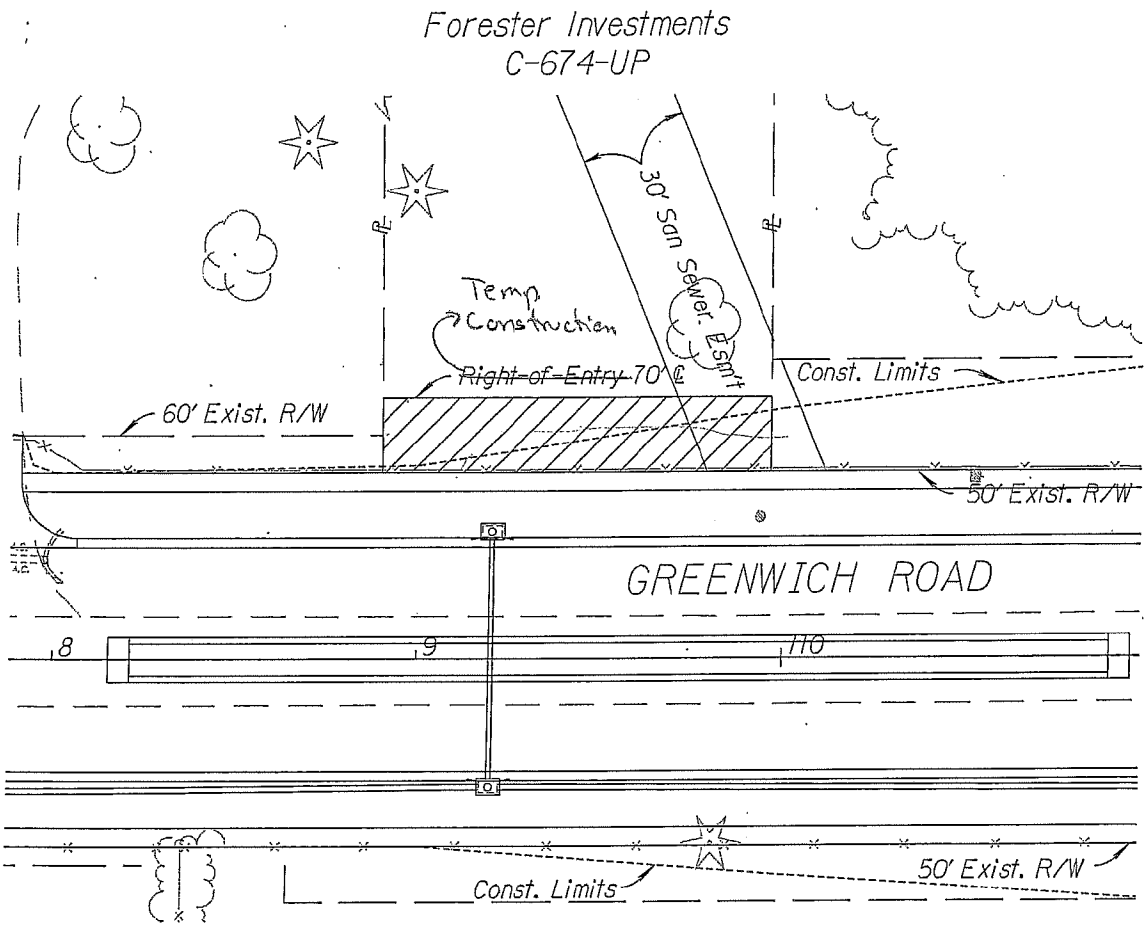
EXHIBIT 'B'

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-18-08



~~Right-of-Entry~~ Temp. Construction

C-674-UP
A tract described as: the West 20.00 feet of the East 70.00 feet of the S1/2, N1/2, SE1/4, SE1/4, excluding THORN CREEK FARMS ADDITION Section 28, T-27-S, R-2-E of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas.

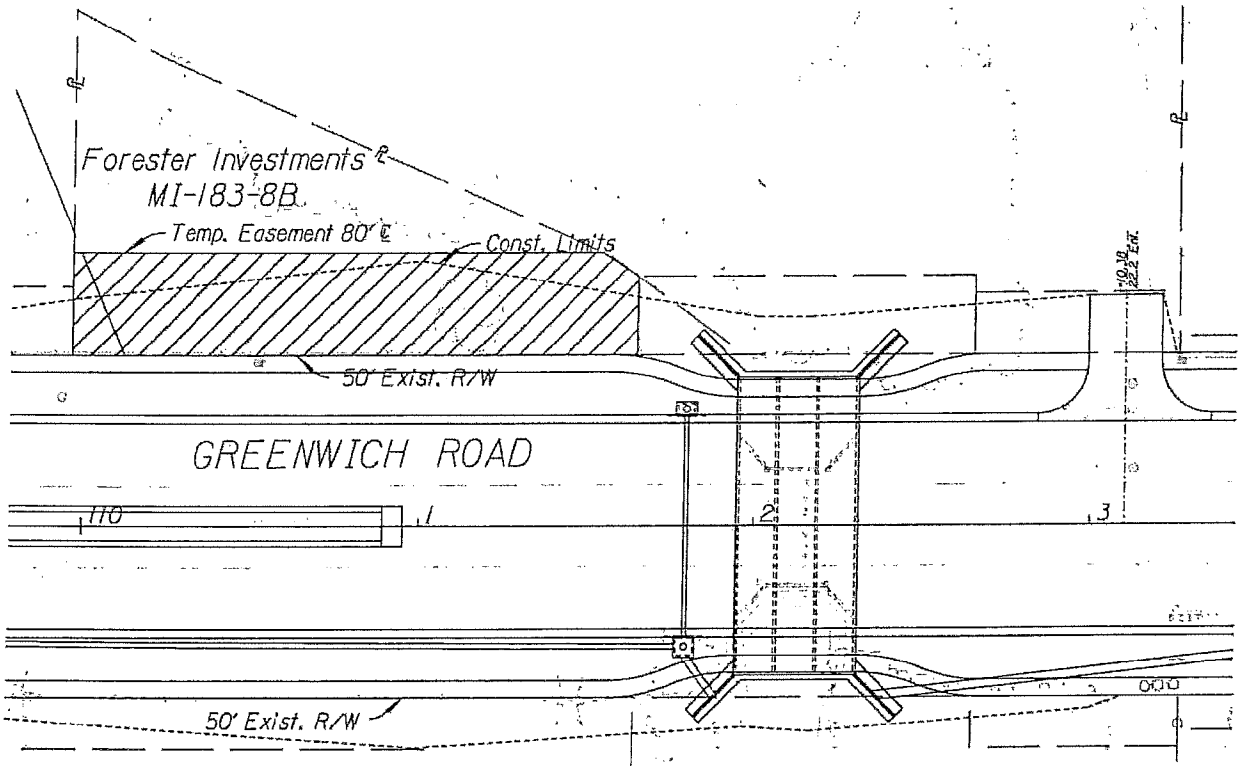
EXHIBIT 'B'

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

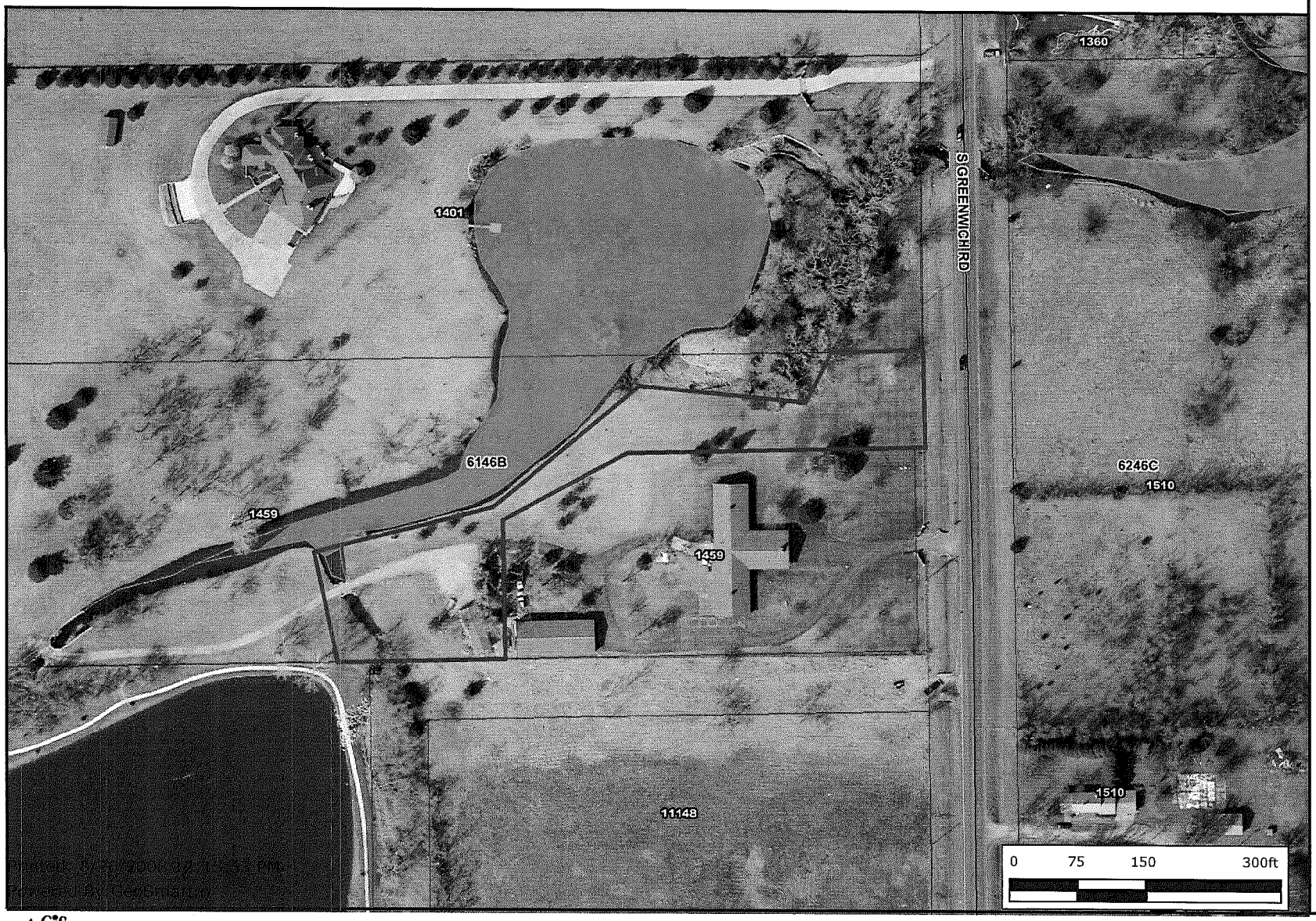
Date 2-13-08



Temporary Easement

MI-183-8B
A tract of land in the N ½ of the N ½ of the SE ¼ of the SE ¼ of Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas described as: commencing at the SE corner of said N ½ of the N ½; thence westerly on the S line of the said N ½ of the N ½ on an assumed bearing of N 89°-10'-39" W a distance of 50.00 feet to the point of beginning; thence on as assumed bearing of N 89°-10'-39" W a distance of 30.00 feet; thence on an assumed bearing of N 0°-49'-21" W a distance of 157.91 feet; thence on as assumed bearing of N 32°-29'-51" E a distance of 12.66 feet; thence on an assumed bearing of S 89°-10'-39" E a distance of 23.05 feet; thence on an assumed bearing of S 0°-49'-21" E a distance of 168.35 feet more or less, to the point of beginning said tract containing 5017 square feet, more or less for the purposes of constructing street improvements.

C-674-UP



- Identified Features
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels

Roads

- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams

Historic Sites

- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O

City Limits

- Andale
- Bel Aire
- Bentley

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 930 South Greenwich for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. To facilitate the project, a 1,184 square foot permanent easement for drainage purposes together with a 638 square foot temporary construction easement are required from the property at 930 South Greenwich. The property is improved with a single-family residence; however, the improvements are removed from the proposed acquisition areas.

Analysis: The property owner accepted the estimated market offer of $525. Using $1.25 as the estimated market value, the permanent easement was valued at 30% and the temporary easement at 10%. The compensation for the permanent easement is $444, or $0.38 per square foot. The value of the temporary construction easement is $81, or $0.13 per square foot.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $600 is requested. This includes $525 for the acquisition and $75 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Accept the easements and 3) Authorize the payment.

Attachments: Tract maps, aerial, permanent drainage easement and temporary construction easement.

PERMANENT DRAINAGE EASEMENT

THIS EASEMENT made this 16 day of June, 2009 by and between the Charles E. Rogers and Stefanie J. Rogers, husband and wife, herein referred to as "Grantor(s)", and the City of Wichita, Kansas, a municipal corporation, successors and assigns, herein referred to as "Grantee(s)".

WITNESSETH: That the said Grantor, in consideration of the sum of Five Hundred Twenty-Five Dollars and no/100 ($525.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said Grantee a permanent drainage easement for the purpose of performing drainage work over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

> A tract in the SW1/4 Section 27, Township 27 South, Range 2 East of the 6th PM, Sedgwick County, Kansas, described as: commencing at the NW corner of said SW1/4; thence on an assumed bearing of S00°49'21"E a distance of 347.39 feet to a point on the West line of said SW1/4; thence N89°10'39"E a distance of 50.00 feet to the point of beginning; thence N89°10'39"E a distance of 25.00 feet; thence S00°49'21"E a distance of 57.40 feet; thence N52°02'14"W a distance of 32.07 feet; thence N00°49'21"W a distance of 37.31 feet, more or less, to the point of beginning, said tract containing 1,184 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining drainage area and associated site work.

The Grantee hereby covenants and agrees to indemnify, protect, and save harmless the Grantor, its successors and assigns, of, from, against and in respect of all liabilities, losses, claims, damages, punitive damages, causes of action, lawsuits, demands, judgments, settlement payments and costs and expenses caused by or arising out of the use of the premises by the Grantee, its employees, successors and assigns.

The Grantee is hereby granted the right to enter upon said premises at any time for the purpose of performing drainage work and associated site work.

IN WITNESS WHEREOF: Grantor(s) have signed these presents the day and year first written.

Charles E. Rogers

Stefanie J. Rogers

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

On ____ day of _____, 2009, this easement was acknowledged before me by Charles E. Rogers and Stefanie J. Rogers, husband and wife.

_____
Notary Public

My Commission expires: _____

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 16 day of June, 2009 by and between the Charles E. Rogers and Stefanie J. Rogers, husband and wife, herein referred to as "Grantor(s)", and the City of Wichita, Kansas, a municipal corporation, successors and assigns, herein referred to as "Grantee(s)".

WITNESSETH: That the said Grantor, in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said Grantee a temporary construction easement for the purpose of performing drainage work over together with road or highway right-of-way associated work, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A tract described as the West 5.00 feet of Lot 5, Block 1, Windsor Park Addition to Wichita, Sedgwick County, Kansas, except permanent drainage easement thereof.

The Grantee hereby covenants and agrees to indemnify, protect, and save harmless the Grantor, its successors and assigns, of, from, against and in respect of all liabilities, losses, claims, damages, punitive damages, causes of action, lawsuits, demands, judgments, settlement payments and costs and expenses caused by or arising out of the use of the premises by the Grantee, its employees, successors and assigns.

The Grantee is hereby granted the right to enter upon said premises at any time for the purpose of performing drainage work and associated site work for a period not to exceed two years from the date above written or three months of the completion of the project, whichever is sooner.

IN WITNESS WHEREOF: Grantor(s) have signed these presents the day and year first written.

Charles E. Rogers

Stefanie J. Rogers

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

On _____ day of _____, 2009, this easement was acknowledged before me by Charles E. Rogers and Stefanie J. Rogers, husband and wife.

_____
Notary Public

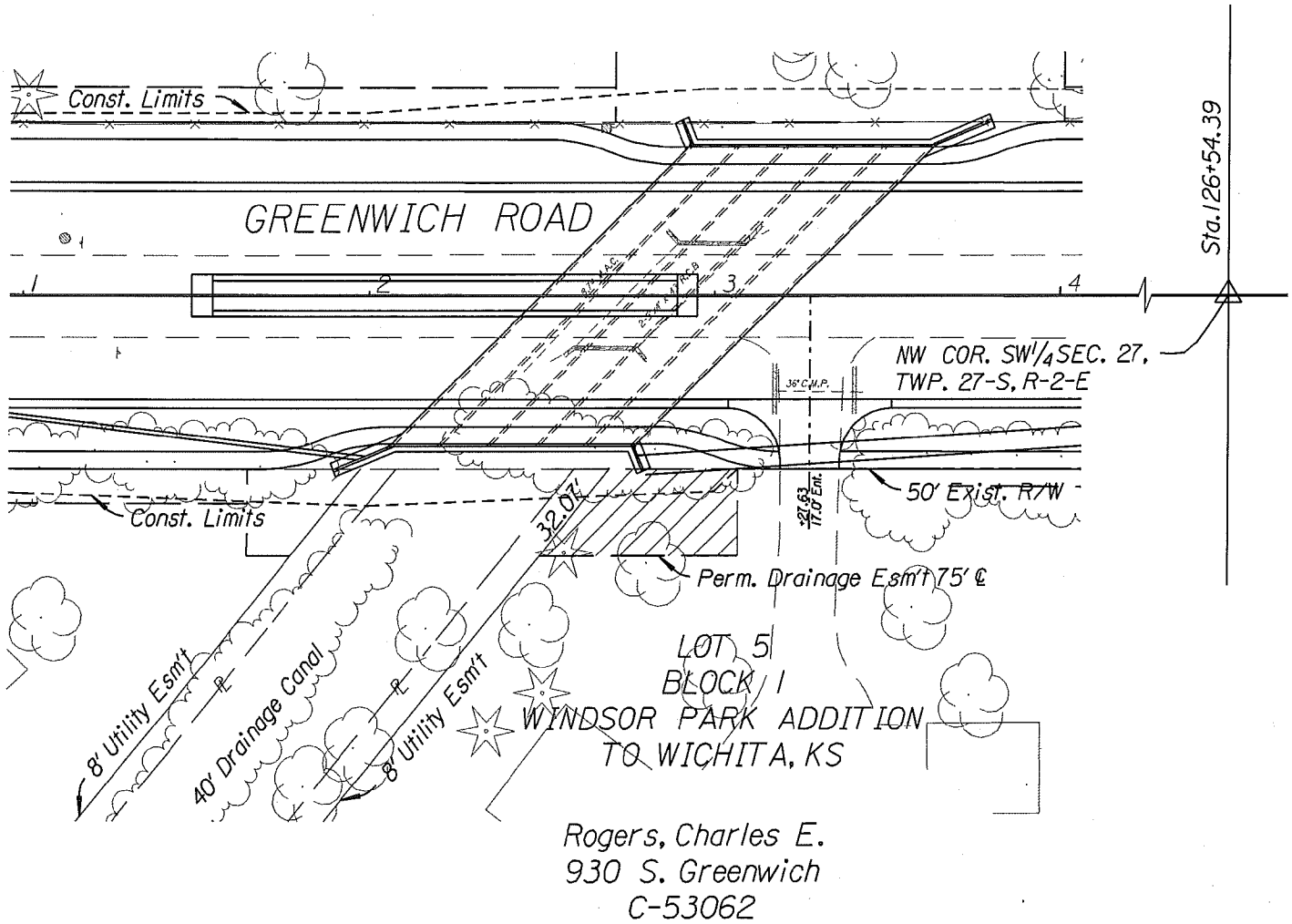
My Commission expires: _____

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-7-08



Rogers, Charles E.
930 S. Greenwich
C-53062

Permanent Drainage Easement

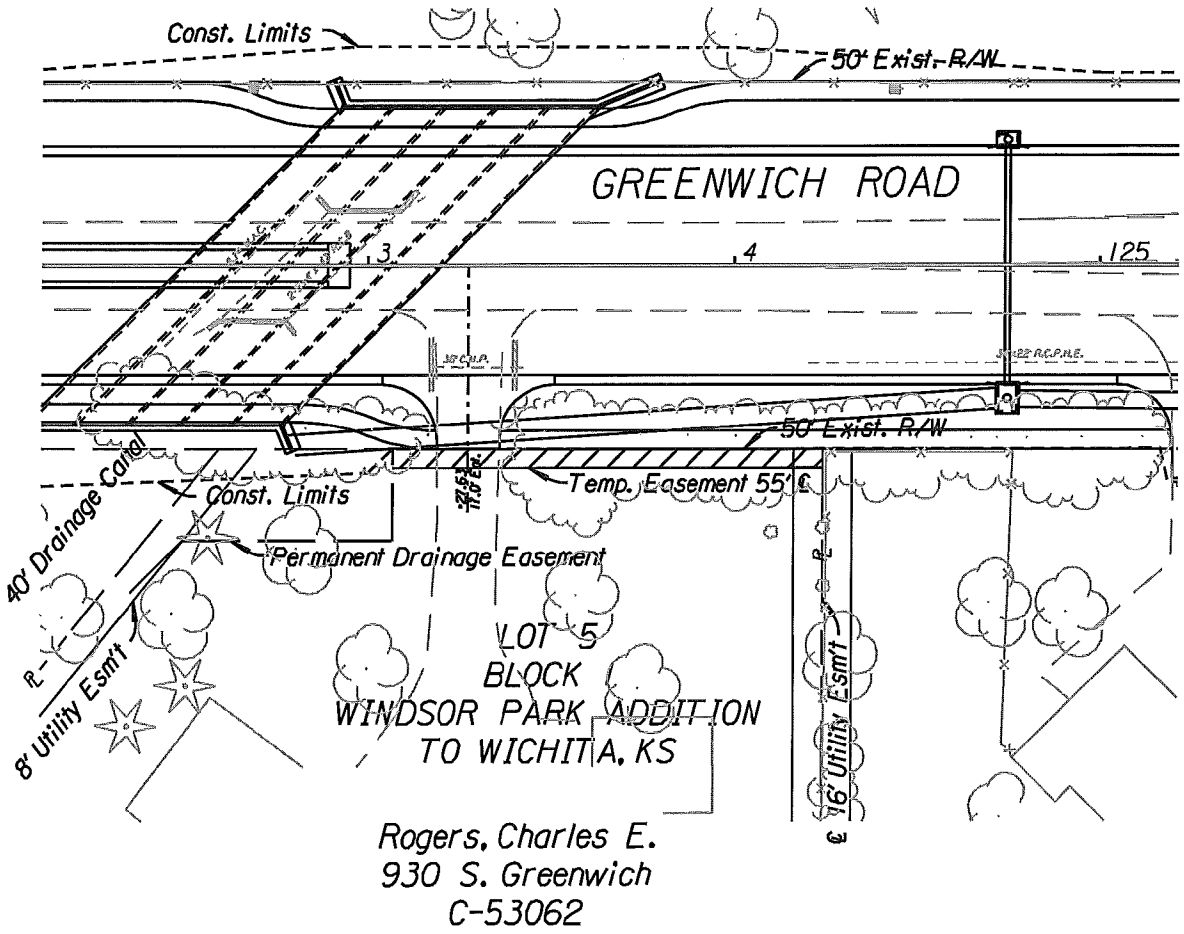
C-53062
A tract in the SW 1/4 Section 27, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the NW corner of said SW1/4; thence on an assumed bearing of S 00°-49'-21" E a distance of 347.39 feet to a point on the West line of said SW1/4; thence N 89°-10'-39" E a distance of 50.00 feet to the point of beginning; thence N 89°-10'-39" E a distance of 25.00 feet; thence S 00°-49'-21" E a distance of 57.40 feet; thence N 52°-02'-14" W a distance of 32.07 feet; thence N 00°-49'-21" W a distance of 37.31 feet, more or less, to the point of beginning, said tract containing 1184 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 3-25-08



Temporary Easement

C-53062
A tract described as: the West 5.00 feet of Lot 5, Block 1, WINDSOR PARK ADDITION to Wichita, Sedgwick County, Kansas, except permanent drainage easement thereof.

930 South Greenwich

Identified Features
Historic Districts
Old Town
Delano Overlay District
NO
YES
Property Parcels
Roads
State Highway
US Federal Highway
Interstate
KTA
Arterial
Collector
Minor
Ramp
Railroads
Quarter Section
Waterways
Streams
Historic Sites
REGIONAL
STATE/NATIONAL
STATE
Historic Environs
Parks
Airports
SDERASTER.S-DEDATA.ORTH-O
City Limits
Andale
Bel Aire
Bentley

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CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 550 East 47th Street South for the I-135/47th Street South Interchange Project (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On April 7, 2009, City Council approved funding to acquire right of way for a project to improve the interchange of 47th Street South and I-135 and 47th Street South from Lulu to Broadway. The project will provide a center left turn lane, reconstruct the interchange, improve storm drainage and improve access to adjoining properties. The Kansas Department of Transportation will administer the construction of the project utilizing Federal money. The project requires the partial acquisition of nine tracts. One of the partial acquisitions is from the restaurant property at 550 East 47th Street South and involves road right-of-way and a temporary construction easement. The property is zoned commercial and improved with a Braum's restaurant. The building is not impacted as a result of the acquisition.

Analysis: The project requires a 5,229 square foot permanent easement. The take will impact parking, landscaping, site trees, site lighting and the in-ground sprinkler system. The acquisition was appraised at $78,000 consisting of $53,000 ($10.00 per square foot) for the permanent easement and $25,000 for the loss of parking. The owner has agreed to accept $62,750 ($12.00 per square foot) for the land. This equates to the lowest comparables in the appraisal and approximates the appraised value of other restaurant sites in the project. The appraisal did not include cost for the loss of three trees, relocate two parking lot lights, replace landscaping and redesign the sprinkler system. These additional items, based on estimates, were valued at $16,250. The business sign is also located in the easement area. As it does not conform to code, it must be replaced rather than moved. This cost was estimated at $21,000. The total cost of the acquisition, including the sign, is $125,000.

Financial Considerations: A budget of $126,500 is requested. This includes $121,000 for the acquisition, $21,000 to replace the business sign and $1,500 for closing costs, title and other acquisition related fees. The City's share of project acquisition will be paid by general obligation bonds.

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

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

Recommendation/Action: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Contract for the Conveyance of Real Estate and 3) Authorize the necessary signatures.

Attachments: Tract map, real estate purchase agreement and aerial map.

PROJECT: 47th Street an I135 Interchange **DATE:** 06/17/2009

COUNTY: Sedgwick **TRACT NO.:** 11

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY EASEMENT

THIS AGREEMENT Made and entered into this _____ day of _____, 2009,, by and between

Retail Buildings, Inc.

c/o Gordon Pulis, Braum's Ice Cream

16135 Preston Rd., #107

Dallas, TX 75248

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 5,299 Sq. Ft. for Right of Way	$	63,600.00
Damages including but not limited to all improvements and real property of the landowner:	$	40,400.00
TOTAL:	$	104,000.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS: Retail Buildings, Inc.

By: _____ By: _____

THE CITY OF WICHITA

Attest:

By: _____ _____

Carl Brewer, Mayor Karen Sublett, City Clerk

MEMORANDA

Exact and full name of owner, as name appears of record:

Retail Buildings, Inc.

If mortgage or other liens, show names of holders:

W.H. Braum, Inc., an Oklahoma corporation and John Hancock Mutual Life Insurance Company, a Massachusetts corporation

REMARKS:

PIN/APN
Security Title File Number

APPROVED TO FORM:

_____

Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____

Gerald Cain, Project Manager

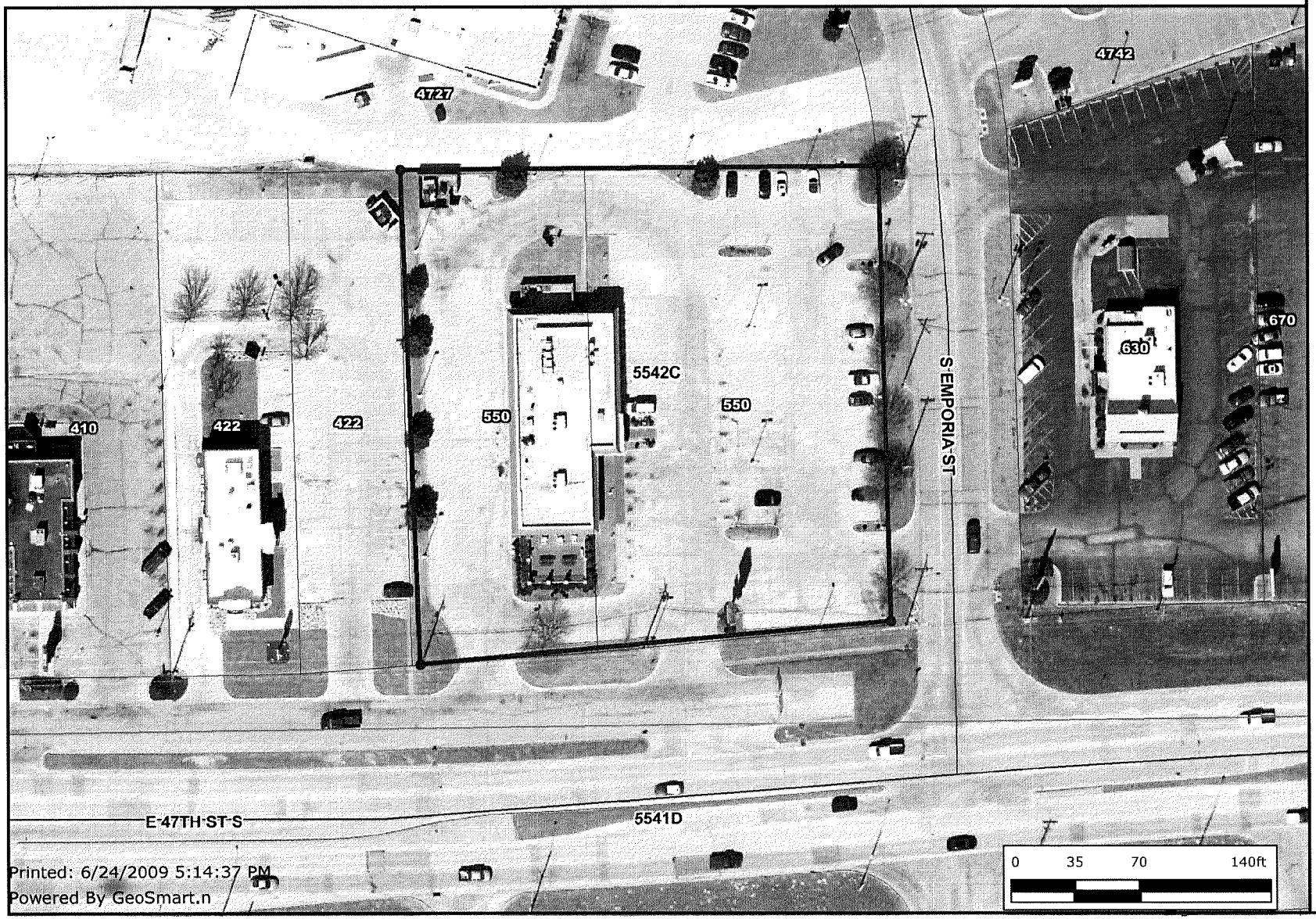
EXHIBIT 'A'

Right of Way

That portion of Lot 4, Block 2 of SOUTH BROADWAY INDUSTRIAL PARK, in the City of Wichita, Sedgwick County, Kansas, described as follows:

Beginning at the Southeast corner of said Lot 4; thence S85°32'41"W along the South line of said Lot 4, a distance of 157.26 feet to the Southwest corner thereof; thence N73°27'04"E, a distance of 32.11 feet; thence N56°13'54"E, a distance of 94.21 feet; thence N67°57'17"E, a distance of 50.05 feet to a point on the East line of said Lot 4; thence S01°05'51"E along said East line, a distance of 68.09 feet to the Point of Beginning, containing 5,299.2 square feet, more or less.

Braums - 550 East 47th South



Property Parcels

Roads

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

Railroads

Quarter Section

Waterways

Streams

Parks

Airports

SDERASTER.5-DEDATA.ORTH-O1FT

SDERASTER.5-DEDATA.ORTH-O

City Limits

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

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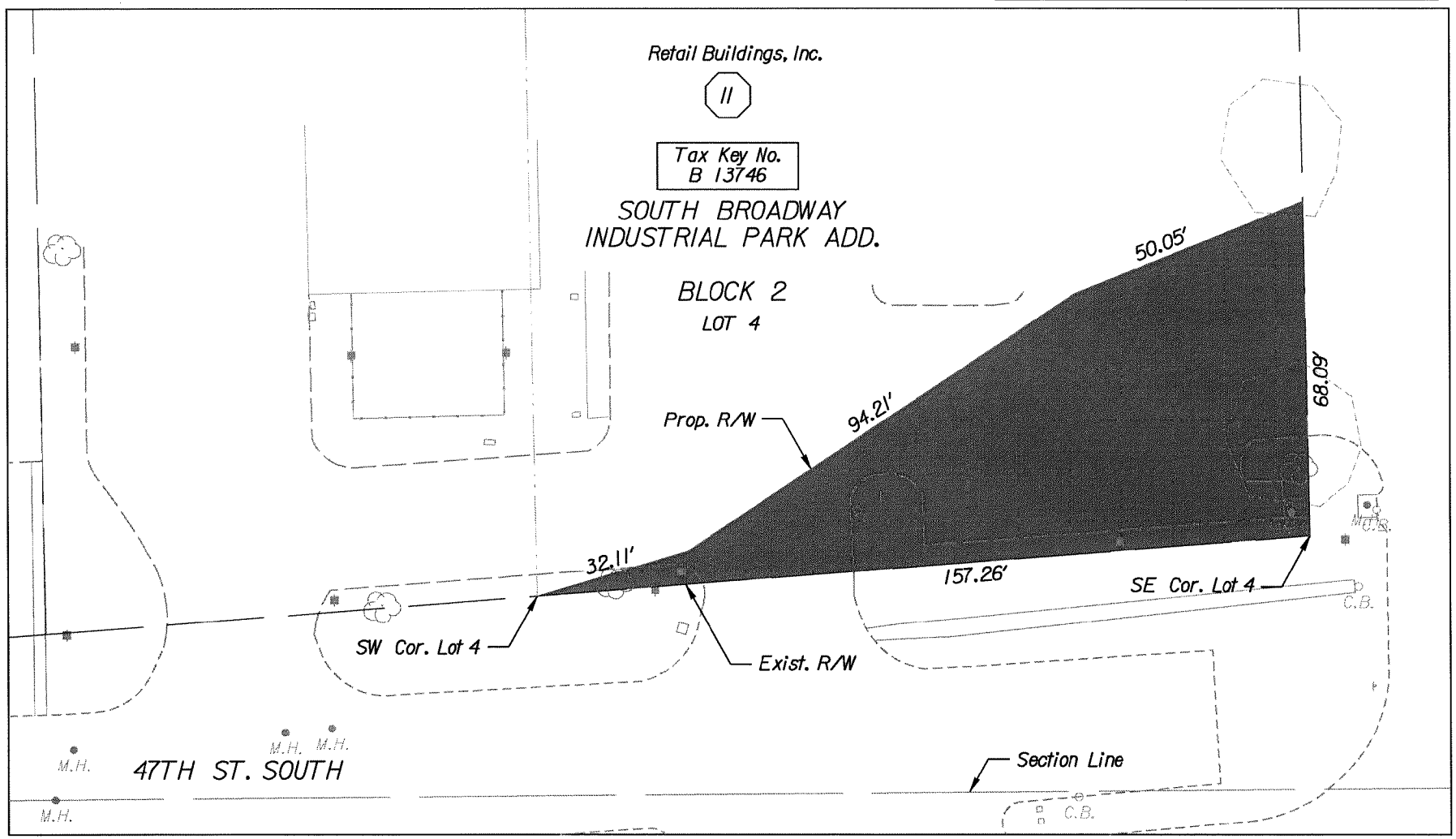
PROJECT: I-135/KTA/47TH ST INTERCHANGE

TRACT NUMBER: 11 DATE: 03/06/2009

SHEET: 1 of 1

HNTB

LEGEND:
Proposed Right of Way
(5,299.2 SQ. FT.)



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CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Land in the East Half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West for the integrated Local Water Supply Plan (County)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 3, 1993, the City Council approved the Water Supply Plan prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000, City Council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project. The groundwater recharge includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, transferred to and stored in the aquifer. The recovery and use of this water will meet future demands for the City of Wichita.

Analysis: Certain sites have been identified as necessary for the capture of above base flow water, locations for water treatment facilities, recharge/recovery wells, and recharge basins. It is necessary to acquire a pipeline easement and temporary construction easement across the north half of the agricultural property located off 125th Street North and between 135th Street West and 119th Street West. The proposed pipeline easement is 60 feet wide and consists of 2.73 acres. The temporary easement is 75 feet wide and consists of 3.38 acres. The seller has agreed to accept $3,674, or $900 an acre for the easement and $360 an acre for the use of the temporary construction easement. These amounts are based on a market analysis.

Financial Considerations: A budget of $4,674 is requested; this includes $3,674 for the acquisition, $1,000 for title work, title insurance, closing costs and recording fees. Funding for this project is included in the Capital Improvement Plan (CIP) in W-549, Water Supply Plan Phase III, which has an available funding of over $7.6 million

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure.

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

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

Attachments: Real estate purchase agreement, permanent easement, temporary construction easement and area maps.

EASEMENT PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 2ND day of JUNE, 2009 by and between Patricia C. Taylor, party of the First Part, hereinafter referred to as "Seller," whether one or more, and City of Wichita, KS, a Municipal Corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient Permanent Easement and/or Temporary Construction Easement of the following described real property, situated in Sedgwick County, Kansas, to wit:

Permanent Easement (Pipeline – Parcel "A") A 60.5 feet wide strip of land lying on the left side (northeasterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00^{0}40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42^{0}52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00^{0}27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contrains 2.73 acres, more or less.

The above easement adjoins the southwesterly side of an easement described in Condemnation Case No. 104,110 and recorded in Miscellaneous Book 150, Page 1.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.

Temporary Easement (Construction – Parcel "B") A 75 feet wide strip of land lying on the right side (southwesterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00^{0}40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42^{0}52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00^{0}27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contrains 3.38 acres, more or less.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.

2. The Buyer hereby agrees to purchase and pay to the Seller the sum of Three Thousad Six Hundred Seventy Four Dollars and No Cents ($3,674) in the manner following, to-wit: cash at closing, which sum the Seller agrees is adequate compensation for such conveyance to Buyer of the above described real property, a temporary construction easement, any and all damages including but not limited to severance, crops at time of construction, crops for one year after

initiation of construction, drainage and fencing. - ALSO SUBJECT TO ATTACHED MEMORANDUM DATED 5/27/09. MOS P.T.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the Seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

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

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 31, 2009.

6. The Seller agrees to convey the above described premises with any and all personal property removed from within the easement area(s). Seller further agrees that any maintenance and use of said easement shall be in a manner that does not interfere with or endanger the construction, operations and maintenance of Buyer's improvements.

7. Possession to be given to Buyer on date of closing.

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

9 . In the event there are crop damages outside the easement area during construction or, crop damages resulting from the Buyer's other maintenance, operation, replacement or repairs to the pipeline, the Seller hereby agrees to file a claim with the City of Wichita, KS, City Clerk's Office, 455 North Main, Wichita, KS 67202, (316)268-4529.

10. Buyer and Seller hereby agree that Buyer, contractors and assigns will remove, store and reinstall topsoil removed from the easement corridor as a result of construction. Said topsoil, separate from bedding soil, will be temporarily stored within a temporary construction easement.

11. Buyer hereby agrees that the finished grade will match the existing grade as it currently exists upon completion of the project.

12. Site Assessment

A. At any time prior to closing of this Agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, the Buyer shall have the right to void this agreement upon notice to the Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. The Buyer or its agents shall have the right, without the obligation, to enter upon

the property prior to closing to undertake an environmental site assessment or any other inspection of the property at the Buyer's sole expense.

C. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to this paragraph. If a site assessment cannot be completed prior to the closing date set herein, then the Buyer and Seller shall, unless Buyer chooses to void this agreement, close within ten (10) days of the completion of such site assessment. The Buyer shall, if Buyer determines that a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment.

13. Buyer agrees to indemnify and hold harmless Seller from any and all claims for personal injury and/or property damage resulting from any and all claims, expenses, suits or other costs relating to Buyer's occupancy of the subject property prior to closing. Buyer's occupancy of the subject property prior to execution shall be completely at the risk of Buyer and Seller shall bear no responsibility whatsoever for the actions of Buyer and/or its contractors or subcontractors for matters related to such occupancy.

14. Paragraphs 6, 9-11 and 13 shall survive the closing.

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

SELLER:

Patricia C. Taylor

Patricia C. Taylor

BUYER:

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

Memorandum

Date: May 27, 2009	
To: Patricia Taylor	**From:** Mike Schomaker
Attention:	**Project Name/No.:**
Reference: Easement Purchase Contract	**Copies To:** Pipe Line Design Team

PLEASE ADVISE IMMEDIATELY OF ANY MISCONCEPTIONS OR OMISSIONS YOU BELIEVE TO BE CONTAINED HEREIN.

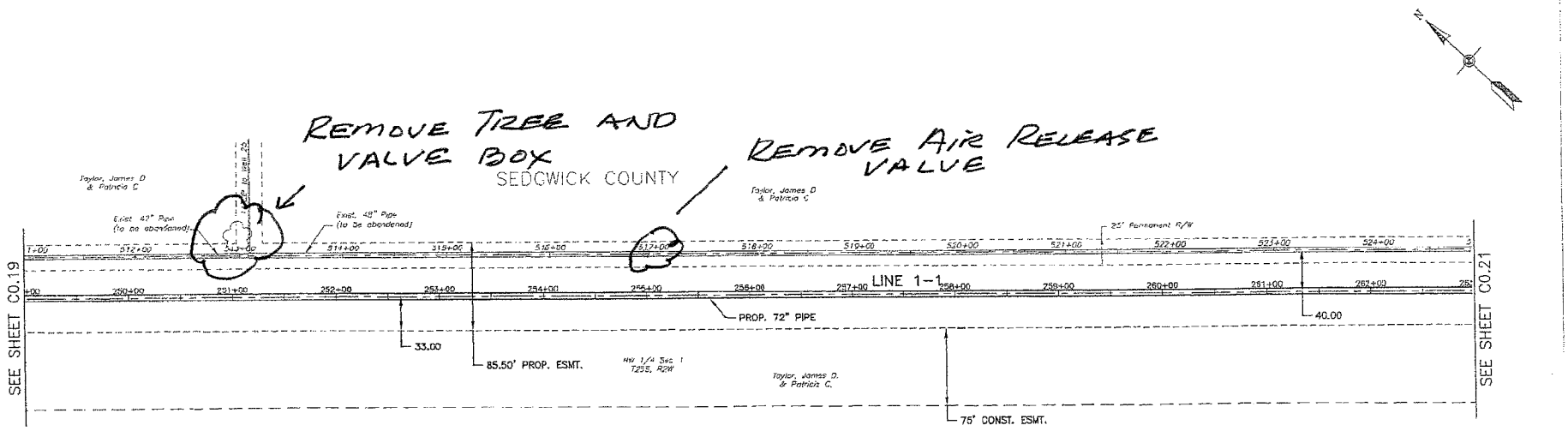
Included in the Easement Purchase Contract will be the following items which will be handled during the construction of the project:

Removal of large diameter tree along alignment – see attached drawing

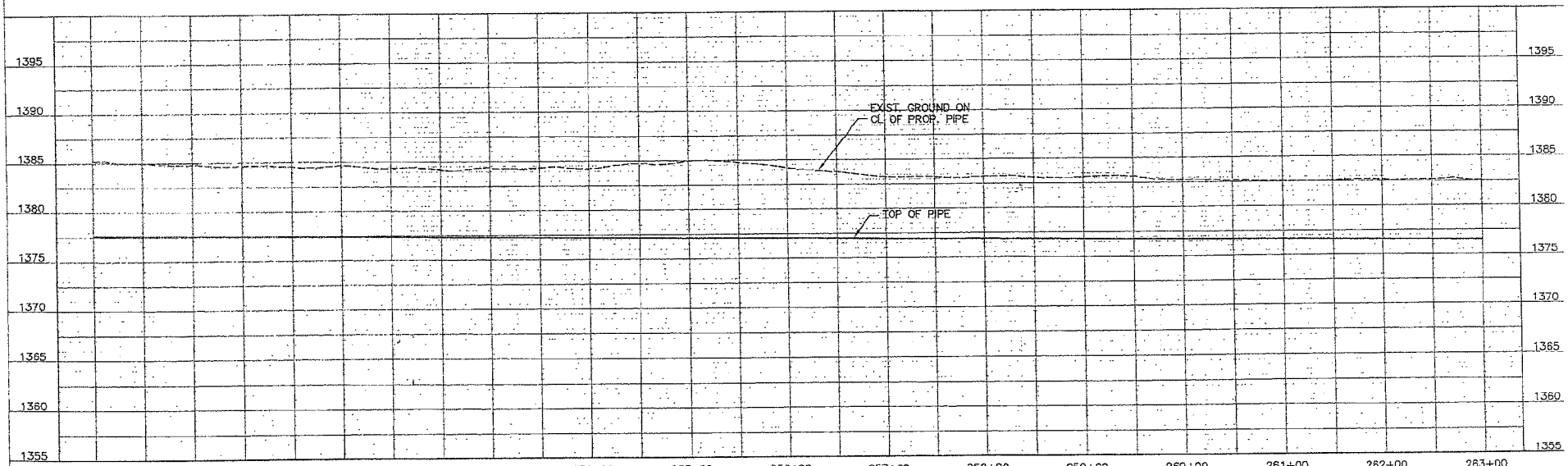
Removal of Valve Vaults – see attached drawing

Top soil to be removed and replaced.

CONTINOUS ACCESS TO BE PROVIDED TO SOUTH SIDE OF PROPERTY. MWS P.T.



Note:
All indicated utility data are based on record information.



REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
200 Riverview, Ste. 600
Wichita, KS 67203
tel: (316) 263-8700
consulting • engineering • construction • operations

DESIGNED: D. Lancaster
DRAWN: K. Lidgett
REVIEWED
CHECKED
APPROV

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS 67206
316 - 684 - 5300

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING, 0 1" DRAWING IS NOT TO SCALE

30% Design Not For Construction

BID PACKAGE 1 – DIAGONAL TRANSMISSION MAIN AND RIVER INTAKE LINE
LINE 1-1
DIAGONAL TRANSMISSION MAIN
STA. 249+00 TO 263+00

CITY OF WICHITA
PROJ. NO. 788013
OCA PROJECT NO. 633972

SCALE: H:1"=50'; V:1"=5
DATE: 3/31/2009
DRAWING NO. C0.20
SHEET ##

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Plotted on 03-31-2009 by LIGHTTK, ATTE PDF
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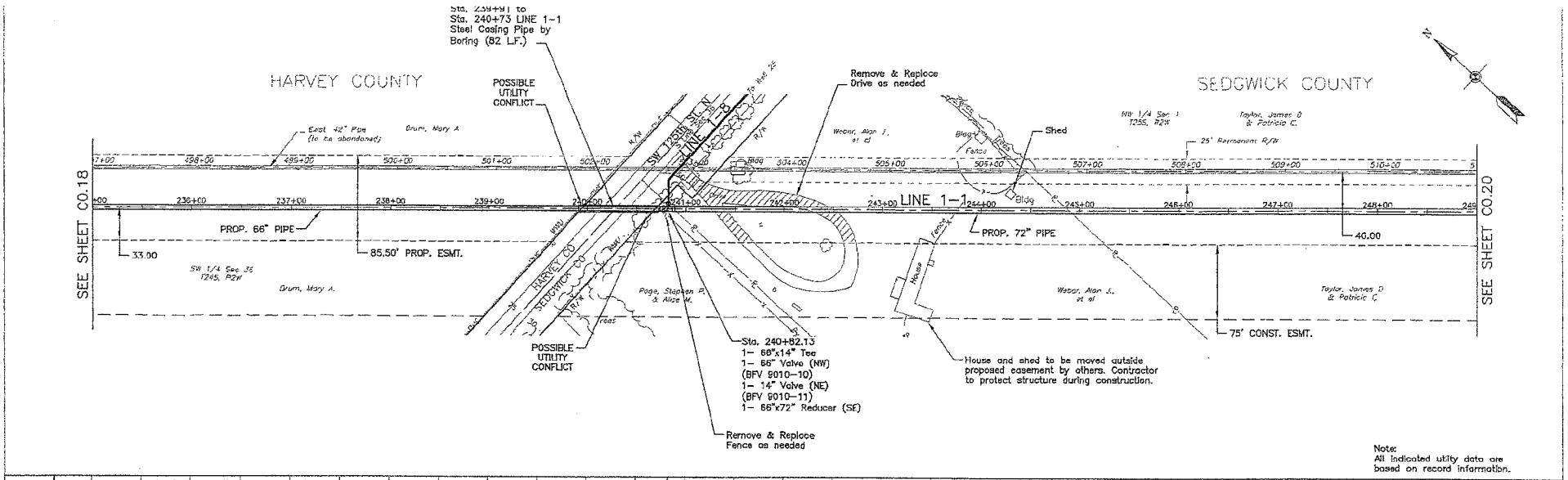
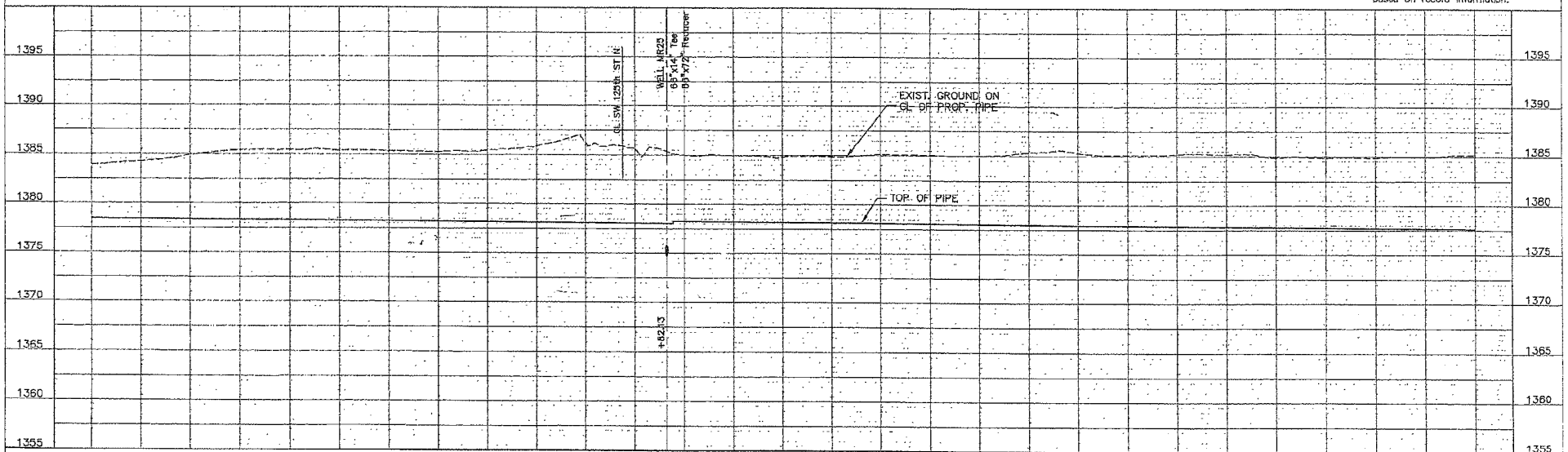




REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR

WICHITA WATER UTILITIES

CDM
Carollo Dresser & McKee
245 Riverview, Ste. 830
Wichita, KS 67203
Tel: (316) 265-6700
consulting - engineering - construction - operations

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316.634.9600

DESIGNED
DESIGN D. Lancaster
DRAWN K. Lidgett

REVIEWED
CHECKED
APPROV

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING DRAWING IS NOT TO SCALE

30% Design Not For Construction

BID PACKAGE 1 – DIAGONAL TRANSMISSION MAIN AND RIVER INTAKE LINE

LINE 1-1
DIAGONAL TRANSMISSION MAIN
STA. 235+00 TO 249+00

CITY OF WICHITA
PROJ. NO. 788013

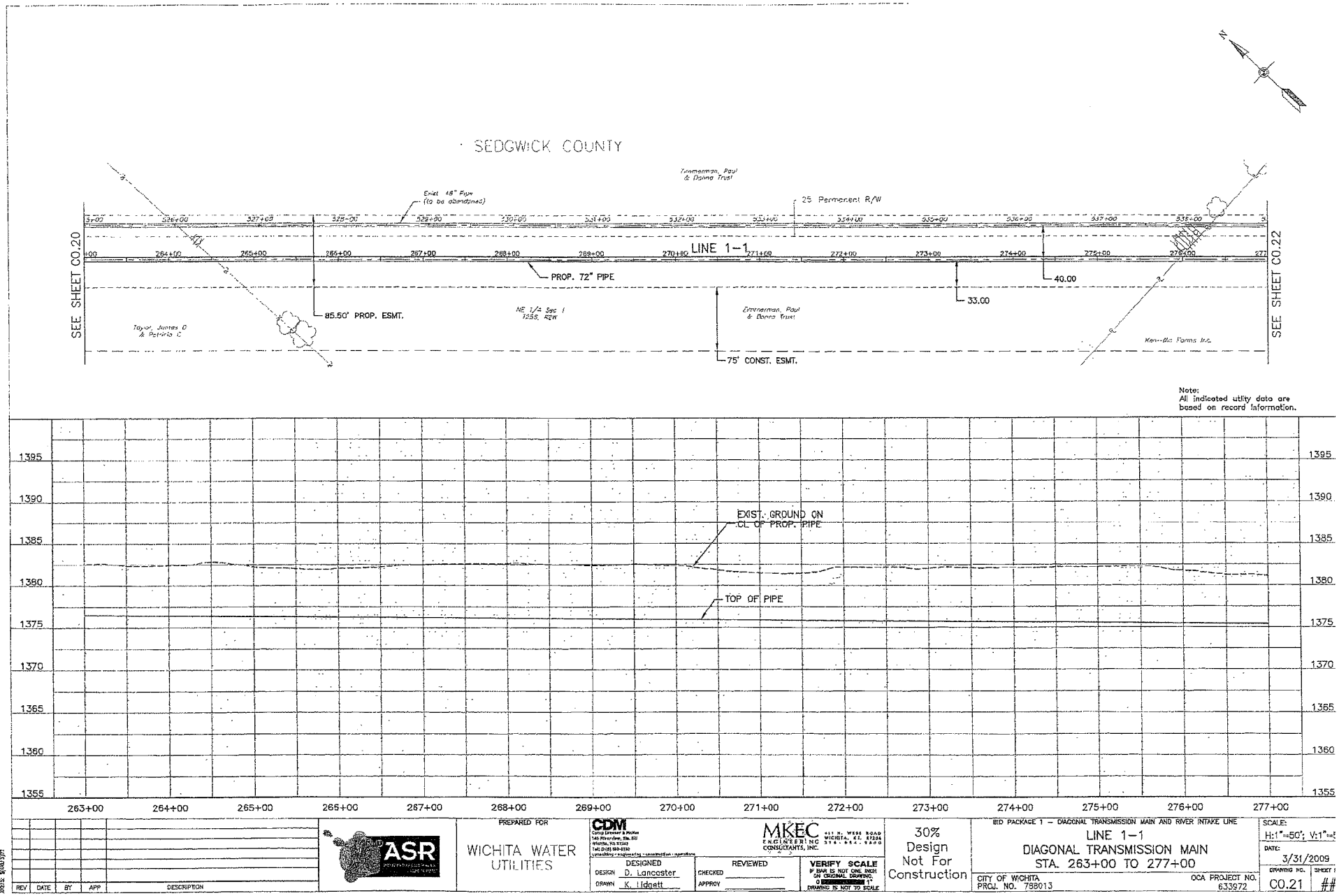
OCA PROJECT NO.
633972

SCALE: H:1"=50'; V:1"=5"

DATE: 3/31/2009

DRAWING NO. C0.19

SHEET NO. ##



REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
145 Riverview, Ste. 500
Wichita, Ks. 67203
Tel: (316) 683-8180
Consulting - engineering - construction - operations

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316.654.7800

DESIGNED
DESIGN D. Lancaster
DRAWN K. Lidgett

REVIEWED
CHECKED
APPROV

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING, 0 1"
DRAWING IS NOT TO SCALE

30% Design Not For Construction

BID PACKAGE 1 – DIAGONAL TRANSMISSION MAIN AND RIVER INTAKE LINE
LINE 1-1
DIAGONAL TRANSMISSION MAIN
STA. 263+00 TO 277+00

CITY OF WICHITA
PROJ. NO. 788013

OCA PROJECT NO.
633972

SCALE: H:1"=50'; V:1"=5
DATE: 3/31/2009
DRAWING NO. CO.21
SHEET ##

558

PIPELINE EASEMENT

THIS EASEMENT made this _____ day of _____, 2009 by Patricia C. Taylor, "Grantor" and The City of Wichita, Kansas, a Municipal Corporation, "Grantee".

WITNESSETH: That Grantor, in consideration of the sum of Two Thousand Four Hundred and Fifty-Seven Dollars and No Cents ($2,457.00), the receipt whereof is hereby acknowledged, do hereby grant and convey unto Grantee a perpetual easement for the purpose of constructing, operating, maintaining, inspecting and repairing a pipeline for the transmission of water and other equipment which the Grantee shall deem necessary under the following described real estate situated in Sedgwick County, Kansas, to wit:

Permanent Easement (Pipeline – Parcel "A") A 60.5 feet wide strip of land lying on the left side (northeasterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00^{0}40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42^{0}52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00^{0}27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contrains 2.73 acres, more or less.

The above easement adjoins the southwesterly side of an easement described in Condemnation Case No. 104,110 and recorded in Miscellaneous Book 150, Page 1.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.

This easement is for the installation and maintenance of underground utilities and associated appurtenances. Grantee shall not disturb or alter the surface of the property after the completion of the installation of any utilities installed hereunder without first obtaining the written consent of the Grantor, its heirs and assigns.

The amenities installed hereunder shall remain the property of Grantee, and Grantee shall have the right to inspect, rebuild, remove, repair, improve and make alterations to its facilities as it may from time to time deem advisable.

Grantor, his successors and assigns, may use the land within the easement for any purpose not inconsistent with the rights hereby granted, provided such use does not interfere with or endanger the construction, operations and maintenance of Grantee's facilities.

Grantee shall in no way interfere with the Grantors use and enjoyment of the surface of the property.

For the purpose of constructing, inspecting, maintaining or operating its facilities, Grantee shall have the right of ingress and egress from the easement over the lands of Grantor adjacent to said easement and lying between public or private roads. Grantee shall exercise said right in practicable manner whereby Grantee attempts to cause the least damage and inconvenience to Grantor. Grantee shall pay for any damages to growing crops caused by actions of Grantee in inspecting, maintaining or operating said facility.

Grantee shall not interfere with the ingress and egress of the Grantor, his heirs and assigns. Should it become necessary to relocate the facilities of the Grantee to aid in the future development of the subject property, Grantee hereby agrees to cooperate with Grantor in relocating said facilities. However, Grantor shall reimburse Grantee for the actual cost of relocating said facilities.

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

Patricia C. Taylor

Patricia C. Taylor

STATE OF KANSAS)
) **ss:**
SEDGWICK **COUNTY**)

Personally appeared before me a notary public in and for the County and State aforesaid PATRICIA C. TAYLOR to me personally known to be the same persons who executed the foregoing instrument of writing and said persons duly acknowledged the execution thereof.

Dated at WICHITA, Kansas, this 2ND day of JUNE, 2009.

MICHAEL D. SCHOMAKER
Notary Public - State of Kansas
My Appt. Expires 3/25/13

Notary Public

My Commission expires 3/25/13

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 2ND day of JUNE, 2009, by and between Patricia C. Taylor , (hereinafter referred to as "Grantor") and the City of Wichita, Kansas, a Municipal Corporation, (hereinafter referred to as "Grantee")

WITNESSETH: That the said Grantor, in consideration of the sum of One Thousand Two Hundred and Seventeen Dollars and No Cents ($1,217.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the Grantee a Temporary Right-Of-Way for the purpose of constructing, maintaining, and repairing utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

Temporary Easement (Construction – Parcel "B") A 75 feet wide strip of land lying on the right side (southwesterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00^{0}40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42^{0}52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00^{0}27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contrains 3.38 acres, more or less.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.

And said Grantee is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such utility improvements for a period of twenty-four months from the onset of construction. This temporary easement shall expire automatically at the end of the described.

IN WITNESS WHEREOF: The said Grantor have signed these presents the day and year first written.

Patricia C. Taylor

Patricia C. Taylor

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid PATRICIA C. TAYLOR came to me personally known to be the same persons who executed the foregoing instrument of writing and said persons duly acknowledged the execution thereof.

Dated at WICHITA, Kansas, this 2ND day of JUNE, 2009.
(city)

MICHAEL D. SCHOMAKER
Notary Public - State of Kansas
My Appt. Expires 3/25/13

Notary Public

My Commission expires: 3/25/13

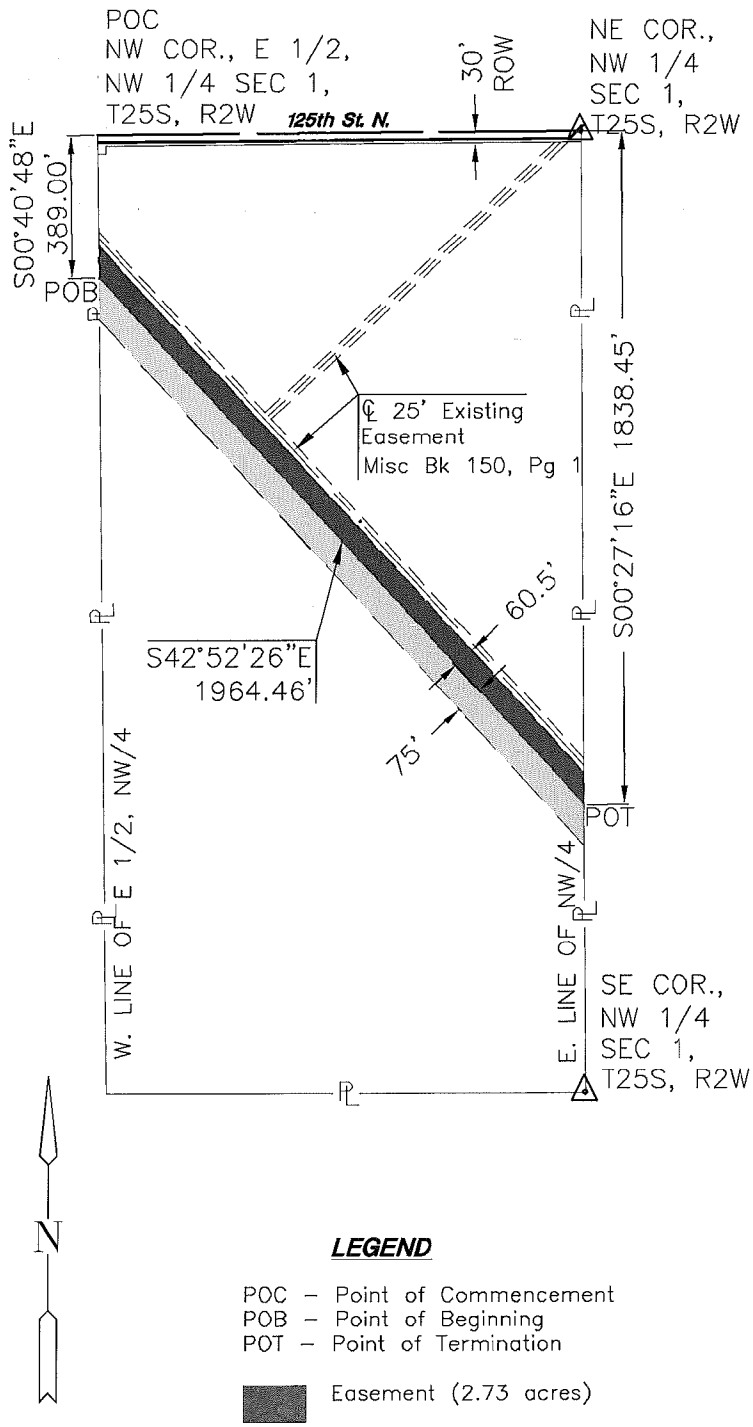
EASEMENT
A 60.5 feet wide strip of land lying on the left side (northeasterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00°40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42°52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00°27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contains 2.73 acres, more or less.

The above easement adjoins the southwesterly side of an easement described in Condemnation Case No. 104,110 and recorded in Miscellaneous Book 150, Page 1.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.

CONSTRUCTION EASEMENT
A 75 feet wide strip of land lying on the right side (southwesterly side) of a line described as: Commencing at the northwest corner of the East half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S00°40'48"E, 389.00 feet along the west line of said East half to the Point of Beginning; thence S42°52'26"E, 1964.46 feet to the Point of Termination, said point lying on the east line of said Northwest Quarter and lying S00°27'16"E, 1838.45 feet from the northeast corner of said Northwest Quarter. Said tract contains 3.38 acres, more or less.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the west line of said East half and on the east line of said Northwest Quarter.



LEGEND

POC – Point of Commencement
POB – Point of Beginning
POT – Point of Termination

Easement (2.73 acres)

Construction Easement (3.38 acres)

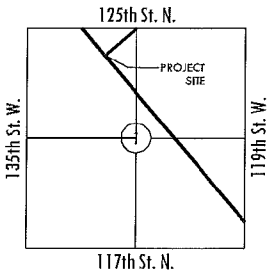
Proposed Water Line

SCALE: 1" = 500'

OWNER:

Taylor, James D.
& Patricia C.
Estate Administrator
525 W. 43rd N.

I:\MAP\2008\08248\DWG APRIL 2009\TRACT MAPS\47.DWG



VICINITY MAP

ASR

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

MKEC ENGINEERING CONSULTANTS, INC.

THIS TRACT EXHIBIT DOES NOT CONSTITUTE A BOUNDARY SURVEY PLAT

DIAGONAL TRANSMISSION MAIN AND RIVER INTAKE LINE
PROJECT NAME

TRACT 47
SHEET TITLE

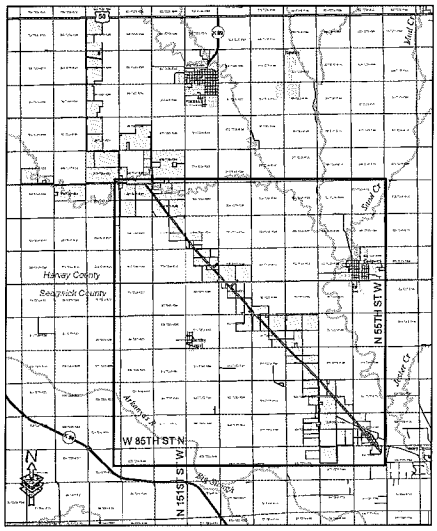
DFL	DSN/AAM/DM	CWL
DESIGN BY:	DRAWN BY:	CHECKED BY:
APRIL 2009	08248	1 / 1
DATE	JOB NO.	SHEET/OF

ASR
PRESERVING OUR WATER ...OUR FUTURE

BID PACKAGE 1
Property Acquisition Map

Legend

- Section Lines
- City Limits
- County Boundaries
- Streets and Roads
- Highways
- Rivers and Streams
- Parent Tracts
- Bid Package 1 Easements
- Bid Package 2 Easements
- Bid Package 3 Easements
- Well Location
- RR ## Well ID Number
- # Parent Tract ID Number



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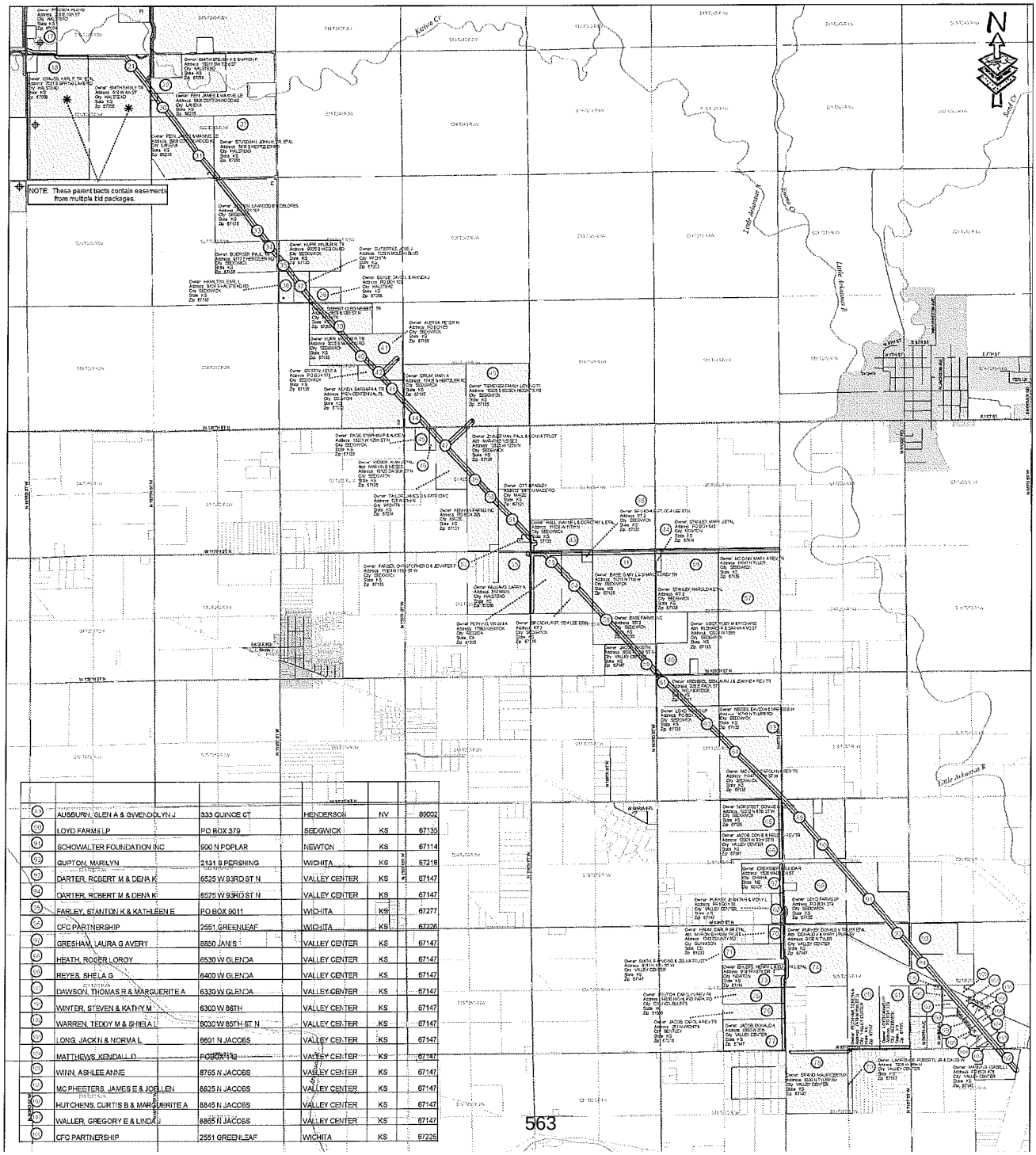
Last saved 2/2/2009 by SAD
NAD_1983_StatePlane_Kansas_South_FIPS_1502_Feet
Projection: Lambert_Conformal_Conic

Professional Engineering Consultants, P.A.
303 S. Topeka
Wichita, KS 67202
Ph. (316) 262-2691

© 2008 Professional Engineering Consultants, P.A.



89	AUSBURN, GLEN A & GWENDOLYN J	333 QUINCE CT	HENDERSON	NV	89002
90	LOYD FARMS LP	PO BOX 379	SEDGWICK	KS	67135
91	SCHOWALTER FOUNDATION INC	900 N POPLAR	NEWTON	KS	67114
92	GUPTON, MARILYN	2131 S PERSHING	WICHITA	KS	67218
93	DARTER, ROBERT M & DENA K	6525 W 93RD ST N	VALLEY CENTER	KS	67147
94	DARTER, ROBERT M & DENA K	6525 W 93RD ST N	VALLEY CENTER	KS	67147
95	FARLEY, STANTON K & KATHLEEN E	PO BOX 9011	WICHITA	KS	67277
96	CFC PARTNERSHIP	2551 GREENLEAF	WICHITA	KS	67226
97	GRESHAM, LAURA G AVERY	8850 JANIS	VALLEY CENTER	KS	67147
98	HEATH, ROGER LOROY	6530 W GLENDA	VALLEY CENTER	KS	67147
99	REYES, SHELA G	6400 W GLENDA	VALLEY CENTER	KS	67147
100	DAWSON, THOMAS R & MARGUERITE A	6330 W GLENDA	VALLEY CENTER	KS	67147
101	WINTER, STEVEN & KATHY M	6300 W 86TH	VALLEY CENTER	KS	67147
102	WARREN, TEDDY M & SHIELA L	6030 W 85TH ST N	VALLEY CENTER	KS	67147
103	LONG, JACK N & NORMA L	8601 N JACOBS	VALLEY CENTER	KS	67147
104	MATTHEWS, KENDALL D	PO BOX 142	VALLEY CENTER	KS	67147
105	WINN, ASHLEE ANNE	8765 N JACOBS	VALLEY CENTER	KS	67147
106	MC PHEETERS, JAMES E & JOELLEN	8825 N JACOBS	VALLEY CENTER	KS	67147
107	HUTCHENS, CURTIS B & MARGUERITE A	8845 N JACOBS	VALLEY CENTER	KS	67147
108	WALLER, GREGORY E & LINDA J	8865 N JACOBS	VALLEY CENTER	KS	67147
109	CFC PARTNERSHIP	2551 GREENLEAF	WICHITA	KS	67226

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 1624 East Morris for the Hydraulic: Harry to Kellogg Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 20, 2007, the City Council approved a project to improve Hydraulic from Kellogg to Harry. Hydraulic is currently two lanes with on-street parking on the west side. Hydraulic will be improved to three lanes with two through lanes and a center two-way left turn lane. Improved traffic signals will be installed at Lincoln and Harry. The storm water sewer system will be improved and five foot wide sidewalks will be installed on both sides of Hydraulic. The project requires the acquisition of a twenty by twenty foot triangular parcel (200 square feet) from the property at the northwest corner of Hydraulic and Morris. The property at 1624 East Morris is improved with a single family residence. The acquisition will require the removal of a hedge and several planting but will not impact the improvements.

Analysis: The 200 square foot tract was valued at $600 ($3.00 per square foot) based on the market value of similar properties and the damages due to the removal of the landscaping was estimated at $800. The owner agreed to accept an offer totaling $1,400 .

Financial Considerations: The funding sources for the project are General Obligation Bonds. A budget of $1,500 is requested. This includes $1,400 for the acquisition and $100 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel addresses efficient infrastructure by allowing the improvement of traffic flow and drainage along a major transportation corridor.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

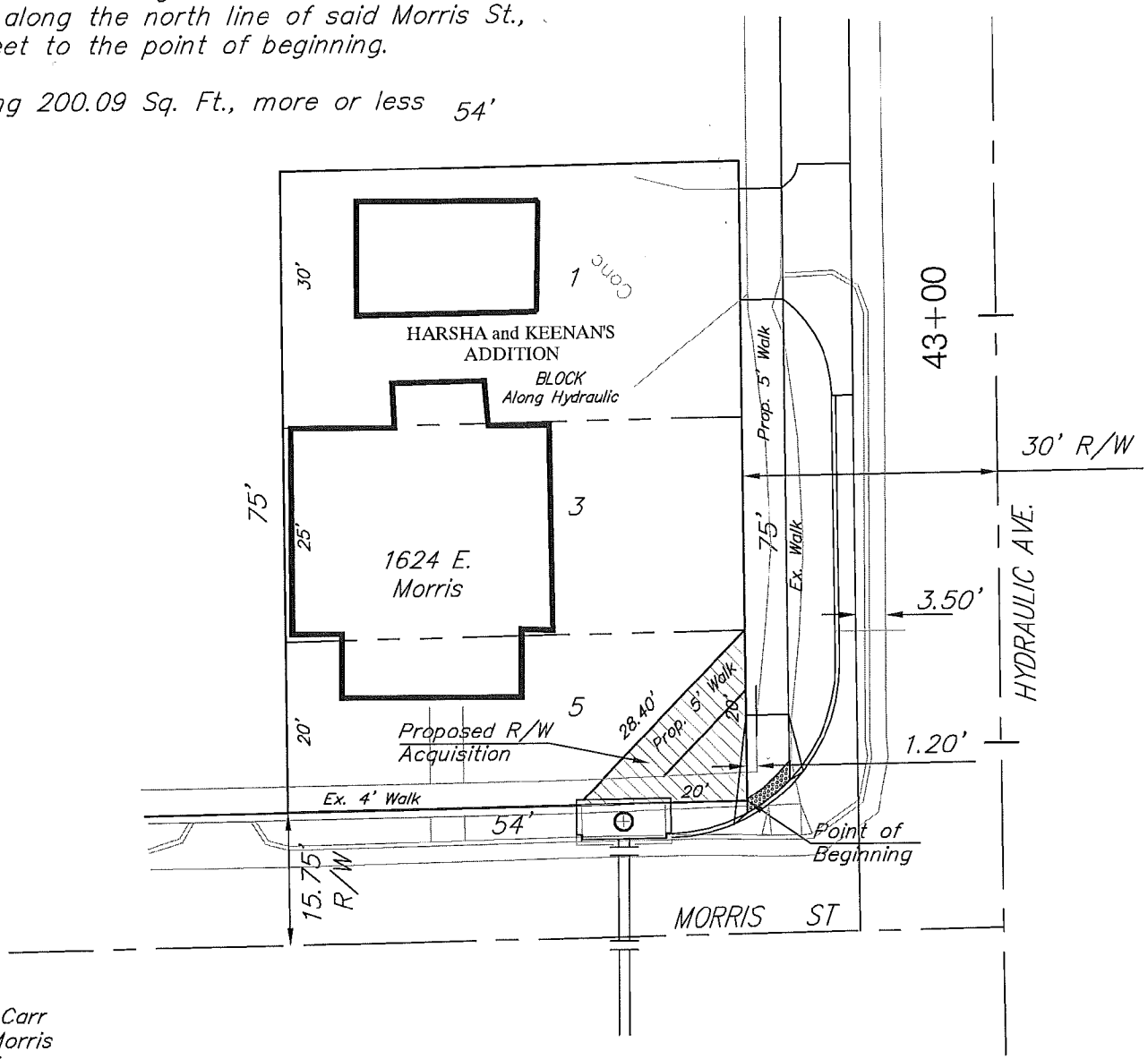
Attachments: Tract map, aerial and real estate purchase agreement.

LEGAL DESCRIPTION: EXHIBIT

A Proposed Street right-of way in Lot 5, along Hydraulic Ave., Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas, described as follows:

That part of Lot 5, on Hydraulic Ave., Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas described as beginning at a point on the east line of said Lot 5, said point being 5.00 feet north of the SE corner of said Lot 5, said point also being on the north line of Morris St.; thence northerly along the east line of said Lot 5, 20.01 feet to the NE corner of said Lot 5; thence southwesterly, 28.40 feet more or less, to a point on the north line of said Morris St., said point being 20.00 feet west of the east line of said Lot 5 as measured along the north line of said Morris St.; thence easterly along the north line of said Morris St., 20.00 feet to the point of beginning.

Containing 200.09 Sq. Ft., more or less



Owner:
Kathy E. Carr
1624 E. Morris
Wichita, Kansas
67211-2656

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

Project Number 07-10-E968

E:eng/Hydraulic Kellogg to Harry Pave\Exibits\1624 E. Morris

5-7-09

1624 East Morris

Property Parcels

Roads

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

Quarter Section

Parks

SDERASTER.S-DEDATA.ORTH-O1FT

SDERASTER.S-DEDATA.ORTH-O

City Limits

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

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PROJECT: Hydraulic – Kellogg to Harry DATE: June 9, 2009

COUNTY: Sedgwick TRACT NO.: 2

CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT made and entered into this____day of 2009 by and between:

Kathy E. Carr
1624 East Morris
Wichita, Kansas 67211

landowner(s), and the City of Wichita, State of Kansas,

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

A right of way acquisition described as follows:

> That part of Lot 5, on Hydraulic Avenue, Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas described as beginning at a point on the east line of said Lot 5, said point being 5.00 feet north of the southeast corner of said Lot 5, said point also being on the north line of Morris Street; thence northerly along the east line of said Lot 5, 20.01 feet to the northeast corner of said Lot 5; thence southwesterly, 28.40 feet more or less, to a point on the north line of said Morris Street, said point being 20.00 feet west of the east line of said Lot 5 as measured along the north line of said Morris Street; thence easterly along the north line of said Morris Street, 20.00 feet to the point of beginning.

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the land owner(s) be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, the following amount within ten days after the warranty deed conveying said property free of encumbrance has

been delivered.

Approximately 200 (Sq. Ft.) for right-of-way	$ 600.00
Cost to Cure:	$ 0.00
Damages including but not limited to: Shrubs and landscaping	$ 800.00
TOTAL	**$1,400.00**

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

City of Wichita
County of Sedgwick
State of Kansas

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Landowner:

By Kathy E. Carr
Kathy E. Carr

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Rev. 9-94
Form No. 1716

D. O. T.

MEMORANDA

Exact and full name of owner, as it appears of record:

Kathy E. Carr

REMARKS: If so desired, owner may remove any of the plantings in the acquisition area prior to the project.

RECOMMENDED BY:

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 1619 East Morris for the Hydraulic: Harry to Kellogg Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 20, 2007, the City Council approved a project to improve Hydraulic from Kellogg to Harry. Hydraulic is currently two lanes with on-street parking on the west side. Hydraulic will be improved to three lanes with two through lanes and a center two-way left turn lane. Improved traffic signals will be installed at Lincoln and Harry. The storm water sewer system will be improved and five foot wide sidewalks will be installed on both sides of Hydraulic. The project requires the acquisition of a twenty by twenty foot triangular parcel (200 square feet) from the property at the southwest corner of Hydraulic and Morris. The property at 1619 East Morris is improved with a single family residence. The acquisition will require the relocation of a chain link fence but will not impact the improvements.

Analysis: The 200 square foot tract was valued at $600 ($3.00 per square foot) based on the market value of similar properties. The cost to relocate and replace the fence was estimated at $900. The owner has agreed to accept an offer totaling $1,500 .

Financial Considerations: The funding sources for the project are General Obligation Bonds. A budget of $1,600 is requested. This includes $1,500 for the acquisition and $100 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel addresses efficient infrastructure by allowing the improvement of traffic flow and drainage along a major transportation corridor.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial and real estate purchase agreement.

PROJECT: Hydraulic – Kellogg to Harry DATE: June 12, 2009

COUNTY: Sedgwick TRACT NO.: 1

CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT made and entered into this___day of 2009 by and between:

Victor Manuel Vital-Rojas and Erica Campa
Husband and Wife
1619 East Morris
Wichita, Kansas 67211

landowner(s), and the City of Wichita, State of Kansas,

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

A right of way acquisition described as follows:

> That part of Lot 9, on Hydraulic Avenue, Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas described as beginning at a point on the east line of said Lot 9, said point being 1.50 feet south of the northeast corner of said Lot 9, said point also being on the south line of Morris Street; thence southerly along the east line of said Lot 9, 20.00 feet; thence northwesterly, 28.18 feet more or less, to a point on the south line of said Morris Street, said point being 20.00 feet west of the east line of said Lot 9 as measured along the south line of said Morris Street; thence easterly along the south line of said Morris Street, 20.00 feet to the point of beginning.

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the land owner(s) be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, the following amount within ten days after the warranty deed conveying said property free of encumbrance has

been delivered.

Approximately 200 (Sq. Ft.) for right-of-way	$ 600.00
Cost to Cure:	$ 0.00
Damages including but not limited to: Relocation of fencing	$ 900.00
TOTAL	**$1,500.00**

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

City of Wichita
County of Sedgwick
State of Kansas

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Landowner:

By_____
Victor Manuel Vital-Rojas

By_____
Erica Campa

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Rev. 9-94
Form No. 1716

D. O. T.

MEMORANDA

Exact and full name of owner, as it appears of record:

Victor Manuel Vital-Rojas
Erica Campa, wife, not on deed of purchase

REMARKS: If so desired, owner may remove any of the plantings in the acquisition area prior to the project.

RECOMMENDED BY:

1619 E. Morris

Historic Districts
Old Town
Delano Overlay District
NO
YES
Property Parcels
Roads
State Highway
US Federal Highway
Interstate
KTA
Arterial
Collector
Minor
Ramp
Railroads
Quarter Section
Waterways
Streams
Historic Sites
REGIONAL
STATE/NATIONAL
STATE
Historic Environs
Parks
Airports
SDERASTER.S-DEDATA.ORTH-O
City Limits
Andale
Bel Aire
Bentley
Cheney
Clearwater

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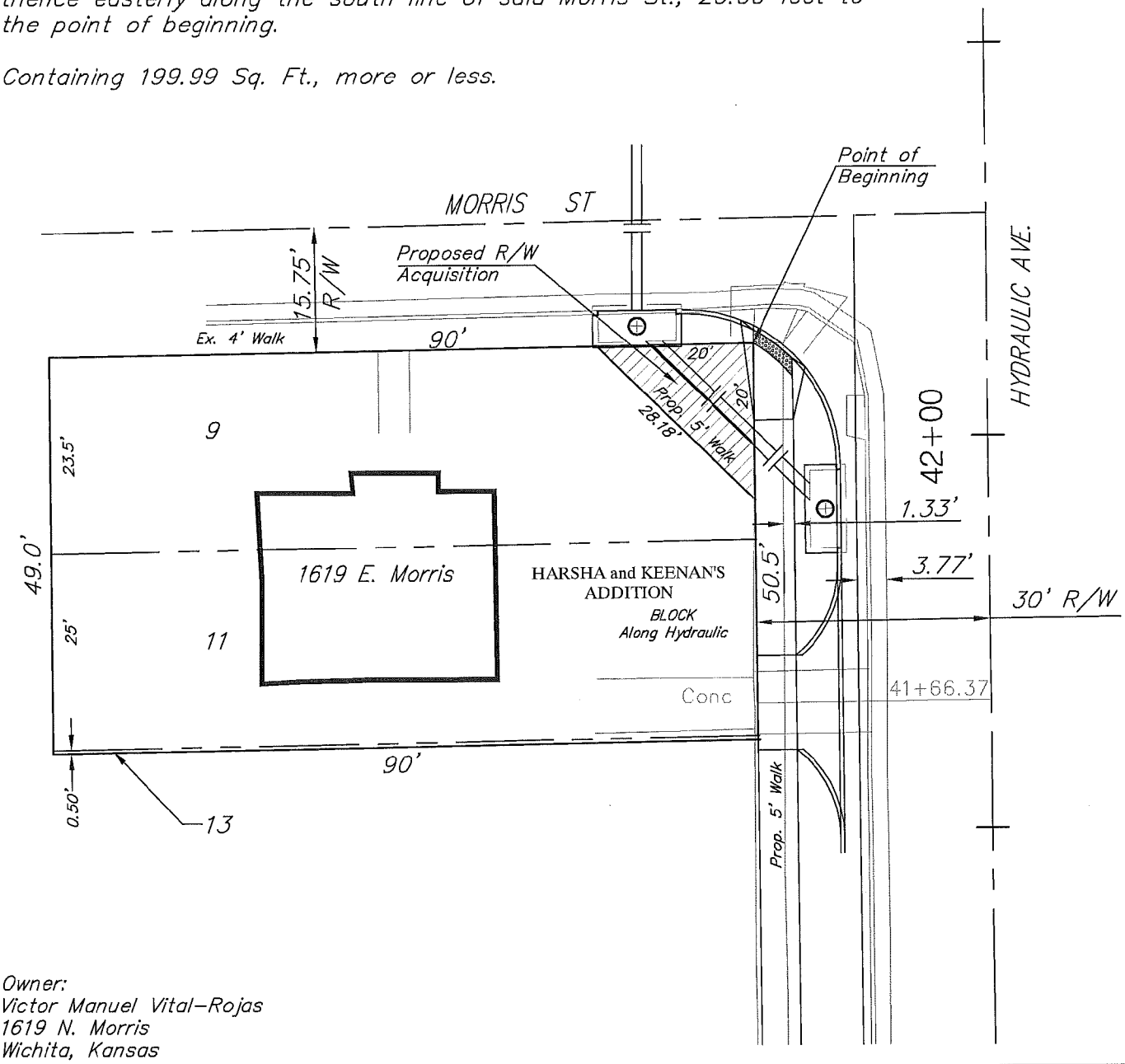
LEGAL DESCRIPTION: EXHIBIT

A Proposed Street right-of way in Lot 9, along Hydraulic Ave., Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas, described as follows:

That part of Lot 9, on Hydraulic Ave., Harsha and Keenan's Addition to Wichita, Sedgwick County, Kansas described as beginning at a point on the east line of said Lot 9, said point being 1.50 feet south of the NE corner of said Lot 9, said point also being on the south line of Morris St.; thence southerly along the east line of said Lot 9, 20.00 feet; thence northwesterly, 28.18 feet, more or less, to a point on the south line of said Morris St., said point being 20.00 feet west of the east line of said Lot 9 as measured along the south line of said Morris St.; thence easterly along the south line of said Morris St., 20.00 feet to the point of beginning.

Containing 199.99 Sq. Ft., more or less.



Owner:
Victor Manuel Vital-Rojas
1619 N. Morris
Wichita, Kansas
67211-2657

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

Project Number 07-10-E968

E:eng/Hydraulic Kellogg to Harry Pave\Exibits\1619 E. Morris

5-7-09

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 10919 East Harry for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. On June 16, 2009, City Council authorized an eminent domain action to acquire the right-of-way and easements not yet purchased. The property at 10919 East Harry was included in that request. The property at 10919 East Harry is zoned commercial and improved with a multi-tenant retail center. From a portion of the property along East Harry it is necessary to obtain a 304 square foot drainage easement together with a ten foot wide, 1,600 square foot temporary construction easement. General landscaping and in-ground sprinklers will be impacted.

Analysis: The owner rejected the estimated market offer of $376, or $0.45 per square foot for the drainage easement and $0.15 per square foot for the temporary easement. The property owner agreed to accept $1,456, or $0.45 per square foot for both easements plus $600 to repair in-ground sprinklers. The additional compensation paid on the temporary construction easement will be used to cure the general landscaping after construction is completed. The cost to cure the in-ground sprinkler system is $600.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $1,606 is requested. This includes $1,456 for the acquisition and $150 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 18 day of June, 2009 by and between Smith & Company, Inc. a Kansas corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a perpetual drainage easement for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "A"

   And

   The Seller does hereby agree to convey to the Buyer by a temporary construction easement, during construction, for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "B"

   Said easement will expire upon completion of the project or at two years from the commencement of construction, whichever comes first.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to Buyer for the above-described property and damages to landscaping and in-ground sprinkler system, the sum of One Thousand Four Hundred Fifty-Six Dollars and No Cents ($1,456.00) in the manner following to-wit: easements in exchange of funds.

3. Buyer may at its discretion obtain a title insurance company's commitment to insure or a complete abstract of title certified to date, to the above-described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

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

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the

improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 17, 2009 subject to the conditions of Item 10 below.

8. Possession to be given to Buyer at closing.

9. Closing costs shall be paid 100% by Buyer and 0% by Seller.

10. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

SELLER:
Smith & Company, Inc.:

By N Smith

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

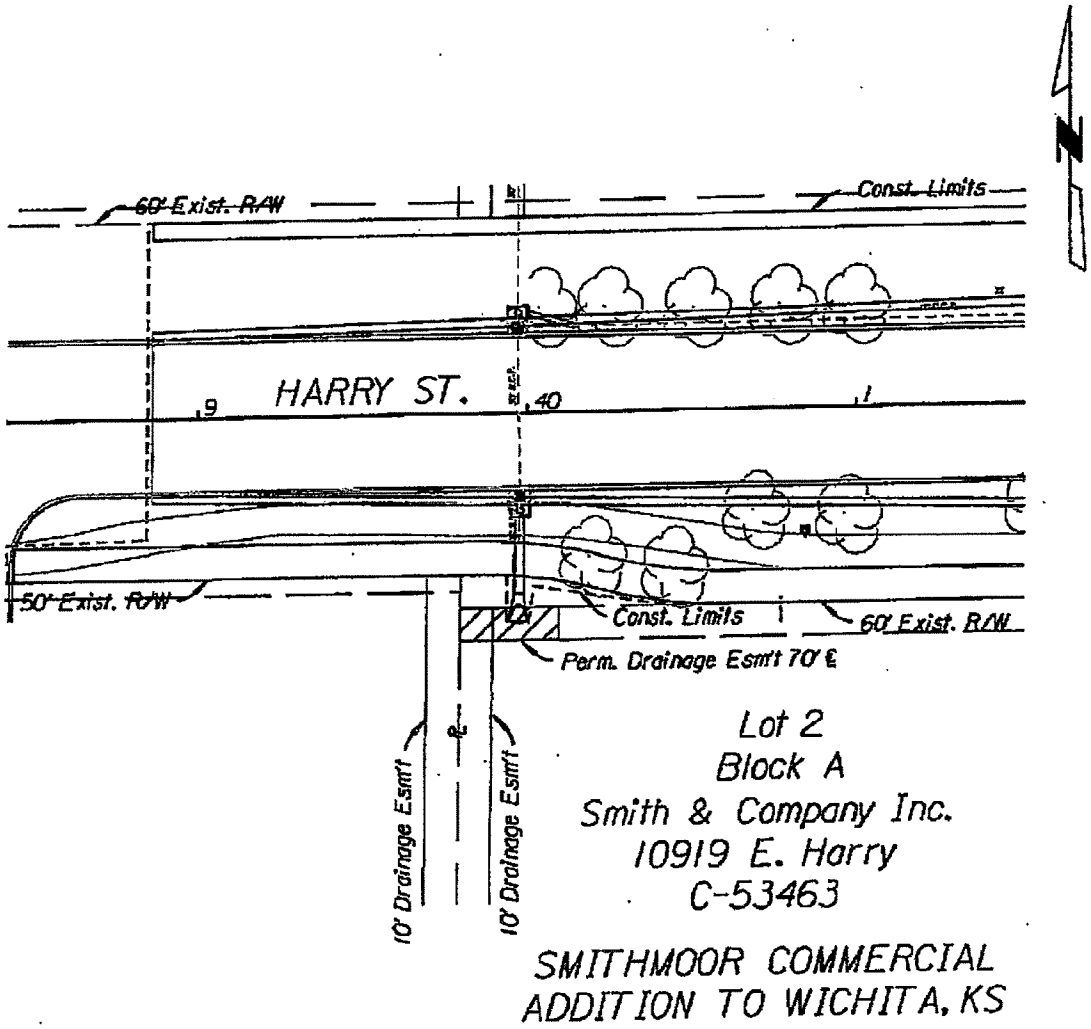
EXHIBIT A

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 35751A

Date 3-26-08



Permanent Drainage Easement

C-53463
A tract described as: the West 30.37 feet of the North 10.00 feet of Lot 2 Block A SMITHMOOR COMMERCIAL ADDITION, Wichita, Sedgwick County, Kansas, said tract containing 304 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

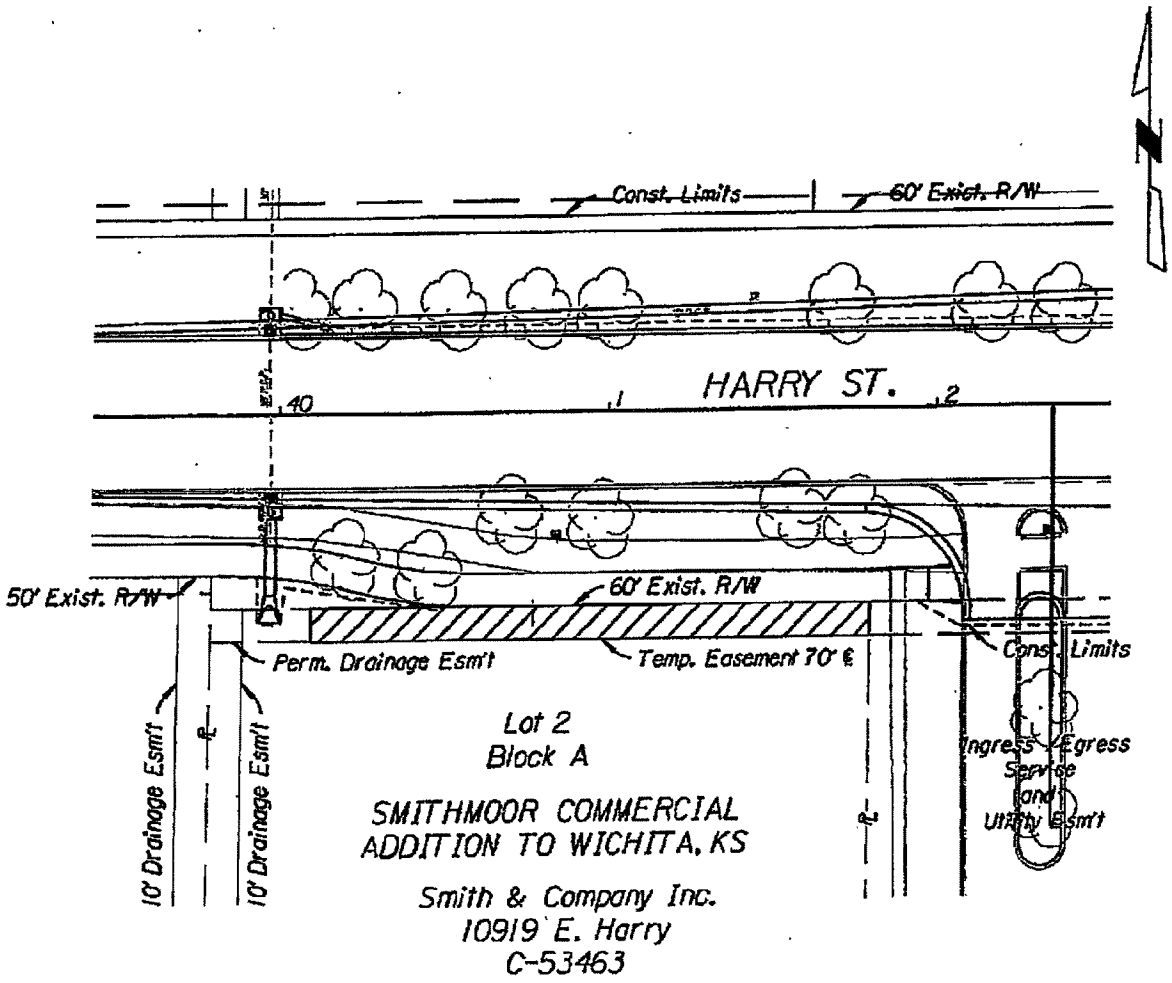
EXHIBIT B

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 35751A

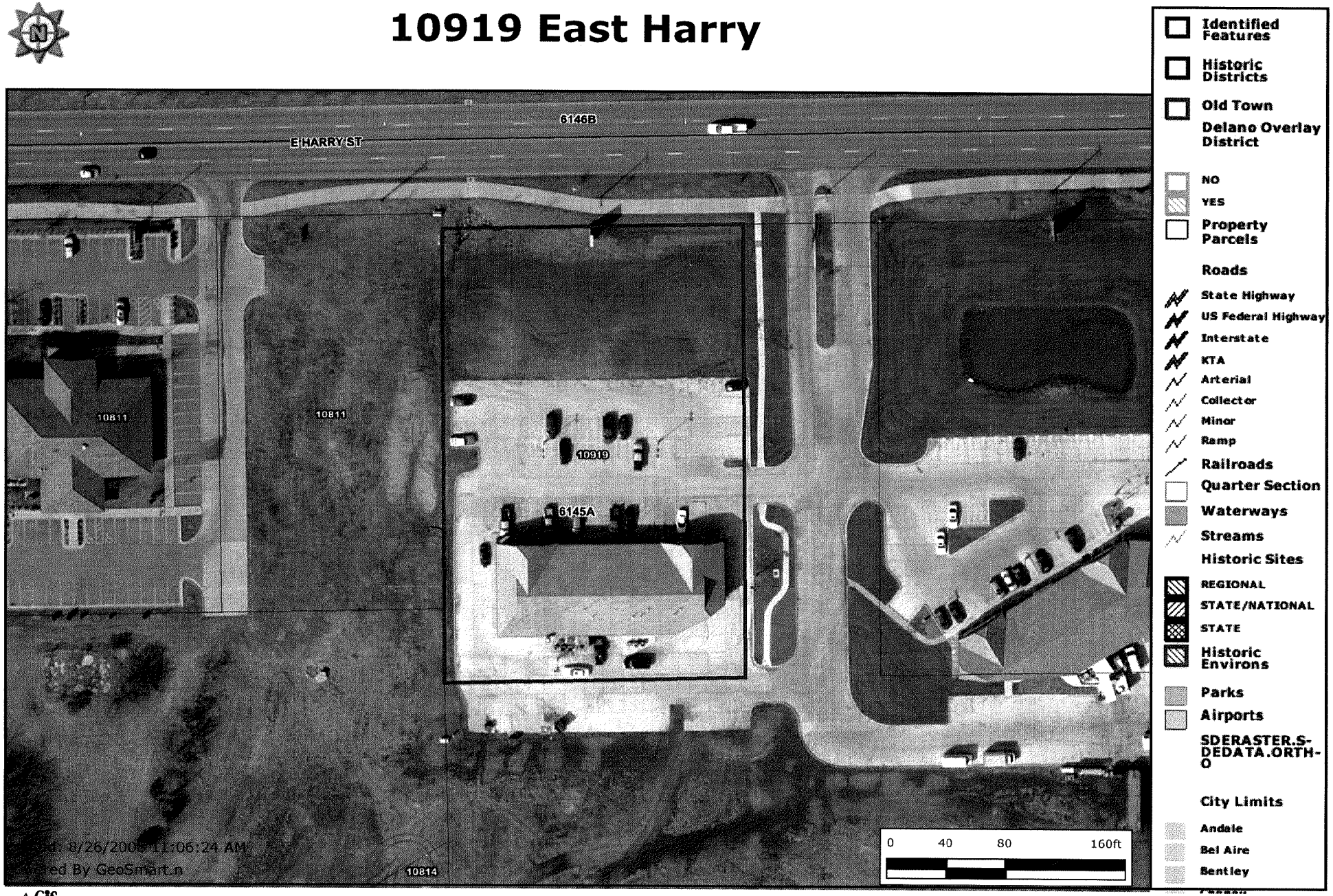
Date 3-26-08



Temporary Easement

C-53463
A tract described as: the North 10.00 feet of Lot 2, Block A, SMITHMOOR COMMERICIAL ADDITION, Wichita, Sedgwick County, Kansas, except permanent drainage easement thereof.

10919 East Harry



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CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 11148 East Harry for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. The project requires of 20 feet of right of way on Harry, 10 feet of right of way along Greenwich and a 20 foot by 20 foot corner clip at the intersection from 11148 East Harry, at the northwest corner of Harry and Greenwich. The total area required is 18,466.80 square feet. Temporary easements totaling 6,367.8 square feet are also required. The property is currently utilized as a tree farm. The project will not impact this operation.

Analysis: The acquisition was appraised at $75,000 ($4.06 per square foot) for the right of way. The temporary easements were valued at $2,280. This amount, $77,280, was offered to the property owner and the property owner has agreed to accept the offer.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $77,500 is requested. This includes $77,280 for the acquisition and $220 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Accept the easements and 3) Authorize the payment.

Attachments: Tract maps and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ____ day of June, 2009 by and between KB Properties LLC a Kansas limited liability company, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, hereinafter referred to as "Buyer," whether one or more.

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

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

   A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the South 60.00 feet of SE ¼, SE ¼ of said SE ¼, except the East 600.00 feet of the South 600.00 feet there of, said tract containing 1254 square feet, more or less, exclusive of existing Right-of-Way and

   A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the East 60.00 feet of SE ¼, SE ¼, of said SE ¼ except the East 600.00 feet of the South 600.00 feet there of, said tract containing 640 square feet, more or less, exclusive of existing Right-of-Way and

   A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE 1/4; thence on an assumed bearing of N 00°-49'-21" W a distance of 600.00 feet to a point on the East line of said SE1/4; thence S 88° - 50'-26" W a distance of 50.00 feet to the point of beginning; thence S 00°-49'21" E a distance of 560.00 feet; thence S 88°-50'-26" W a distance of 550.01 feet; thence N 00°-49'21" W a distance of 20.00 feet; thence N 88°-50'-26" E a distance of 510.01 feet; thence N 43°-20'-01" E a distance of 43.07 Feet; thence N 00°-49'-21" W a distance of 509.29 feet; thence N 88°-50'-26" E a distance of 10.00 feet, more or less, to the point of beginning, said tract containing 0.38 acres.

   And

   The Seller does hereby agree to convey to the Buyer by a temporary construction easement, during construction, for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the North 5 feet of the South 65 feet of SE ¼, SE ¼, of said SE ¼, except the East 600.00 feet of the South 600.00 feet there of, said tract containing 313 square feet, more or less, exclusive of existing Right-of-Way, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

   A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal

Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE ¼; thence on an assumed bearing of N 00°-49'-21" W a distance of 647.00 feet to a point on the east line of said SE1/4; thence S 89°-10'-39" W a distance of 60.00 feet to the point of beginning; thence S 00°-49'-21" E a distance of 28.00 feet; thence S 89°-10'-39" W a distance of 14.00 feet; thence N 00°-49'21" W a distance of 28.00 feet; thence N 89°-10'-39" E a distance of 14.00 feet, more or less, to the point of beginning, said tract containing 392 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

A tract in the SE ¼ Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE ¼; thence on an assumed bearing of N 00°-49'-21" W a distance of 600.00 feet to a point on the East line of said SE ¼ ; thence S 88°-50'-26" W a distance of 60.00 feet to the point of beginning; thence S 00°-49'-21"E a distance of 509.29 feet; thence S 43°-20'-01" W a distance of 43.07 feet; thence S 88°-50'-26" W a distance of 510.01 feet; thence N 00°-49'-22" W a distance of 5.00 feet; thence N 88°-50'-26" E a distance of 507.88 feet; thence N 43°-20'-01" E a distance of 38.94 feet; thence N 00°-49'-22" W a distance of 215.60 feet; thence S 89°-10'-39" W a distance of 17.00 feet; thence N 00°-49'-21" W a distance of 22.00 feet; thence N 89°-10'-39" E a distance of 17.00 feet; thence N 00°-49'-21" W a distance of 269.63 feet; thence N 88°-50'-26" E a distance of 5.00 feet, more or less, to the point of beginning, said tract containing 0.13 acres, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

The foregoing temporary construction easements shall automatically terminate upon the completion of the road improvements contemplated in connection with the temporary construction easements.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Seventy-seven Thousand Two Hundred Eighty Dollars and Zero Cents ($77,280.00) in the manner following to-wit: to be paid at closing via immediately available funds.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the Seller, subject to easements, covenants, rights of way and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible. Buyer shall notify Seller in writing of any defects in title within ten (10) days of the date Buyer receives the Title Evidence. Seller shall have the right, but not the obligation, to cure the title defects identified by Buyer. Seller shall have a reasonable time, but not to exceed fifteen (15) days after Buyer notifies Seller of such title defects in which to correct any defects in title Seller elects to cure. If Seller elects not to cure all of the title defects identified by Buyer or if Seller elects to cure the defects in title but Seller fails to correct the title defects to Buyer's satisfaction, Buyer, at Buyer's option and sole remedy, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

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

5. It is further agreed by and between the parties hereto that all 2009 ad valorem taxes and installments of special assessments shall be adjusted an prorates as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years installments of special assessments and ad valorem taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements located thereon, if any, and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before July 31, 2009 subject to the conditions of Item 11 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. There shall be no abutter's rights of access to or from either Harry Street or Greenwich Road and Seller's remaining property within 200 feet of the Southeast corner of the Southeast ¼ of Section 28, Township 27, Range 2 East of the 6th PM, except that portion taken for roads. Notwithstanding the foregoing restriction, the Buyer agrees to construct, at Buyer's sole cost and expense, upon Seller's remaining property located outside of the 200 foot restricted area the following entrances/exits: (i) a full access entrance/exit to and from Greenwich Road; (ii) a right turn only entrance/exit to and from Greenwich Road; (iii) a full access entrance/exit to and from Harry Street; and (iv) a right turn only entrance/exit to and from Harry Street. The four (4) driveways described in the preceding sentence shall be located in a mutually agreeable location, provide, however the parties do hereby agree that it is the intent of the parties that each driveway is to be located in the approximate location disclosed on Exhibit "A" attached hereto and made a part hereof for all purposes. Buyer's obligation to construct the four (4) driveways described herein shall survive the closing of the transaction contemplated by this agreement.

    Buyer agrees that during Buyer's construction of the road improvements to Greenwich Road and Harry Street Seller and Seller's employees, tenants, agents and related companies shall at all times have reasonable access to and from Seller's remaining property, Harry Street and Greenwich Road.

13. Site Assessment

    A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a

hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing and such site assessment after this agreement is executed by all parties.

14. In the event Buyer elects to proceed and close on the purchase of the Property, the Buyer agrees that the Buyer shall take the Property AS-IS, WHERE-IS and WITH ALL FAULTS condition.

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

BUYER:
By Direction of the City Council

_____
Carl Brewer, Mayor

SELLER:
KB Properties, LLC

_____
Managing Member

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

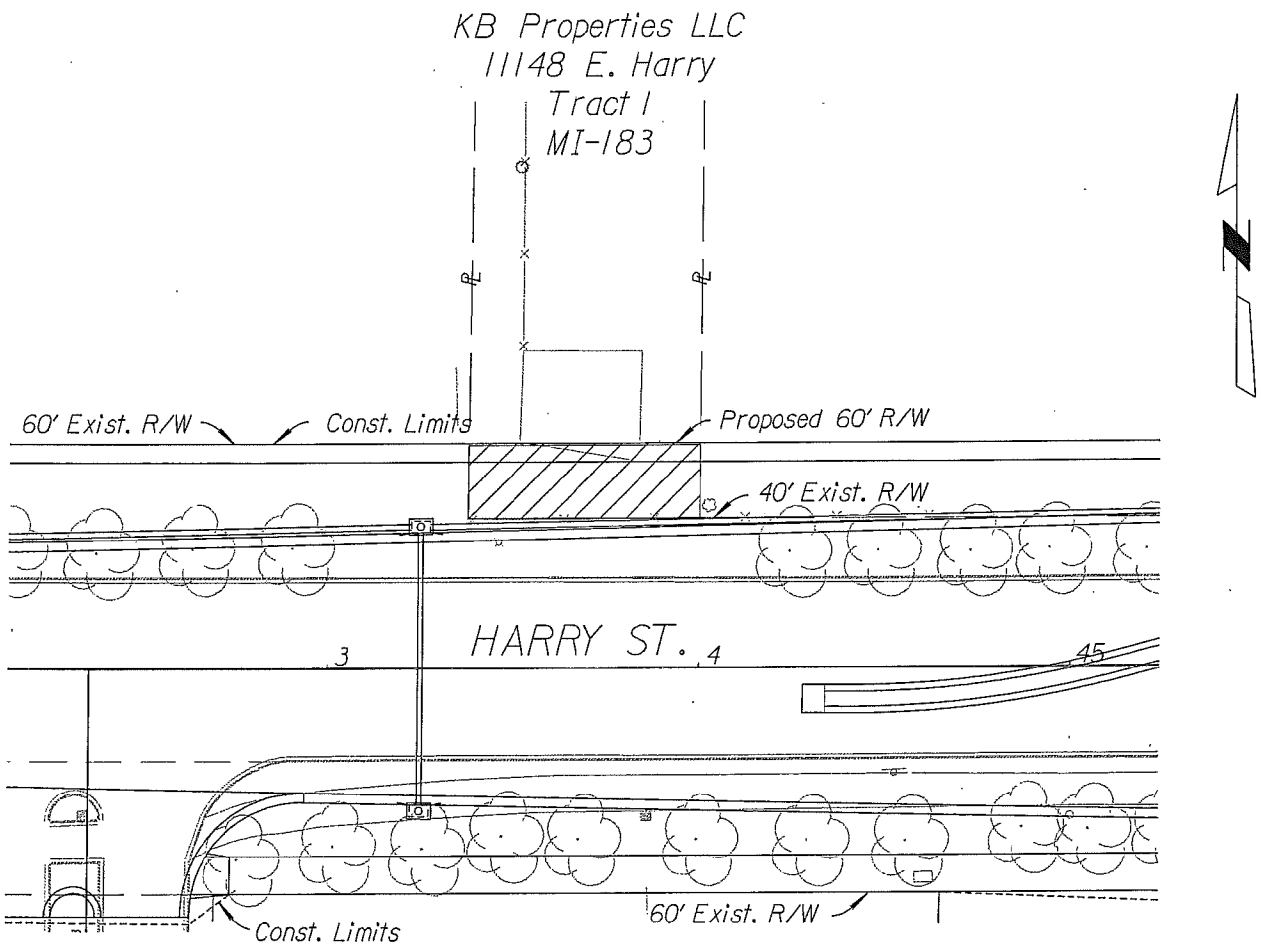
(1)

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-8-08



Right-of-Way

MI-183
A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the South 60.00 feet of SE 1/4, SE 1/4 of said SE 1/4, except the East 600.00 feet of the South 600.00 feet there of, said tract containing 1254 square feet, more or less, exclusive of existing Right-of-Way, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

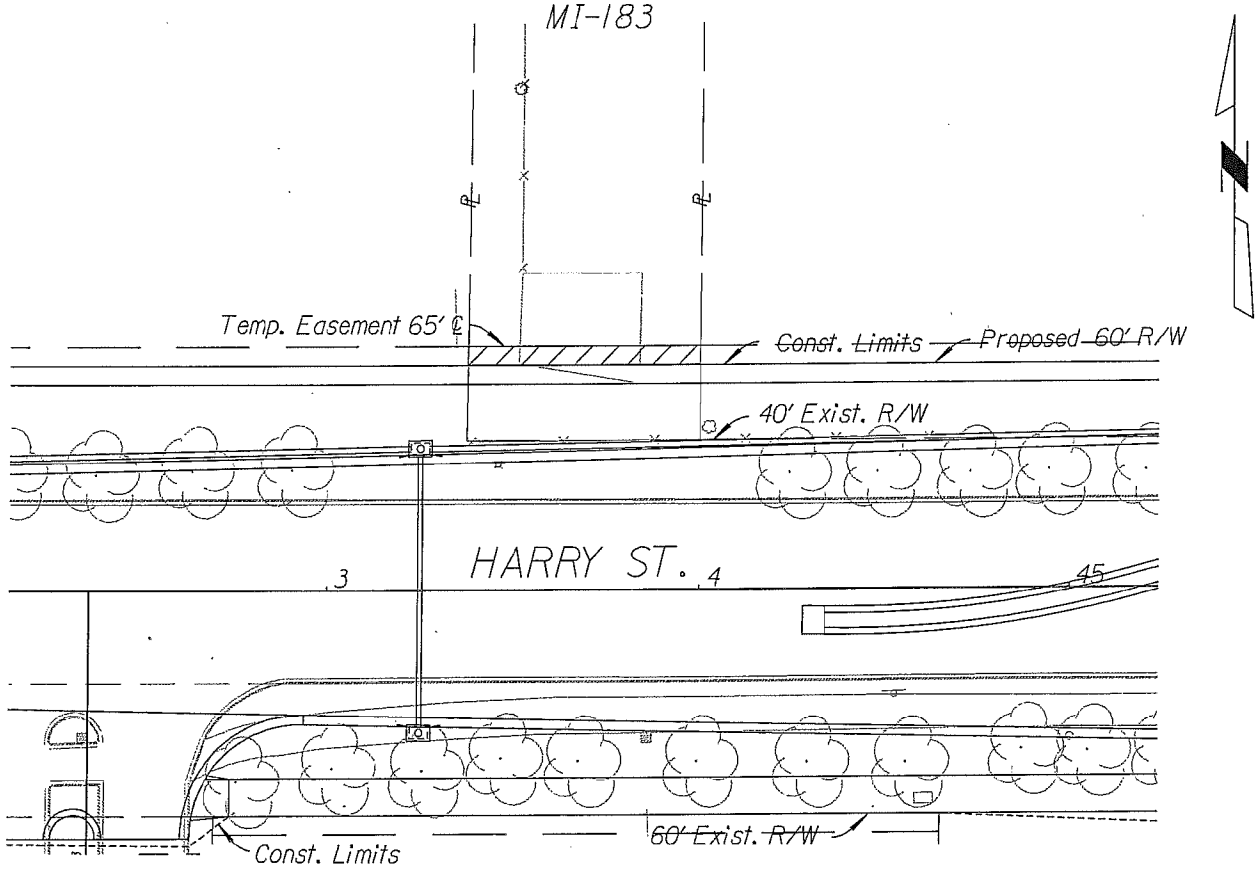
PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 3-31-08

KB Properties LLC
11148 E. Harry
Tract 1
MI-183



Temporary Easement

MI-183
A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the North 5 feet of the South 65 feet of SE 1/4, SE 1/4, of said SE 1/4, except the East 600.00 feet of the South 600.00 feet there of, said tract containing 313 square feet, more or less, exclusive of existing Right-of-Way, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

EXHIBIT B

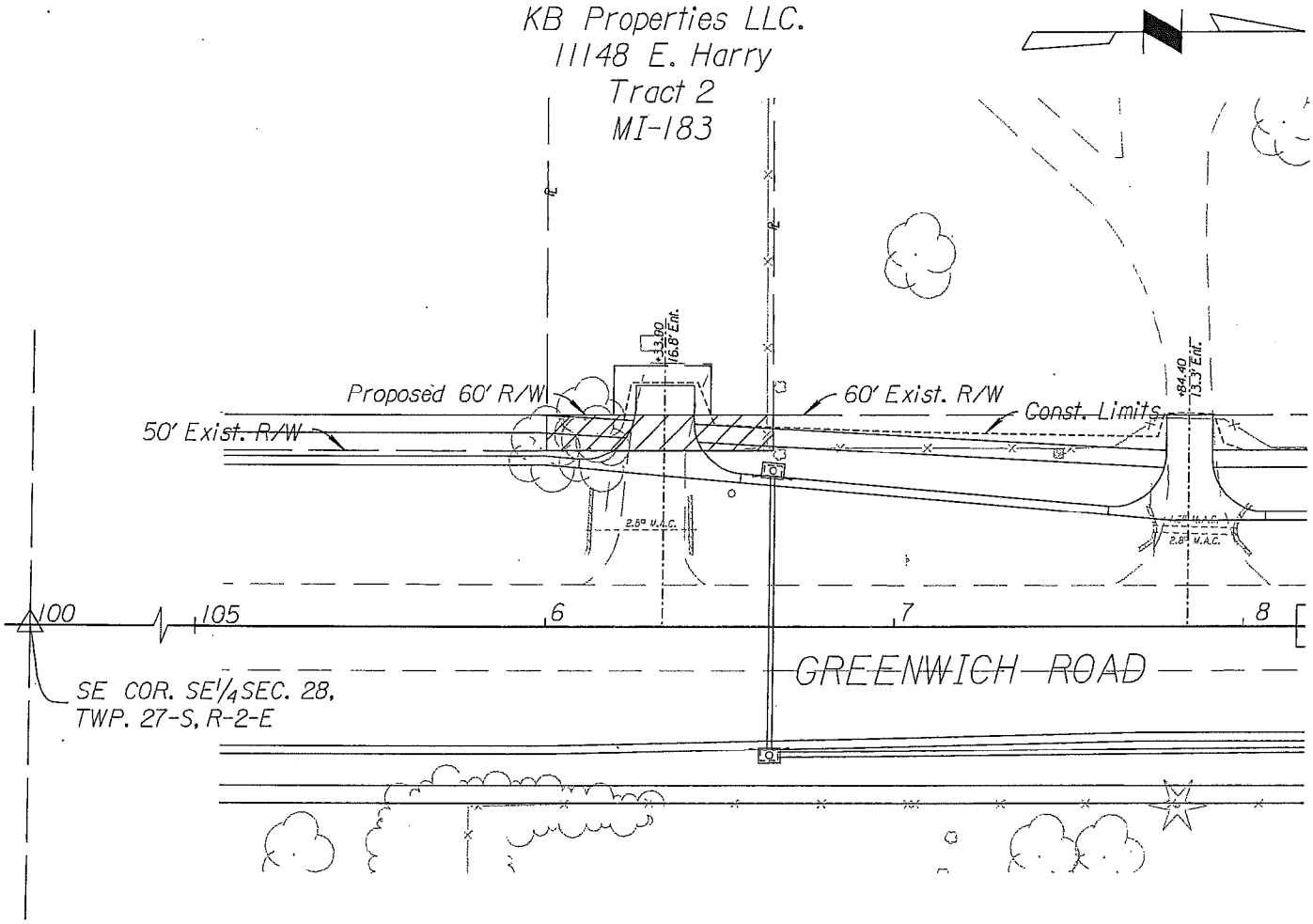
(2) ~~(1a)~~

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-4-08



Right-of-Way

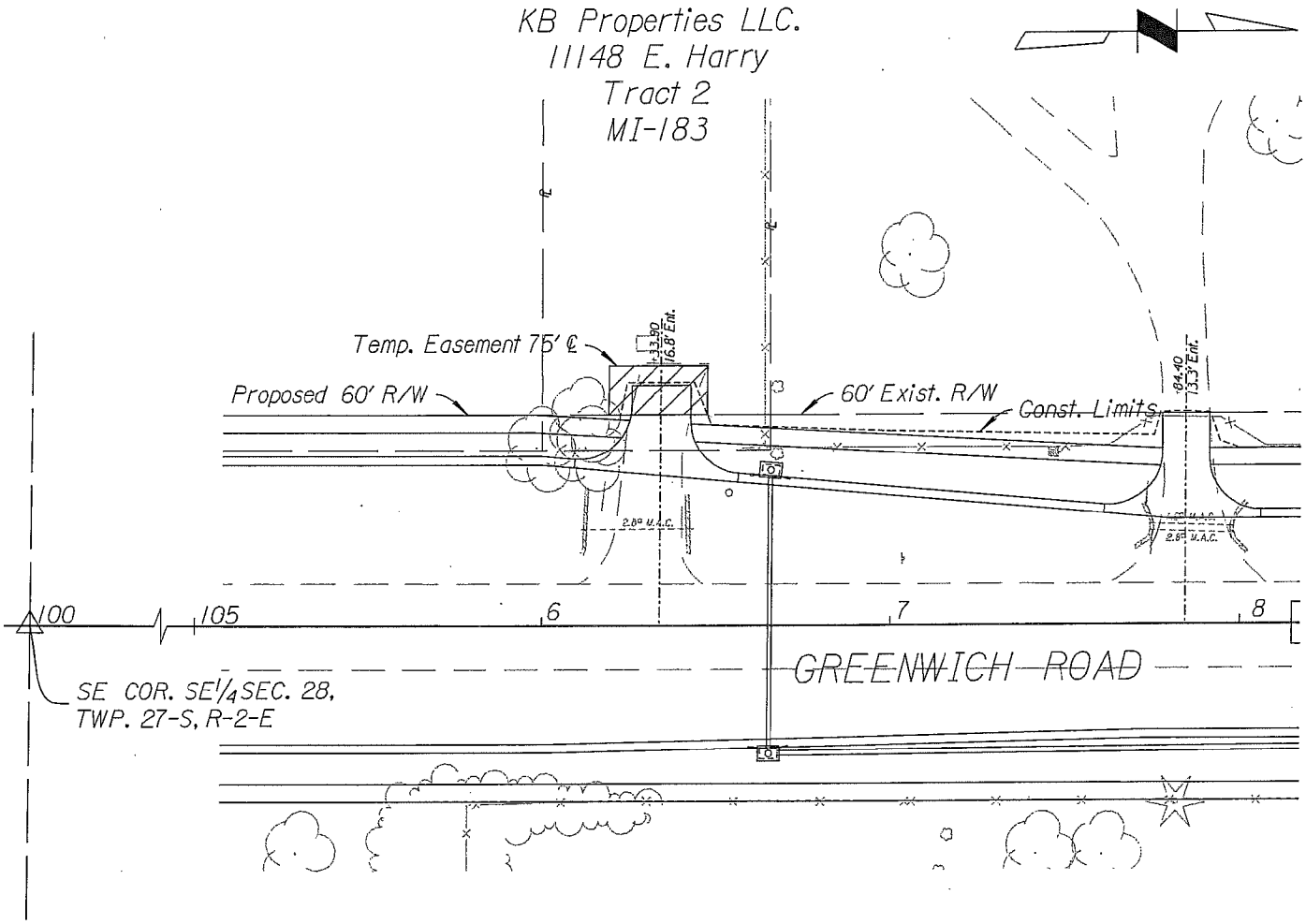
MI-183
A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: the East 60.00 feet of SE 1/4, SE 1/4, of said SE 1/4 except the East 600.00 feet of the South 600.00 feet there of, said tract containing 640 square feet, more or less, exclusive of existing Right-of-Way, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-4-08



Temporary Easement

MI-183

A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE 1/4; thence on an assumed bearing of N 00°-49'-21" W a distance of 647.00 feet to a point on the East line of said SE1/4; thence S 89°-10'-39" W a distance of 60.00 feet to the point of beginning; thence S 00°-49'-21" E a distance of 28.00 feet; thence S 89°-10'-39" W a distance of 14.00 feet; thence N 00°-49'-21" W a distance of 28.00 feet; thence N 89°-10'-39" E a distance of 14.00 feet, more or less, to the point of beginning, said tract containing 392 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

EXHIBIT C

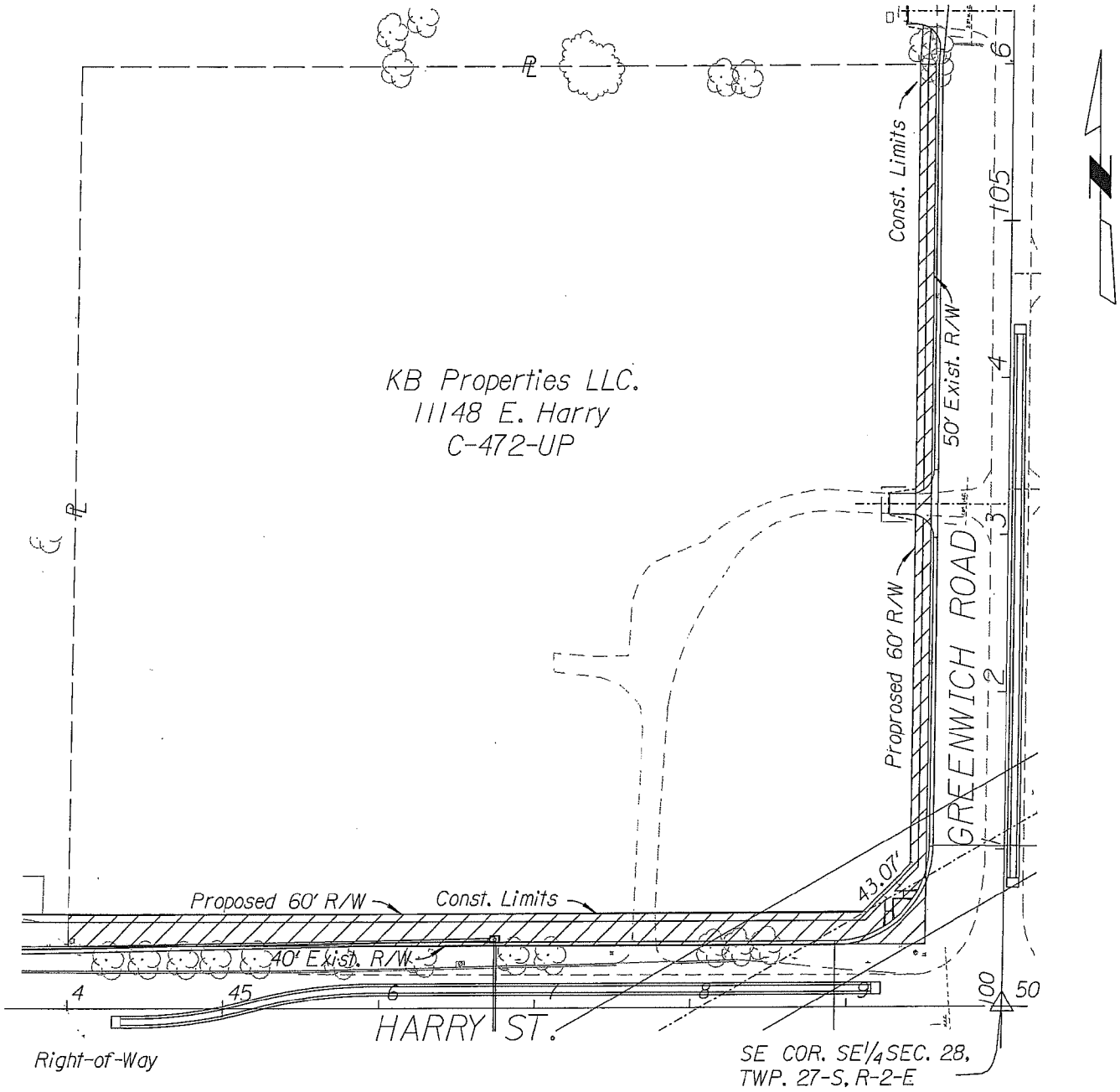
PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

3 (2)

Job Number 3 5 7 5 1 A

Date 2-01-08



C-472-UP

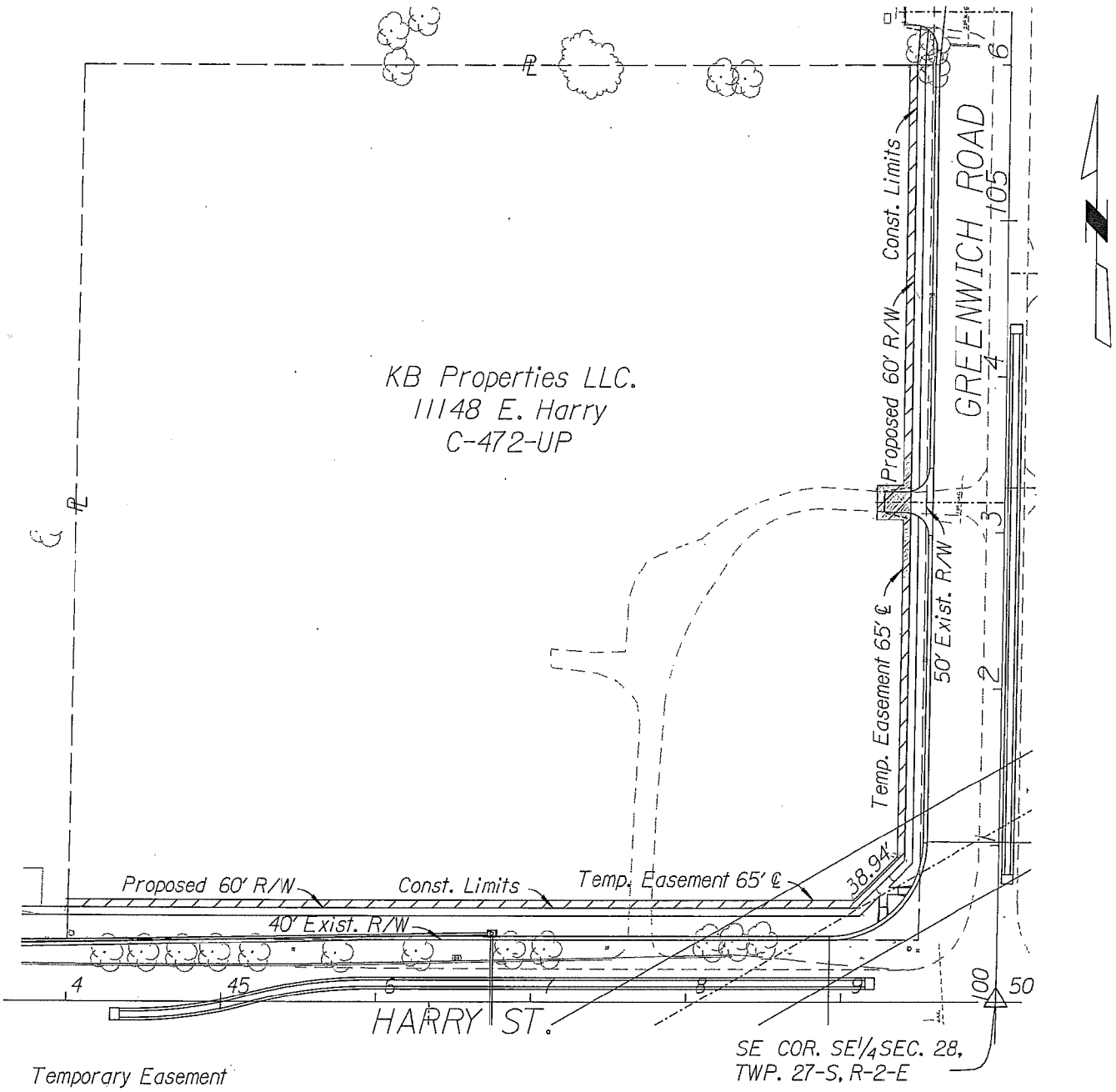
A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE1/4; thence on an assumed bearing of N 00°-49'-21" W a distance of 600.00 feet to a point on the East line of said SE1/4; thence S 88°-50'-26" W a distance of 50.00 feet to the point of beginning; thence S 00°-49'-21" E a distance of 560.00 feet; thence S 88°-50'-26" W a distance of 550.01 feet; thence N 00°-49'-21" W a distance of 20.00 feet; thence N 88°-50'-26" E a distance of 510.01 feet; thence N 43°-20'-01" E a distance of 43.07 feet; thence N 00°-49'-21" W a distance of 509.29 feet; thence N 88°-50'-26" E a distance of 10.00 feet, more or less, to the point of beginning, said tract containing 0.38 acres, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 35751A

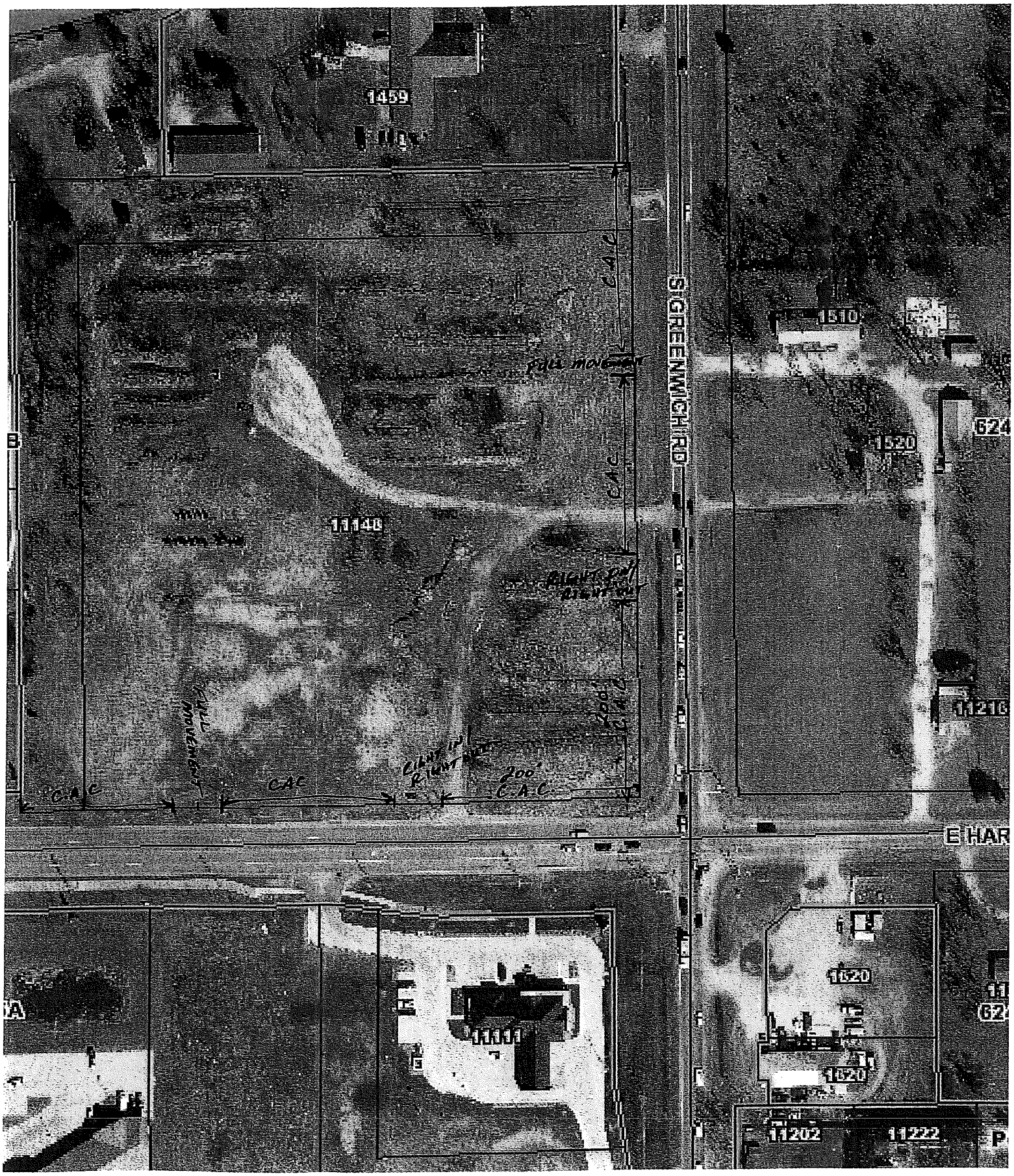
Date 3-31-08



C-472-UP

A tract in the SE 1/4 Section 28, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the SE corner of said SE1/4; thence on an assumed bearing of N 00°-49'-21" W a distance of 600.00 feet to a point on the East line of said SE1/4; thence S 88°-50'-26" W a distance of 60.00 feet to the point of beginning; thence S 00°- 49'-21" E a distance of 509.29 feet; thence S 43°-20'-01" W a distance of 43.07 feet; thence S 88°-50'-26" W a distance of 510.01 feet; thence N 00°-49'-22" W a distance of 5.00 feet; thence N 88°-50'-26" E a distance of 507.88 feet; thence N 43°-20'-01" E a distance of 38.94 feet; thence N 00°-49'-22" W a distance of 215.60 feet; thence S 89°-10'-39" W a distance of 17.00 feet; thence N 00°-49'-21" W a distance of 22.00 feet; thence N 89°-10'-39" E a distance of 17.00 feet; thence N 00°-49'-21" W a distance of 269.63 feet; thence N 88°-50'-26" E a distance of 5.00 feet, more or less, to the point of beginning, said tract containing 0.13 acres, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

EXHIBIT A


1459
S GREENWICH RD
1510
1520
624
11140
C.A.C
200'
C.A.C
E HAR
1620
11111
1620
11202
11222

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Right of Entry to 4716 South Santa Fe for the I-135/47th Street South Interchange Project (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On April 7, 2009, City Council approved funding to acquire right of way for a project to improve the interchange of 47th Street South and I-135 and 47th Street South from Lulu to Broadway. The project will provide a center left turn lane, reconstruct the interchange, improve storm drainage and improve access to adjoining properties. The Kansas Department of Transportation will administer the construction of the project utilizing Federal money. The project requires the partial acquisition of nine tracts. One of the partial acquisitions is from the auto auction property at 4716 South Santa Fe and involves road right-of-way along the south side of the property and at the southeast and southwest corners of the property. The property is zoned limited industrial. It is improved 36,355 square feet of warehouse/office space. The project requires 25,502.9 square feet of the site as right of way and 6,385.2 square feet of temporary easement. The buildings are not impacted as a result of the acquisition. The acquisition will require the relocation of the business sign, an outdoor advertising sign owned by at third party and perimeter fencing.

Analysis: The acquisition was appraised at $355,000. This consists of $90,000 ($3.53 per square foot) for the right of way and $265,000 for damages to the site including relocating the perimeter fence and lost asphalt parking. The cost to move the business sign, site lighting, etc, estimated at $25,000 an the cost to move the outdoor advertising sign, estimated at $81,000 are not included in this amount. The owner feels that the acquisition is worth considerably more than the offered amount and eminent domain has been initiated on the tract. It is estimated that the eminent domain action will not be completed until September at the earliest. The project is scheduled to be bid in mid-July. The owner has agreed to allow access to the site to allow the construction to start prior to the completion of the eminent domain and actual acquisition. In exchange for this early access, the City will deposit the appraised value of $355,000 with the District Court as a nonrefundable credit against the pending eminent domain award. If the final award exceeds the offer, the City will deposit additional funds with the Court. If the award is less than the offer, the deposit will serve as the award.

Financial Considerations: A budget of $461,000 is requested. This includes $355,000 for the court deposit, $81,000 for the relocation of the outdoor advertising sign and $25,000 for the relocation for the business sign. If additional funds are required for the court award, this amount will be requested in a separate agenda report. The City's share of project acquisition will be paid by general obligation bonds.

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

Legal Considerations: The Law Department has approved the Right of Entry and Temporary Construction Easement Agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Right of Entry and Temporary Construction Easement Agreement and 3) Authorize the necessary signatures.

Attachments: Tract map, Right of Entry and Temporary Construction Easement Agreement and aerial map.

RIGHT OF ENTRY AND
TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS RIGHT OF ENTRY AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (hereinafter "Agreement"), dated this __ day of June 2009, and executed and delivered to the City of Wichita, Kansas (hereinafter "the City") and the Secretary of Transportation of the State of Kansas (the "Secretary") by MAA, L.C. and Mid-American Auto Auction (hereinafter "Owner").

WITNESSETH:

That for and in consideration of the payment of the sum of Three Hundred and Fifty – Five Thousand Dollars ($355,000.00) (the "Advance Payment") and other good and valuable consideration, paid to the Sedgwick County District Court Clerk for the benefit of the interested parties to Tract 16 in the case captioned, "The City of Wichita, Kansas v. MAA, L.C. et. al., In the Eighteenth Judicial District, District Court, Sedgwick County, Kansas, Civil Department, Case No. 09 CV 2169", (the "Condemnation Action"), Owner hereby grants, bargains, sells and conveys to the City a right of entry and temporary easement in, over, across and upon the following-described tract of land, to wit:

That portion of Lot 1 of BROOKINGS BY-PASS THIRD ADDITION, in the City of Wichita, Sedgwick County, Kansas, described as follows:

Beginning at the Southwest corner of said Lot 1; thence N89°21'25"E along the South line of said Lot 1, a distance of 406.85 feet to the Southeast corner thereof; thence N04°20'43"W along the East line of said Lot 1, a distance of 300.44 feet; thence S19°20'03"W, a distance of 156.80 feet; thence S09°47'00"W, a distance of 135.46 feet; thence S89°31'13"W, a distance of 285.00 feet; thence N06°23'30"W, a distance of 107.70 feet; thence N29°33'51"W, a distance of 30.62 feet to a point on the West line of said Lot 1; thence S01°05'51"E along said West line, a distance of 154.00 feet to the Point of Beginning, containing 25,502.9 square feet (0.585 acre), more or less.

There shall be no abutter's rights of access to and from I-135 and 47th Street South over and across the East and South lines of the remaining property from which the right of way described above was acquired.

Along with:

That portion of Lot 1 of BROOKINGS BY-PASS THIRD ADDITION, in the City of Wichita, Sedgwick County, Kansas, described as follows:

Commencing at the Southeast corner of said Lot 1; thence N04°20'43"W along the East Line of said Lot 1, a distance of 300.44 feet to the True Point of

Beginning; thence continuing N04°20'43"W along said East line, a distance of 24.90 feet; thence S19°20'03"W, a distance of 180.43 feet; thence S09°47'00"W, a distance of 127.94 feet; thence S89°31'13"W, a distance of 272.66 feet; thence N06°23'30"W, a distance of 99.19 feet; thence N38°32'38"W, a distance of 32.03 feet to a point on the West line of said Lot 1; thence S29°33'51"E, a distance of 30.62 feet; thence S06°23'30"E, a distance of 107.70 feet; thence N89°31'13"E, a distance of 285.00 feet; thence N09°47'00"E, a distance of 135.46 feet; thence N19°20'03"E, a distance of 156.80 feet to the True Point of Beginning, containing 6,385.2 square feet, more or less.

The above described easements shall herein be referred to collectively as the "Easements".

The Easements shall be subject to the following terms and conditions:

1. The Easements shall be for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway in accordance with the plans and specifications for the KTA/47th Street/I-35 Interchange project (the "Project") in the City of Wichita. The Easements shall expire upon the City's acquisition, pursuant to the Eminent Domain Procedure Act K.S.A. 26-501 et. seq., of the interest referred to as Tract 16 in the Condemnation Action or upon the City's decision to not to acquire Tract 16.

2. The Easements may be used by the City and the Secretary, their contractors, and public utility contractors to perform work on the area described in the Easements for the Project prior to the City's acquisition of the interest referred to as Tract 16 in the Condemnation Action.

3. The Parties agree the Advance Payment shall be applied as a non-refundable credit to the amount awarded as just compensation and damages due the Owner for the acquisition by the City of the interest referred to as Tract 16 in the Condemnation Action. The determination of the amount of just compensation and damages shall be done through the Condemnation Action or by mutual agreement of the parties. The determination of just compensation and damages shall include the cost to replace or relocate the fence. However, the cost to relocate the sign, light poles and other relocation items, i.e., relocation benefits due the landowner or other interest parties, if any, shall be dealt with separate and apart from the terms of this Agreement.

4. The Parties agree the terms of this Agreement shall not infringe on any of the parties' rights under the Kansas Eminent Domain Procedure Act, K.S.A. 26-501, *et seq.* ; Provided, however, the Advance Payment shall be considered payment of the amount awarded with respect to Tract 16 in the Condemnation Action subject to the following:

A. In the event the amount awarded as just compensation and damages in the Condemnation Action is less than the Advance Payment, the Owners or other interested parties to Tract 16 in the Condemnation Action shall be entitled to retain the excess as compensation for the Easements.

B. In the event the amount awarded as just compensation and damages in the Condemnation Action exceeds the amount of the Advance Payment, the City shall pay such excess to the Sedgwick County District Court Clerk for the benefit of the interested parties to Tract 16 in the Condemnation Action.

C. In the event the City elects to abandon the Condemnation Action as to Tract 16, the City shall forfeit the amount of the Advance Payment, which amount shall be deemed to be payment for costs and expenses incurred by the Owner, including but not limited to attorneys fees.

D. In the event the City or another interested party elects to appeal the amount awarded in the Condemnation Action, the parties agree that the Owner or other interested party shall not, under any circumstances, be required to refund all or any portion of the Advance Payment.

5. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the Secretary will defend, indemnify, hold harmless, and save Owner from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with any act or omission of the Secretary, the Secretary's employees, or agents. If the Secretary or the City defends a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

6. If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the validity or enforceability of any other provision of this Agreement.

7. Parties agree Owner shall have continued use of driveway until such time as replacement driveway is completed.

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

OWNER – MAA, L.C.

_____

OWNER – Mid-American Auto Auction

_____

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

This instrument was acknowledged before me on _____ day of _____, 2009 by

_____.

_____
Notary Public

My appointment expires:

THE CITY OF WICHITA, KANSAS

By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

I, Jerome T. Younger, P.E., Deputy Secretary for Engineering and State Transportation Engineer, pursuant to the authority delegated to me by the Secretary of the Kansas Department of Transportation under K.S.A. 75-5005, hereby certify that I have authority to act on behalf of the Secretary of Transportation when the Secretary is absent or unavailable, and further certify I have signed the above foregoing document in accordance with that authority.

Kansas Department of Transportation
Debra L. Miller, Secretary of Transportation

By: _____
Jerome T. Younger, P.E.
Deputy Secretary for Engineering and
State Transportation Engineer

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

BE IT REMEMBERED, that on this _____ day of _____, 20___, before me, that the undersigned, a Notary Public in and for the County and State aforesaid, came Jerome T. Younger, P.E., Deputy Secretary for Engineering and State Transportation Engineer for the State of Kansas, who is personally known to me to be the same person who executed the foregoing instrument of writing and such person acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: _____ Notary Public

_____

PROJECT: I-135/KTA/47TH ST INTERCHANGE

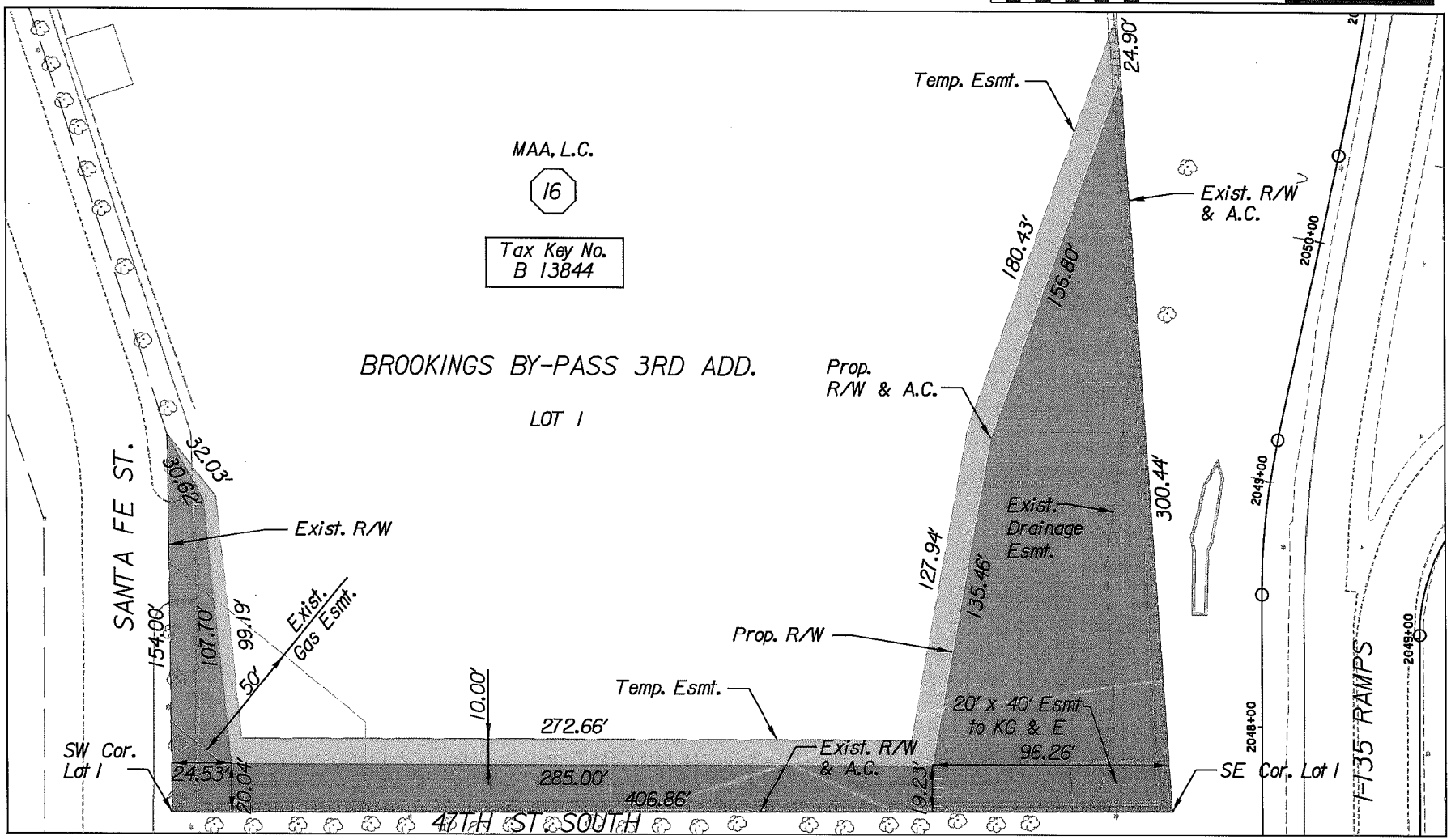
TRACT NUMBER: 16 03/06/2009

SHEET: 1 of 1

HNTB

LEGEND:
Proposed Right of Way (25,502.9 SQ. FT.)
Temporary Construction Easement (6385.2 SQ. FT.)
Proposed Access Control (130 L.F. Less)

SCALE 60 0 60 120



Plotted on:23-MAR-2009 04:02 PM Model:$$$$$P_MODEL$$$$$
By: jwoolard Plot Scale: 60.000000:1.000000 Pen Table:\\ovpw00\jobs\4612\highway\library\plotpen\color_tract.pen
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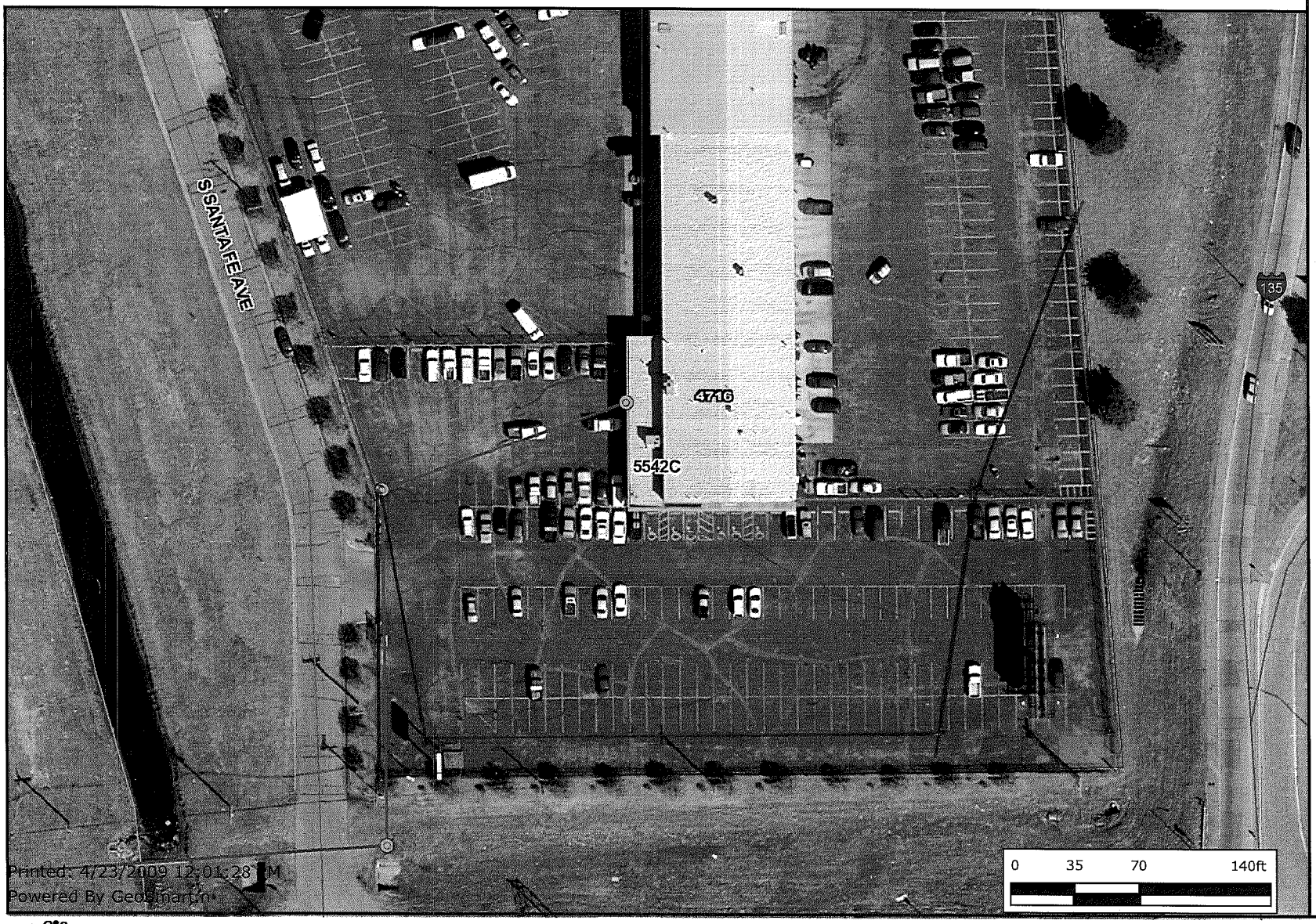
601

Auto Auction



- Identified Features
- Sewer Manholes
- Sewer Observation Manholes
- Property Parcels
- Sewer Lines
- Roads
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Parks
- Airports
- SDERASTER.SDEDATA.ORTHO1FT
- SDERASTER.SDEDATA.ORTHO
- City Limits
  - Andale
  - Bel Aire
  - Bentley
  - Cheney
  - Clearwater
  - Colwich
  - Derby
  - Eastborough
  - Garden Plain

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-8q.

CITY OF WICHITA
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 15403 West Hendryx for the Goddard School 2nd Addition Sanitary Sewer Project, East of 167th Street and North of West Kellogg. (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On February 10, 2009, City Council approved the resolution authorizing construction of the sanitary sewer line to the new Goddard school complex at 167th Street West and Kellogg. This line will provide sewer service to the new schools from an existing city of Wichita main. The project will be paid for by the benefit district. There are three tracts where easements are necessary. It is necessary to obtain a triangular easement area from the property at 15403 West Hendryx. 15403 West Hendryx is improved with a single-family residence. The improvements are removed from the proposed easement area.

Analysis: It is necessary to acquire a 348 square foot easement together with a 784 square foot temporary construction easement from the southwest portion of 15403 Hendryx. It is anticipated that ten mature trees will be impacted by the project. The owner has agreed to convey the sewer easement at the estimated market value of $5,505, or $1.00 per square foot for the easement area, $0.20 for the temporary easement area and $5,000 for trees.

Financial Considerations: A budget of $6,000 is requested. This includes $5,505 for the acquisition area and $495 for administrative and filing fees.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing for the construction of a new sanitary sewer in new development.

Legal Considerations: The Law Department has approved the easement and restrictive covenant as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map, permanent easement and temporary easement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 9th day of June, 2009 by and between William C. McGreevy and Amy L. McGreevy, husband and wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a sanitary sewer easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Commencing at the southeast corner of Lot 52, Block A in Reece Farms Estates, an addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°43'51"W, along the south line of said Lot 52, a distance of 61.57 feet to the Point of Beginning; Thence continuing Bearing S89°43'51"W, along said south line, a distance of 25.03 feet to the east line of a platted Drainage and Utility Easement; Thence Bearing N41°12'12"E, along said east easement line, a distance of 37.79 feet; Thence Bearing S00°16'09"E, a distance of 28.32 feet to the Point of Beginning.

2. The Seller does hereby agree to grant to the Buyer by a temporary construction easement the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Commencing at the southeast corner of Lot 52, Block A in Reece Farms Estates, an addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°43'51"W, along the south line of said Lot 52, a distance of 41.57 feet to the Point of Beginning; Thence continuing Bearing S89°43'51"W, a distance of 20.00 feet; Thence Bearing N00°16'09"W, a distance of 28.32 feet to the east line of a platted Drainage and Utility Easement; Thence Bearing N41°12'12"E, along said east easement line, a distance of 30.20 feet; Thence Bearing S00°16'09"E, s distance of 50.95 feet to the Point of Beginning.

3. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Five Thousand Five Hundred Five Dollars and Zero Cents ($5,505.00) in the manner following to-wit: cash at closing.

4. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above-described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. Buyer, if it elects, shall obtain the Title Evidence. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an

Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

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

6. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

7. The Seller further agrees to convey the above-described premises with the improvements including general landscaping and large trees located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

8. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

9. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before June 26, 2009, subject to the conditions of Item 12 below.

10. Possession to be given to Buyer at closing

11. Closing costs shall be paid 100% by Buyer and 0% by Seller.

12. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

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

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

SELLER:

William C. McGreevy

Amy L. McGreevy

Plot Scale 1:40 04-16-2009 9:34:25 AM by CSL
Q:\2008\08809\Miscellaneous\Easements\Easement Map 02

SANITARY SEWER EASEMENT

THIS EASEMENT made this 8th day of June, 2009, by and between William C. McGreevy and Amy L. McGreevy, party of the first part and the City of Wichita, Kansas, a municipal corporation, party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, operating, maintaining, and repairing a sewer system, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A Sanitary Sewer Easement described as follows:
COMMENCING at the southeast corner of Lot 52, Block A in Reece Farms Estates, an addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°43'51"W, along the south line of said Lot 52, a distance of 61.57 feet to the **POINT OF BEGINNING**; Thence continuing Bearing S89°43'51"W, along said south line, a distance of 25.03 feet to the east line of a platted Drainage and Utility Easement; Thence Bearing N41°12'12"E, along said east easement line, a distance of 37.79 feet; Thence Bearing S00°16'09"E, a distance of 28.32 feet to the **POINT OF BEGINNING**. (Said Sanitary Sewer Easement containing 0.008 acres, more or less)

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such sewer system.

IN WITNESS WHEREOF: The said first party have signed these presents the day and year first written.

WILLIAM C. MCGREEVY

AMY L. MCGREEVY

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid William C. McGreevy, Owner, to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated this 8th day of June, 2009.

Notary Public

My Commission Expires November 18, 2011

PAULINE R. MCGREEVY
MY COMMISSION EXPIRES
November 18, 2011

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid Amy L. McGreevy, Owner, to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated this 8th day of June, 2009.

Notary Public

My Commission Expires November 18, 2011

PEC Project No. 35-08809-0042
McGreevy

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 8th day of June, 2009, by and between William C. McGreevy and Amy L. McGreevy, party of the first part and the City of Wichita, Kansas, a municipal corporation, party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a temporary right-of-way and easement for the purpose of constructing sanitary sewer collection facilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

> A Temporary Construction Easement described as follows:
> **COMMENCING** at the southeast corner of Lot 52, Block A in Reece Farms Estates, an addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°43'51"W, along the south line of said Lot 52, a distance of 41.57 feet to the **POINT OF BEGINNING**; Thence continuing Bearing S89°43'51"W, a distance of 20.00 feet; Thence Bearing N00°16'09"W, a distance of 28.32 feet to the east line of a platted Drainage and Utility Easement; Thence Bearing N41°12'12"E, along said east easement line, a distance of 30.20 feet; Thence Bearing S00°16'09"E, a distance of 50.95 feet to the **POINT OF BEGINNING**. (Said Temporary Construction Easement containing 0.018 acres, more or less)

This easement does not include a right-of-way over land occupied by a permanent structure. Said easement shall expire upon completion of sanitary sewer collection facilities construction.

IN WITNESS WHEREOF: The said first party have signed these presents the day and year first written.

WILLIAM C. MCGREEVY

AMY L. MCGREEVY

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid William C. McGreevy, Owner, to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated this 8th day of June, 2009.

Notary Public

My Commission Expires November 18 2011

PAULINE R. MCGREEVY
MY COMMISSION EXPIRES
November 18, 2011

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid Amy L. McGreevy, Owner, to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated this 8th day of June, 2009.

Notary Public

My Commission Expires November 18, 2011

PAULINE R. MCGREEVY
MY COMMISSION EXPIRES
November 18, 2011

PEC Project No. 35-08809-0042
McGreevy

Minutes of Advisory Boards/Commissions, July 7, 2009

Wichita Historic Preservation Board, May 11, 2009
District IV Advisory Board, April 1, 2009
District IV Advisory Board, May 6, 2009
Wichita Public Library, May 1, 2009
Board of Electrical Appeals, April 14, 2009
Police and Fire Retirement Board, April 22, 2009

Senior Management Expenses
For the Month of April 2009

Employee by Department	Purpose	Amount
01-City Manager Staff		
Robert Layton, City Manager	KACM City/County Mgmt Conference - Lawrence KS	$ 726.45
Cathy Holdeman, Assistant City Manager	KACM City/County Mgmt Conference - Lawrence KS	690.51
04-Law		
Gary Rebenstorf, Director of Law	Intl Municipal Lawyers Assn Seminar - Washington DC	2,050.45
08-Police		
Terri Moses, Deputy Chief	Governor's Task Force on Racial Profiling - Topeka KS	130.92
09-Housing & Community Services		
Mary K Vaughn, Director of Housing & Community Services	HPRP Training Conference - Dallas TX	867.34
13-Public Works		
Joe Pajor, Assistant Director of Public Works	Common Sense Solutions - Hutchinson KS	65.00
18-Water and Sewer		
Jade Dundas, Superintendent Sewage Treatment	Touring sewage treatment plant sites - Chicago IL	685.55
Total		**$ 5,216.22**

Senior Management Expenses
For the Month of May 2009

Employee by Department	Purpose	Amount
08-Police		
Tom Stolz, Deputy Chief	"Policing Gangs" Intl Summit for Police Executives, Chicago IL	112.00
Total		**$ 112.00**

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council Members

SUBJECT: General Obligation Bond and Note Sale

INITIATED BY: Finance Department

AGENDA: Consent

Recommendation: Adopt the resolution.

Background: The City is planning to offer for sale two series of general obligation temporary notes in an amount not to exceed $58,755,000 (Series 231 and 232) and three series of general obligation bonds (Series 798, 798A and 797) in an amount not to exceed $27,350,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City. The public sale of the bonds and notes is scheduled for 10:00 a.m. C.T. on July 21, 2009, at which time bids will be received and the City Council will award the sale of bonds and notes to the bidders whose proposed interest rates result in the lowest overall cost to the City.

Analysis: The City's Summer 2009 general obligation bond and note sale includes the following issues:

Temporary Notes
The proceeds from the sale of the Series 232 Renewal and Improvement Temporary Notes will be used to provide interim financing for City-at-large, improvement district projects and public improvement projects. The Series 231 Taxable Renewal and Improvement Temporary Notes will be used to provide interim financing for WaterWalk improvements as well as improvements located within the Douglas and Hillside Tax Increment Financing District.

Special Assessment Bonds
The proceeds from the sale of the Series 798 and 798A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts. Special assessments have been levied against the property owners in the improvement districts for the purpose of paying all or a portion of the costs of such improvements, including the payment of principal and interest on the Series 798 and Series 798A Bonds. The General Obligation Bonds, Series 798 will be issued in a par amount not to exceed $8,460,000 and the General Obligation Bonds, Series 798A will be issued in the par amount not to exceed $7,650,000.

General Obligation Bonds
The proceeds from the sale of the Series 797 Bonds will be used to permanently finance Storm Water Utility, City-at-large and public improvement projects. The General Obligation Bonds, Series 797 will be issued in a par amount not to exceed $11,240,000.

Financial Considerations: The City of Wichita awards the sale of bonds and notes to the bidder with the lowest true interest cost, or "TIC". Using the TIC to calculate the bids, accounts for the time value of money. The TIC is the rate that will discount all future cash payments so that the sum of their present value will equal the bond proceeds. Further, using the TIC calculation can potentially result in the City saving money because TIC does not ignore the timing of interest payments.

The Series 231 and Series 232 Temporary Notes will mature on August 19, 2010 and will be retired using the proceeds of both permanent financing bonds, renewal notes and cash. The Series 231 and Series 232 Temporary Notes will be callable February 18, 2010 at par.

The Series 798 Special Assessment Bonds will mature serially over 15 years with principal maturities structured to produce level annual payments of principal and interest. The Series 798 Bonds are payable from the collection of special assessments levied against benefitting properties, and if not so paid, from Citywide ad valorem taxes. The Series 798 Special Assessment Bonds will be callable beginning 2016 with a 1% call premium that declines annually by .50%.

The Series 798A Special Assessment Bonds will mature serially over 20 years with principal maturities structured to produce level annual payments of principal and interest. The Series 798A Bonds are payable from the collection of special assessments levied against benefitting properties, and if not so paid, from Citywide ad valorem taxes. The Series 798A Special Assessment Bonds will be callable beginning 2019 with a 1% call premium that declines annually by .50%.

The Series 797 General Obligation Bonds will mature serially over 15 years with principal maturities structured to pay the principal and interest of the City-at-large portion ($9,213,900) over the first 10 years and the Storm Water Utility portion ($2,026,100) over the entire 15 year period. A portion of the Series 797 Bonds may be paid from Storm Water Utility fees as well as from Citywide ad valorem taxes. The Series 797 Special Assessment Bonds will be callable beginning 2016 with a 1% call premium that delcines by .50% annually.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale. The sale of temporary notes allows short-term financing of improvements that shall be permanently financed through the issuance of bonds or pay-as-you-go financing. The special assessment bonds are being issued on a reimbursement basis to finance project costs previously incurred.

Legal Considerations: The Law Department has approved the Resolution authorizing the sale of the series of bonds and notes and directing the publication and distribution of the Notices of Bond and Note Sale (prepared by the City's Bond Counsel as required by law).

Recommendation/Action: It is recommended the City Council adopt the resolution: 1) authorizing the general obligation bond and note sales; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form "deemed final" for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(l), subject to revision, amendment and completion in the final Official Statement; and, 4) authorizing publication of the Notice of Sale.

Attachments: Sales Resolution
Official Notice of Sale

RESOLUTION NO. 09-194

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR THE PUBLIC SALE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 232; GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 231 (TAXABLE UNDER FEDERAL LAW) AND GENERAL OBLIGATION BONDS, SERIES 797, SERIES 798 AND SERIES 798A; AND PROVIDING FOR THE GIVING OF NOTICE OF THE PUBLIC SALE.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by various duly held proceedings, authorized the making of certain capital improvements in the City, and made provision for expenditures and funding sources therefore, and provided in said proceedings for the financing of the costs of said capital improvements by the issuance of general obligation bonds of the City; and

WHEREAS, the City is empowered by the provisions of K.S.A. 10-123, as amended and supplemented, to issue its temporary notes to pay the costs of capital improvements which are to be paid for in whole or in part by the issuance of bonds, and may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes as they mature when all aspects of the capital improvements will not be completed at the maturity date of the notes or when the capital improvements are completed but the issuance of bonds therefor is prevented, hindered or delayed; and

WHEREAS, the Governing Body has authorized and issued its General Obligation Renewal Temporary Notes, Series 226, dated February 19, 2009, which mature November 19, 2009 (the "Series 226 Notes"), and its General Obligation Renewal Temporary Notes, Series 230, dated February 19, 2009 (the "Series 230 Notes"), which mature November 19, 2009, for the purpose of financing certain of the aforesaid capital improvements, and has further authorized or provided for the making of certain additional capital improvements in the City, and has provided for the financing of certain of the costs thereof by the issuance of temporary notes and general obligation bonds of the City, and the Governing Body hereby finds and determines that it is necessary at this time to provide temporary tax-exempt financing for the costs in connection with refinancing the Series 226 Notes and the Series 230 Notes in an aggregate principal amount not to exceed $46,705,000; and

WHEREAS, the Governing Body has authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law), dated February 19, 2009, which mature November 19, 2009 (the "Series 229 Notes"), for the purpose of financing certain of the aforesaid capital improvements, and has further authorized or provided for the making of certain additional capital improvements in the City, and has provided for the financing of certain of the costs thereof by the issuance of temporary notes and general obligation bonds of the City, and the Governing Body hereby finds and determines that it is necessary at this time to provide temporary financing for the costs in connection with refinancing the Series 229 Notes in an aggregate principal amount not to exceed $12,050,000; and

WHEREAS, the Governing Body has further heretofore by various duly held proceedings, authorized or provided for the making of certain capital improvements in the City which benefit specific properties, and provided for the financing of certain costs thereof by the issuance of general obligation bonds of the City which will be payable from the collection of special assessment taxes levied against real properties benefited by said capital improvements over a period of 15 years; and the Governing Body hereby finds and determines that it is necessary at this time to provide tax-exempt financing for the costs in connection with such capital improvements in an aggregate principal amount not to exceed $11,240,000; and

WHEREAS, the Governing Body has further heretofore by various duly held proceedings, authorized or provided for the making of certain capital improvements in the City which benefit specific properties, and provided for the financing of certain costs thereof by the issuance of general obligation bonds of the City which will be payable from the collection of special assessment taxes levied against real properties benefited by said capital improvements over a period of 20 years; and the Governing Body hereby finds and determines that it is necessary at this time to provide tax-exempt financing for the costs in connection with such capital improvements in an aggregate principal amount not to exceed $7,650,000; and

WHEREAS, the Governing Body has further heretofore by various duly held proceedings, authorized or provided for the making of certain capital improvements in the City, and provided for the financing of certain costs thereof by the issuance of general obligation bonds of the City which will be payable over a period of 15 years; and the Governing Body hereby finds and determines that it is necessary at this time to provide tax-exempt financing for the costs in connection with such capital improvements in an aggregate principal amount not to exceed $8,460,000; and

WHEREAS, the City is empowered by the provisions of K.S.A. 10-101 *et seq.,* as amended and supplemented, to issue, sell and deliver its general obligation bonds, and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount therefore exceeds $2,000,000; and

WHEREAS, the Governing Body hereby finds and determines it to be necessary at this time to authorize and provide for the public sale of the City's general obligation renewal and improvement temporary notes and general obligation bonds for the aforesaid purposes.

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

Section 1. It is hereby found and determined to be necessary and it is hereby authorized, ordered and directed that the hereinafter described general obligation renewal and improvement temporary notes (the "Notes") and the hereinafter described general obligation bonds (the "Bonds"), of the City shall be sold at public sale on Tuesday, July 21, 2009. Bids for the purchase of the Notes and the Bonds shall be accepted by facsimile and through the *PARITY* Electronic Bid Submission System until 10:00 a.m., Central Daylight Savings Time, and will at such time be read aloud and tabulated by the City staff. The bids will be considered and the

Notes and the Bonds will be awarded to the respective best bidders by the Governing Body at their earliest convenience following the deadline for receipt of the bids.

The Notes to be so sold shall be dated August 20, 2009, will be authorized by and issued pursuant to an ordinance to be adopted by the Governing Body immediately after the awarding of the Notes to the best bidder on the aforesaid sale date, and will be issued in the manner provided by K.S.A. 10-101 *et seq.*, as amended and supplemented, including specifically K.S.A. 10-123, as amended and supplemented. The Notes to be so sold shall be designated as General Obligation Renewal and Improvement Temporary Notes, Series 232, which shall be issued in the principal amount not to exceed $46,705,000 and General Obligation Renewal and Improvement Temporary Notes, Series 231 (Taxable Under Federal Law), which shall be issued in the principal amount not to exceed $12,050,000.

The Bonds to be so sold shall be dated August 1, 2009, will be authorized by and issued pursuant to ordinances to be adopted by the Governing Body immediately after the awarding of the Bonds to the best bidders on the aforesaid sale date, and will be issued in the manner provided by K.S.A. 10-101 *et seq.*, as amended and supplemented. The Bonds to be so sold shall be designated as General Obligation Bonds, Series 797, which shall be issued in the principal amount not to exceed $11,240,000; General Obligation Bonds, Series 798, which shall be issued in the principal amount not to exceed $8,460,000; and General Obligation Bonds, Series 798A, which shall be issued in the principal amount not to exceed $7,650,000.

Section 2. It is hereby further found and determined to be necessary, and it is hereby further authorized, ordered and directed, that a Summary Notice of Bond Sale containing various recitals required by law and in such final form as shall be prepared by Kutak Rock LLP, the City's Bond Counsel ("Bond Counsel"), and approved by City staff, shall be published one time as required by law on a date which is at least six (6) but not more than thirty (30) days prior to the date of the public sale, in a newspaper of general circulation in Sedgwick County, Kansas, and in *The Kansas Register*, the official newspaper of the State of Kansas.

Section 3. It is hereby further found and determined to be necessary, and it is hereby further authorized, ordered and directed, that copies of the City's Official Notice of Sale, containing various recitals required by law and in such final form as shall be prepared by Bond Counsel and approved by City staff together with the City's Preliminary Official Statement dated July 7, 2009, shall be made available to prospective bidders for the Notes and Bonds. Said Preliminary Official Statement as prepared by Bond Counsel and City staff is hereby approved by the Governing Body, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel, and the Governing Body hereby finds and determines that such Preliminary Official Statement is in a form "deemed final" for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(l), subject to revision, amendment and completion in the final Official Statement.

[*Remainder of page intentionally left blank.*]

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on July 7, 2009.

(Seal)

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4843-4333-2355.1

CITY OF WICHITA, KANSAS
OFFICIAL NOTICE OF SALE

$11,240,000* GENERAL OBLIGATION BONDS, SERIES 797

$8,460,000* GENERAL OBLIGATION BONDS, SERIES 798

$7,650,000* GENERAL OBLIGATION BONDS, SERIES 798A

$12,050,000* GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 231
(TAXABLE UNDER FEDERAL LAW)

$46,705,000* GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES,
SERIES 232

(General Obligation Bonds and Notes Payable from Unlimited Ad Valorem Taxes)

Date, Time and Place of Receiving Bids

Bids will be received by the Director of Finance on behalf of the Governing Body of the City of Wichita, Kansas (the "City"), as described herein, or, via *PARITY* electronic bid submission system ("*PARITY*"), until 10:00 a.m., Central Daylight Savings Time, on: **TUESDAY, JULY 21, 2009** (the "Sale Date")**,** for the purchase of $11,240,000* principal amount of General Obligation Bonds, Series 797 (the "Series 797A Bonds"); $8,460,000* principal amount of General Obligation Bonds, Series 798 (the "Series 798 Bonds"); $7,650,000* principal amount of General Obligation Bonds, Series 798A (the "Series 798A Bonds"); $12,050,000* General Obligation Renewal and Improvement Temporary Notes, Series 231 (Taxable Under Federal Law) (the "Series 231 Notes"); and $46,705,000* principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 232 (the "Series 232 Notes").

All bids shall be publicly read and tabulated on the date and at the time above indicated and all bids and the tabulations thereof shall thereafter be presented to the Governing Body of the City at their earliest convenience in the Council Chamber at City Hall. The Series 797 Bonds, the Series 798A Bonds and the Series 798A Bonds are herein collectively referred to as the "Bonds." The Series 231 Notes and the Series 232 Notes are herein collectively referred to as the "Notes." The Governing Body will thereupon award each series of the Bonds and each series of the Notes to the respective best bidders.

Each series of Bonds and Notes shall be sold separately, and bidders may bid on any series of Bonds or Notes. No oral or auction bid for any series of Bonds or Notes shall be considered, and no bid for less than the entire principal amount of the applicable series of Bonds or Notes shall be considered.

* Preliminary, subject to change

Description of Bonds

Series 797 Bonds. The Series 797 Bonds shall be issued in the aggregate principal amount of $11,240,000*, shall bear a Dated Date of August 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of $5,000 or integral multiples thereof. The Series 797 Bonds shall mature serially on December 1 in the years and principal amounts as follows:

Maturity Schedule - Series 797 Bonds

Maturing December 1	Principal Amount*	Maturing December 1	Principal Amount*
2010	$870,000	2018	$1,190,000
2011	905,000	2019	1,235,000
2012	940,000	2020	150,000
2013	975,000	2021	155,000
2014	1,015,000	2022	160,000
2015	1,055,000	2023	170,000
2016	1,100,000	2024	175,000
2017	1,145,000		

The Series 797 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on July 1 and December 1 of each year, commencing July 1, 2010.

Series 798 Bonds. The Series 798 Bonds shall be issued in the aggregate principal amount of $8,460,000*, shall bear a Dated Date of August 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of $5,000 or integral multiples thereof. The Series 798 Bonds shall mature serially on December 1 in the years and principal amounts as follows:

Maturity Schedule - Series 798 Bonds

Maturing December 1	Principal Amount*	Maturing December 1	Principal Amount*
2010	$ 455,000	2018	$ 575,000
2011	470,000	2019	595,000
2012	480,000	2020	610,000
2013	495,000	2021	630,000
2014	510,000	2022	650,000
2015	525,000	2023	670,000
2016	545,000	2024	690,000
2017	560,000		

* Subject to change.

The Series 798 Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on July 1 and December 1 of each year, commencing July 1, 2010.

Series 798A Bonds. The Series 798A Bonds shall be issued in the aggregate principal amount of $7,650,000*, shall bear a Dated Date of August 1, 2009, shall be issued in book-entry-only form, and individual purchases may be made in denominations of $5,000 or integral multiples thereof. The Series 798A Bonds shall mature serially on December 1 in the years and principal amounts as follows:

Maturity Schedule - Series 798A Bonds

Maturing December 1	Principal Amount*	Maturing December 1	Principal Amount*
2010	$ 255,000	2020	$ 380,000
2011	265,000	2021	395,000
2012	280,000	2022	410,000
2013	290,000	2023	430,000
2014	300,000	2024	445,000
2015	315,000	2025	465,000
2016	325,000	2026	480,000
2017	340,000	2027	500,000
2018	350,000	2028	520,000
2019	365,000	2029	540,000

The Series 798A Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on July 1 and December 1 of each year, commencing July 1, 2010.

Principal Amounts Subject to Change. The City reserves the right to decrease the total principal amount of either series of Bonds and the principal amount of any maturity in order to properly size a Bond issue including adjustments based on net bond proceeds received by the City as a result of any premium bid. Adjustments, if required, will be made proportionately to each maturity as permitted by the authorized denominations of such series of Bonds. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of a series of Bonds as described. If there is an adjustment in the final aggregate principal amount of a series of Bonds or the schedule of principal payments as described above, any premium bid on such series of Bonds will be proportionately adjusted. At the request of the City, each successful bidder agrees to resize the Bond issue, adjust the premium and provide a revised maturity schedule to the City promptly after receipt of notification of such a request by the City.

* Subject to change.

Redemption of Bonds

Series 797 Bonds. The Series 797 Bonds maturing in the years 2010 through 2016, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 797 Bonds maturing December 1, 2017, and thereafter, may be called for redemption and payment prior to their respective maturities on and after December 1, 2016, in whole or in part at any time. Series 797 Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates (Inclusive)	Redemption Prices
December 1, 2016, through November 30, 2017	101.00%
December 1, 2017, through November 30, 2018	100.50%
December 1, 2018, and thereafter	100.00%

Series 798 Bonds. The Series 798 Bonds maturing in the years 2010 through 2016, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 798 Bonds maturing December 1, 2017, and thereafter, may be called for redemption and payment prior to their respective maturities on and after December 1, 2016, in whole or in part at any time. Series 798 Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates (Inclusive)	Redemption Prices
December 1, 2016, through November 30, 2017	101.00%
December 1, 2017, through November 30, 2018	100.50%
December 1, 2018, and thereafter	100.00%

Series 798A Bonds. The Series 798A Bonds maturing in the years 2010 through 2019, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 798A Bonds maturing December 1, 2020, and thereafter, may be called for redemption and payment prior to their respective maturities on and after December 1, 2019, in whole or in part at any time. Series 798A Bonds called for redemption and payment shall be redeemed at a price (expressed as a percentage of the principal amount) as follows, plus accrued interest to the date established for redemption and payment:

Redemption Dates (Inclusive)	Redemption Prices
December 1, 2019, through November 30, 2020	101.00%
December 1, 2020, through November 30, 2021	100.50%
December 1, 2021, and thereafter	100.00%

General Redemption Provisions. If less than all of a series of outstanding Bonds are called for redemption on a specified date, the method of selection of the Bonds to be called shall be designated by the City in such equitable manner as it may determine. In the case of Bonds registered in denominations greater than $5,000, the City shall treat each $5,000 of face value as though it were a separate Bond in the denomination of $5,000.

Written notice of any call for redemption and payment of the Bonds shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Bonds called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

Paying Agent and Bond Registrar

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Bond Registrar for the Bonds (hereinafter called the "Paying Agent"). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Bonds shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered bond certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Bonds.

Payment of Principal and Interest on Bonds; Ownership Registration

One certificate representing the entire principal amount of each maturity of each series of the Bonds will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's nominee), and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Bonds in the permitted $5,000 denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Bonds will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Bonds. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Bonds.

Description of Notes

Series 231 Notes. The General Obligation Renewal and Improvement Temporary Notes, Series 231 (Taxable Under Federal Law), shall be issued in the principal amount of $12,050,000, shall bear a Dated Date of August 20, 2009, and a Maturity Date of August 19, 2010, shall be issued in book-entry-only form, and individual purchases may be made in denominations of

$5,000 or integral multiples thereof. The Series 231 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 231 Notes, and said interest shall be payable on the Maturity Date.

Series 232 Notes. The General Obligation Renewal and Improvement Temporary Notes, Series 232, shall be issued in the principal amount of $46,705,000, shall bear a Dated Date of August 20, 2009, and a Maturity Date of August 19, 2010, shall be issued in book-entry-only form, and individual purchases may be made in denominations of $5,000 or integral multiples thereof. The Series 232 Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Series 232 Notes, and said interest shall be payable on the Maturity Date.

Principal Amounts Subject to Change. The City reserves the right to decrease the total principal amount of either series of Notes based on net note proceeds received by the City in order to property size a Note issue including adjustment resulting from any premium bid. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of a series of Notes as described. If there is an adjustment in the final aggregate principal amount of a series of Notes or the schedule of principal payments as described above, any premium bid on such series of Notes will be proportionately adjusted.

Redemption of Notes

Series 231 and Series 232 Notes. Each series of Notes may be called for redemption and payment prior to their respective maturities on and after February 18, 2010, in whole or in part at anytime. Notes called for redemption and payment shall be redeemed at a price of 100% of the principal amount thereof, plus accrued interest to the date established for redemption and payment.

General Redemption Provisions. If less than all of a series of outstanding Notes are called for redemption on a specified date, the method of selection of the Notes to be called shall be designated by the City in such equitable manner as it may determine. In the case of Notes registered in denominations greater than $5,000, the City shall treat each $5,000 of face value as though it were a separate Note in the denomination of $5,000.

Written notice of any call for redemption and payment of the Notes shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Notes called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

Payment of Principal and Interest on Notes; Ownership Registration

One certificate representing the entire principal amount of each series of the Notes will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's partnership nominee,) and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Notes in the hereinbefore stated permitted denominations, with transfers of

ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Notes will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Notes. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Notes.

Paying Agent and Note Registrar

The City shall act as Note Registrar through the Office of the City Clerk and shall act as Paying Agent for the Notes through its Department of Finance.

Conditions of Bidding

Individual proposals for the purchase of each series of Bonds and/or Notes shall be received bearing such rate or rates of interest as may be specified by the bidder, subject to the conditions of this paragraph. Only a single rate of interest for each series of the Notes may be specified by the bidder. The same rate of interest shall apply to all Bonds of the same series having the same maturity date. Each interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. The difference between the highest and the lowest interest rate specified for a series of Bonds shall not exceed 2%. The maximum stated rate of interest on any Bond or on the Series 232 Notes shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 5%. The maximum stated rate of interest on the Series 231 Notes shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 6%. No bid for less than par value, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and no supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the applicable series of Bonds or Notes on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the net interest cost to the City on the basis of the bid, and (iv) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

Form and Submission of Bid; Good Faith Deposit

Bids may be submitted through the *PARITY* Electronic Bid Submission System ("*PARITY*"). To the extent any instructions or directions set forth in *PARITY* conflict with the Official Notice of Sale, the terms of the Official Notice of Sale shall control. All bids must be received by the undersigned prior to 10:00 a.m., Central Daylight Savings Time (the "Submittal Hour") on July 21, 2009 (the "Sale Date"), accompanied by the applicable good faith deposit described below, which may be submitted separately, provided such good faith deposit is received by the City prior to the Submittal Hour on the Sale Date. The City shall not be

responsible for any failure, misdirection or error in the means of transmission via *PARITY*. Bids submitted in accordance with this section and accepted by the City as provided below shall be binding obligations of the bidders. For further information about the electronic bidding services of *PARITY*, potential bidders may contact Ipreo, 1359 Broadway, 2nd Floor, New York, NY 10010, (212) 849-5021.

Good Faith Deposit

Each bid for the Bonds shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Bonds for which the bid is submitted ($224,800 for the Series 797 Bonds, $169,200 for the Series 798 Bonds, and $153,000 for the Series 798A Bonds), and each bid for the Notes shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Notes for which the bid is submitted ($241,000 for the Series 231 Notes and $934,100 for the Series 232 Notes). The good faith deposit must be in the form of (1) a certified or cashier's check drawn on a bank located in the United States of America, payable to the order of the City, or (2) a Financial Surety Bond (as described below) payable to the order of the City. If a bid is accepted, such good faith deposit shall be deposited by the City until the bidder shall have complied with all of the terms and conditions of this Notice and of its bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this Notice or of its bid, said bidder's good faith deposit shall be retained by the City for liquidated damages. If a bid is accepted, but the City shall fail to deliver the applicable Bonds or Notes to the bidder in accordance with the terms and conditions hereof, said good faith deposit amount shall be returned to the bidder. No interest shall be paid upon the successful bidder's good faith deposit. Checks representing the good faith deposit accompanying the bids of the unsuccessful bidders shall be promptly returned.

Financial Surety Bond. If a Financial Surety Bond is used for the good faith deposit, it must be from Financial Security Assurance of Maryland Inc., New York, New York, an insurance company licensed to issue such surety bond in the State of Kansas and approved by the City. Such surety bond must be submitted to the Director of Finance prior to the time that bids for the purchase of the Bonds and Notes will be received. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If a series of Bonds or Notes is awarded to a bidder using a Financial Surety Bond, then that bidder is required to submit its good faith deposit to the City in the form of a certified or cashier's check or wire transfer as instructed by the Director of Finance not later than 2:00 p.m., Central Daylight Savings Time, on the next business day following the award of the applicable series of Bonds or Notes. If such check or wire transfer is not received by that time, the Financial Surety Bond will be drawn by the City to satisfy the good faith deposit requirement.

Awarding of Bonds and Notes

Each series of Bonds and Notes will be sold separately and each will be awarded to the responsible bidder offering to pay not less than the par amount of applicable series of Bonds or Notes and accrued interest thereon and specifying a rate or rates of interest that result in the lowest effective interest rate to the City. The effective interest rate to the City shall be the interest rate per annum determined on a per annum true interest cost ("TIC") basis by

discounting the scheduled semiannual debt service payments of the City on the applicable series of Bonds or Notes (based on such rate or rates of interest so bid), to the Dated Date of such Bonds or Notes (based on a 360-day year), compounded semiannually and to the bid price, excluding accrued interest to the date of delivery. The City reserves the right to verify each bidder's calculation of TIC, and the award shall be made to the bidder whose proposal results in the lowest TIC calculated in accordance with the provisions of this Notice. If two or more identical bids for the lowest TIC are received, the Governing Body shall determine which bid, if any, shall be accepted, and such determination shall be final. The Governing Body reserves the right to reject any and/or all bids, and to waive any irregularities in any bid submitted.

Ratings

The City's outstanding general obligation bonds issued since 1975 have been rated by Moody's Investors Service, Inc. ("Moody's") and by Standard & Poor's, a division of the McGraw-Hill Companies ("S&P"). The most recent ratings given to the City's general obligation bonds (dated February 1, 2009) by such rating agencies were "Aa2" and "AA+", respectively. The City's most recently issued general obligation notes (dated February 19, 2009) were rated *"MIG 1"* by Moody's and "SP-1+" by S&P. The City has applied to both Moody's and S&P for ratings on the Bonds and Notes described herein.

Bond Insurance

The City has not applied for any policy of municipal bond insurance with respect to the Bonds or Notes and will not pay the premium in connection with any policy of municipal bond insurance desired by the successful bidder. In the event a bidder desires to purchase and pay all costs associated with the issuance of a policy of municipal bond insurance in connection with any series of the Bonds or Notes, such intent must be specified on the bid and the bid must be accompanied by a commitment from the selected insurer specifying all terms and conditions to which the City will be required to agree in connection with the issuance of such insurance policy. Such commitment shall be delivered to the office of the Department of Finance, located on the Twelfth Floor of City Hall, 455 North Main, Wichita, Kansas 67202-1679. The Governing Body specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest true interest cost to the City.

CUSIP Identification Numbers

The CUSIP Service Bureau will be requested to assign CUSIP identification numbers to the Bonds and Notes, and such numbers shall be printed on the Bonds and Notes; however, neither the failure to assign any such number to or print any such number on any Bond or Note, nor any error with respect thereto, shall constitute cause for the failure or refusal by the successful bidder to accept delivery of and to make payment for the Bonds or Notes in accordance with the terms of this Notice and of its bid. All expenses in relation to the printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for the assignment thereof shall be the responsibility of and shall be paid for by the City.

Delivery of and Payment for Bonds

A single Bond per maturity, duly printed or typewritten, executed and registered in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder of each series of Bonds on or about Thursday, August 20, 2009, by deposit of such Bonds with DTC. Payment for each series of Bonds shall be received by 12:00 noon, Central Daylight Savings Time, on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Bonds, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Bonds affecting their validity and also regarding the completeness and accuracy of the Official Statement.

Delivery of and Payment for Notes

A single Note, duly printed or typewritten, executed, registered and countersigned in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder(s) of each series of Notes on or about Thursday, August 20, 2009, by deposit of such Notes with DTC. Payment for each series of Notes shall be received by 12:00 noon, Central Daylight Savings Time, on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Notes, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Notes affecting their validity and also regarding the completeness and accuracy of the Official Statement.

Official Statement

The Governing Body of the City has authorized and directed the preparation of a Preliminary Official Statement in connection with the issuance of the Bonds and Notes, copies of which may be obtained from the City's Department of Finance. The Preliminary Official Statement is in a form "deemed final" by the Governing Body for the purpose of the Securities Exchange Commission's Rule l5c2-12(b)(1), but is subject to revision, amendment and completion in the final Official Statement. Authorization is hereby given to redistribute this Official Notice of Sale and the Preliminary Official Statement, but this entire Official Notice of Sale and the entire Preliminary Official Statement, and not portions thereof, must be redistributed.

By awarding the Bonds or Notes to any bidder or bidding syndicate submitting a proposal therefor, the Governing Body agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which such Bonds or Notes are awarded, a reasonable number of copies of the final Official

Statement. The City designates the senior managing underwriter of any syndicate to which such Bonds or Notes are awarded as agent for purposes of distributing copies of the final Official Statement to each participating underwriter. Any bidder delivering a proposal with respect to the Bonds or Notes agrees thereby that if such proposal is accepted (i) it shall accept such designation, and (ii) it shall enter into a contractual relationship with all participating underwriters of the applicable series of Bonds or Notes for purposes of assuring the receipt by each such participating underwriter of the final Official Statement. Copies of the final Official Statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

Continuing Disclosure

The City will agree in the resolution of the City prescribing the terms of the Bonds and Notes to enter into an undertaking (the "Undertaking") for the benefit of the holders of the applicable series of Bonds and Notes to send to the Municipal Securities Rulemaking Board (the "MSRB") through the Electronic Municipal Market Access facility, or other applicable entity as required or permitted under Securities and Exchange Commission Rule 15c2-12 (the "Rule"), certain financial information and operating data annually and to provide notice to the MSRB of certain events, pursuant to the requirements of the Rule.

Authority, Purpose and Security

The Bonds and Notes shall be issued under the authority of and pursuant to the provisions of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, including specifically, with reference to the Notes, K.S.A. 10-123, as amended and supplemented. The Bonds and Notes shall be authorized by Ordinances to be adopted by the Governing Body. The Bonds and Notes and the interest thereon shall constitute general obligations of the City, and the full faith, credit and resources of the City will be pledged by the aforesaid Ordinances to the payment thereof. Reference is made to the City's Official Statement for a more extensive discussion of security for the Bonds and Notes.

The Series 797 Bonds. The proceeds of the Series 797 Bonds shall be used, together with other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City. The Series 797 Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon, over a 15-year period, from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

The Series 798 Bonds. The proceeds of the Series 798 Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 798 Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against

benefited real properties in the City, over a 15-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

The Series 798A Bonds. The proceeds of the Series 798A Bonds shall be used, together with special assessments which have been collected in cash and other available funds, for the purpose of permanently financing the costs of constructing various multiple capital improvements in the City, the costs of which have been charged as special assessments to real properties benefited by the improvements. The Series 798A Bonds and the interest thereon shall constitute general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against benefited real properties in the City, over a 20-year period, and any part of said principal and interest not so paid, shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property located within the territorial limits of the City.

The Series 231 Notes. The proceeds of the Series 231 Notes shall be used for the purpose of providing funds to renew the principal amount of the City's General Obligation Renewal and Improvement Notes, Series 229 (the "Series 229 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City and for the purpose of providing temporary financing for acquiring, constructing and installing certain newly undertaken capital improvements in the City. The principal of and the interest on the Series 231 Notes shall be paid from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose and from current revenues of the City which are available for such purpose, or all or part of the Series 231 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

The Series 232 Notes. The proceeds of the Series 232 Notes shall be used for the purpose of providing funds to renew a portion of the principal amount of the City's General Obligation Renewal Temporary Notes, Series 226 (the "Series 226 Notes"), and General Obligation Renewal Temporary Notes, Series 230 (the "Series 230 Notes"), previously issued by the City for the purpose of providing temporary financing for multiple capital improvements in the City and for the purpose of providing temporary financing for acquiring, constructing and installing certain newly undertaken multiple capital projects within the City. The principal of and the interest on the Series 232 Notes shall be paid from moneys collected from special assessments to be levied against real properties in the City benefited by certain of the capital improvements upon the completion thereof, from the proceeds of general obligation bonds which will be subsequently issued by the City for such purpose, and from current revenues of the City which are available for such purpose, or all or part of the Series 232 Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose pending completion of some or all of the capital improvements.

Legal Opinion

All matters relating to the authorization and issuance of the Bonds and the Notes are subject to the approving opinion of Kutak Rock LLP, Kansas City, Missouri, Bond Counsel. Bond Counsel's opinion shall be furnished without expense to the successful bidder(s) concurrently with delivery of the Bonds and the Notes. All fees and expenses of Bond Counsel shall be paid by the City.

Tax Exemption

Exemption from State Tax. The interest on the Bonds and the Notes is excludable from the computation of Kansas adjusted gross income and the Bonds and the Notes are exempt from the tax imposed by Kansas counties, cities or townships upon the gross earnings derived from money, notes and other evidence of debt.

Exemption from Federal Tax - Bonds and Series 232 Notes. In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Bonds and the Series 232 Notes is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax and is not included in adjusted current earnings when calculating the federal alternative minimum taxable income for corporations. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Bonds and the Series 232 Notes. Failure to comply with such requirements could cause interest on the Bonds or the Series 232 Notes to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds or the Series 232 Notes, as applicable. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds or the Series 232 Notes.

The accrual or receipt of interest on the Bonds and the Series 232 Notes may otherwise affect the federal income tax liability of the owners of the Bonds and the Series 232 Notes. The extent of these other tax consequences will depend upon such owner's particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Bonds and the Series 232 Notes, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds or the Series 232 Notes.

Not Exempt from Federal Tax - Series 231 Notes. In the opinion of Kutak Rock, LLP, Bond Counsel, interest on the Series 231 Notes is subject to federal income taxation, and Bond Counsel expresses no opinion regarding other federal tax consequences arising with respect to the Series 231 Notes.

Not Bank-Qualified Obligations. The City has not designated the Bonds or the Notes as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Backup Withholding. As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on tax-exempt obligations such as the Bonds and Series 232 Notes is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments made after March 31, 2007, to any bond or note holder who fails to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the Bonds or Series 232 Notes from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

Original Purchaser's Certificate

Bond Counsel will prepare and furnish for execution to the successful bidder for each series of Bonds and Notes, an Original Purchaser's Certificate which states that such Original Purchaser reasonably expects at least 10% of each maturity for such Bonds or Notes to be sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial reoffering prices to the public as shall be provided by the Original Purchaser thereof.

Assessed Valuation; Bonded Indebtedness

The City's equalized assessed tangible valuation for computation of bonded debt limitations is $3,547,637,000. The total outstanding general obligation bonded indebtedness of the City as of August 1, 2009, including the Bonds and Notes is $696,213,385. The City's Series 226 Notes, outstanding in the principal amount of $37,375,000, and Series 230 Notes, outstanding in the principal amount of $14,220,000, will be retired on August 20, 2009, from a portion of the proceeds of the Bonds, the Series 232 Notes and other available funds of the City. The City's Series 229 Notes, outstanding in the principal amount of $10,475,000 will be retired from the proceeds of the Series 231 Notes.

Additional Information

Additional information regarding the Bonds and Notes may be obtained from the Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679 (Ms. Catherine Gilley, Debt Coordinator, Telephone 316/268-4143, E-mail: cgilley@wichita.gov). To obtain a Preliminary Official Statement visit www.onlinemuni.com.

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BY ORDER OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, ON JULY 7, 2009.

By: /s/ Carl Brewer, Mayor
Carl Brewer, Mayor

(Seal)

ATTEST:

By: /s/ Karen Sublett, City Clerk
Karen Sublett, City Clerk

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Prisoner Reentry Program Memorandum of Agreement (All Districts)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve a One Year Memorandum of Agreement with the Kansas Department of Corrections (DOC) for a City Housing Specialist who will provide housing counseling and related services to facilitate the reintegration of ex-offenders into the community after release from DOC facilities.

Background: On June 6, 2006, the City Council approved a three-year Memorandum of Agreement (MOA) with the Kansas Department of Corrections, for funding two City positions to provide support for the Prisoner Reentry program. The City positions were in the Housing and Community Services and Police Departments. The MOA provided State funding for the positions and the City provided in-kind support, including the value of office space, office supplies, technology equipment, and staff supervision.

Analysis: The Prisoner Reentry Program is designed to provide supervision and support services for up to 150 high risk offenders who are returning home to Wichita/Sedgwick County. Since the program began, the Housing Specialist has provided training sessions for offenders before their release from prison, and assisted them with housing arrangements in the community. The housing component is one of several Reentry program services which also include employment, counseling, family transition and relapse prevention. As a result of the comprehensive approach, the program has achieved notable success. The Reentry program director reported in September, 2008, that of 92 persons released to the program since inception in 2006, 92% (85) had not returned to prison for probation or new violations. This compares favorably with the return rate in 2005, of 50% within the first six months of release. An April, 2009 report issued by the KU School of Social Welfare indicated that of the persons released in 2008 had a housing plan prior to their release, 49% were employed within 30 days of release and 61% completed drug and alcohol education classes after release.

Legal Considerations: The City Attorney's office has reviewed and approved the Memorandum of Agreement as to form.

Goal Impact: The Memorandum of Agreement will contribute to the Safe and Secure Community goal.

Financial Considerations: The City has no financial obligation other than as identified as in-kind match. The State will provide $57,000 for the position.

Recommendations/Actions: It is recommended that the City Council approve a One Year Memorandum of Agreement with the Kansas Department of Corrections (DOC) to fund a City Housing Specialist who will provide housing counseling and related services to facilitate the reintegration of ex-offenders into the community after release from DOC facilities.

Attachments: Memorandum of Agreement.

MEMORANDUM OF AGREEMENT

This agreement is made by and between the Kansas Department of Corrections (KDOC) and the City of Wichita, Kansas (Wichita) for the delivery of services by Wichita to offenders preparing for release from prison and returning to Sedgwick County, who are at risk for homelessness or unstable housing, as detailed in this agreement, related to accessing housing, housing services, and rental options in Sedgwick County, for safe and affordable living arrangements, and related housing services for which said offenders are eligible.

WHEREAS, the KDOC is engaged in implementing the Kansas Offender Risk Reduction and Reentry Plan (KOR3P), which includes strategies to address the housing needs of returning offenders, see http://www.doc.ks.gov/reentry/goals-of-kor3p;

WHEREAS, the KDOC's risk reduction and reentry initiatives are supported by partnerships with various community organizations, including Wichita;

WHEREAS, 1105 offenders were released from Kansas prisons to post-release supervision in Sedgwick County in fiscal year 2008; and additional offenders were released without supervision to the Wichita/Sedgwick County community; of whom about one-fourth lack safe and affordable housing, and others are at-risk for unstable housing;

WHEREAS, homelessness is one of the areas of risk that increases the likelihood of an offender re-offending or returning to prison, so addressing the housing needs of returning offenders increases community safety and has the potential to reduce recidivism and returns to prison, and reduce the risk that the offender will continue to engage in criminal behavior or be non-compliant regarding post-release supervision requirements;

WHEREAS, evidence-based practices suggest that addressing the housing needs of offenders pre-release when they are preparing for return to the community as part of risk reduction and reentry planning, increases the potential for a safe and successful return, including by establishing relationships with local landlords, housing providers and housing services providers, establishing referral and placements protocols and practices, and working with the offenders to prepare them to be safe and appropriate tenants;

WHEREAS, Wichita provides housing services to persons in the Wichita community and has established relationships with various landlords, housing providers, and housing service providers;

NOW, THEREFORE, the parties to this agreement hereby agree to the following:

1. KDOC will pay Wichita a flat sum of no more than $57,000 for a period of 12 months, from July 1, 2009 through June 30, 2010, to be paid in increments of $4,750 per month no later than the last day of each month. Wichita shall submit an invoice to KDOC no later than the 20th day of each month.

    a. In the event the position discussed below becomes vacant during the period of this agreement, Wichita shall provide coverage for the vacancy making the services available without a break in service, through a back up person, to the extent possible.

    b. If services are not provided for any period of one day or more, Wichita shall deduct $216 per day where coverage is not provided.

2. For the funding amounts described herein, Wichita shall provide the following:

    a. Recruit, screen and select a qualified person to serve as an employee of the City of Wichita to perform the duties of a Housing Specialist set out in the attached Job Description, Attachment A;

    b. Assign this person full time to carry out the duties in the attached Job Description, Attachment A, and to deliver the services as described in the Housing Specialist document at Attachment B, which supplements/augments the position description;

    c. Consult with KDOC before any final hiring decision is made, including providing necessary information for a background check to ensure the person is eligible to enter correctional facilities;

    d. Provide training to this person, and coordinate with this person to receive necessary KDOC training for this person to be eligible to enter and work in correctional facilities; and,

    e. Allow the Housing Specialist to be located in the parole/reentry office of the KDOC in Wichita, for immediate access to staff for daily work.

3. The Housing Specialist hired by the City of Wichita will:

a. Work with KDOC staff to establish necessary procedures, protocols and policies for these persons to serve KDOC offenders, including a referral form for referring specific offenders scheduled for release and return to Wichita/Sedgwick County;

b. Provide services to offenders preparing for release who are scheduled to return to Sedgwick County, working with risk reduction and reentry and unit team staff to coordinate provision of these services;

c. Provide services to offenders already in the community under post-release or conditional release supervision as necessary, working with reentry, risk reduction and parole staff to coordinate provisions of these services;

d. Participate in ongoing planning and development of partnerships between KDOC and Wichita for delivery of the type of housing services which are the subject of this agreement, to offenders releasing throughout the state, so that what is learned through the work done under this Memorandum of Agreement can be exported to and benefit other facilities and communities.

4. Wichita agrees to partner with KDOC in seeking alternative funding to sustain the delivery of these services after the period covered by this agreement. This will include collaborating with KDOC staff and participating in any grant application, or other requests for funding.

5. Wichita agrees to participate in data collection and evaluation with the KDOC and its researcher/evaluator for the SCRP program, the University of Kansas (KU), about the impact of the services delivered under this agreement. This will include collaborating with KDOC and KU about how to capture data and other information, and participating in discussion and review of information to assess and analyze the data and information collected.

6. Wichita shall be responsible for all administrative and other costs associated with delivering the services outlined in this agreement, including salary, benefits, recruitment, hiring, supervision, equipment, long distance costs, training, travel, professional licensing, mileage, per diem, or any other costs incurred in delivering the services herein, from within the funds paid by KDOC.

KDOC shall not be responsible for any other payment for the services beyond the $57,000 indicated in this agreement.

7. The contact persons for informal resolution of questions about this agreement are:

a. Wichita: Mary K. Vaughn, Director
Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, KS 67203
mkvaughn@wichita.gov

b. KDOC:
Margie Phelps, Reentry Director
Kansas Department of Corrections
900 S.W. Jackson, 4th Floor
Topeka, KS 66612-1284
785.368.8917
margiep@doc.ks.gov

8. All formal contract notifications and communications, whether notices of termination or for any other purpose under this agreement, may be accomplished by use of registered mail, return receipt requested, commercial courier service, or personal delivery directed to the following designated individuals:

a. Wichita: Robert Layton, City Manager
City of Wichita, Kansas
455 N. Main Street, 13th floor
Wichita, KS 67202

With a copy to:
Gary Rebenstorf, City Attorney
City of Wichita, Kansas
455 N. Main Street
Wichita, KS 67202

b. KDOC: Secretary of Corrections
Kansas Department of Corrections
900 S.W. Jackson, 4th Floor
Topeka, Kansas 66612-1284

With a copy to:
Chief Legal Counsel
At same address as Secretary of Corrections

9. The term of this agreement shall commence on July 1, 2009, and terminate on June 30, 2010. This agreement may be terminated by either party upon a minimum of thirty (30) days written notice of such termination provided to the other party. Notice of termination shall be considered effective upon the date of receipt of notice by the other party. Wichita shall be paid for all services rendered up to and including the termination date. This agreement may be renewed by written addendum for succeeding one-year terms, subject to availability of necessary funding and mutual agreement of the parties. This agreement is subject to ongoing funding from the Kansas legislature to the KDOC to cover the costs of this position.

10. This agreement may only be amended by written addendum executed by KDOC and Wichita.

11. Nothing herein is intended to benefit any third party or to create in or confer upon any third party any rights arising from or in connection with this agreement.

12. Neither party to this agreement shall prohibit or prevent the Legislative Division of Post Audit from having access pursuant to K.S.A. 46-1101, et seq. to any records, documents or other information -- confidential or otherwise -- regarding or relating to the execution and/or performance of this agreement.

13. The parties enter into the agreement in good faith and in the belief that this agreement, and actions pursuant to this agreement, are in accordance with appropriate State or Federal laws and regulations.

14. The provisions found in the Contractual Provisions Attachment (Form DA-146a), which is found at Attachment C are hereby incorporated in this agreement and made part hereof. Should any of the provisions of this agreement conflict with any provisions of the Contractual Provisions Attachment, the provisions set forth in the Contractual Provision Attachment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first written above:

STATE OF KANSAS
DEPARTMENT OF CORRECTIONS
By: _____
Roger Werholtz, Secretary
Date: _____

CITY OF WICHITA, KANSAS.

By:_____
Mayor
Date: _____

ATTEST:

_____
City Clerk
APPROVED AS TO FORM;

_____
Gary E. Rebenstorf, Director of Law

Attachment A
HOUSING SPECIALIST JOB DESCRIPTION – 119, Exempt
For Returning Offenders to Sedgwick County
Through Memorandum of Agreement with the Kansas Department of Corrections

HOUSING SPECIALIST

DISTINGUISHING FEATURES OF WORK

This is an administrative and public contact position. The employee develops housing opportunities for offenders returning to Sedgwick County and supports case management related to housing. Work is directed and reviewed through the establishment of goals and the subsequent evaluation of progress toward goal attainment.

EXAMPLES OF WORK PERFORMED

- Establishes working relationships with local housing/service providers, including participating in continuum of care and other planning efforts.
- Establishes working relationships with local landlords to develop strategies for returning offenders accessing affordable for-rent housing options.
- Works with case managers to ensure tenant-suitability with offenders who will be referred to landlords for housing.
- Works with housing/credit counseling agencies for referrals of offenders who would benefit from this counseling.
- Develops resource manual for housing options in Wichita/Sedgwick County, including population served and appropriate referral protocols for offenders.
- Makes recommendations for funding/program development, including working with Kansas Department of Corrections (KDOC) and community partners to identify grant opportunities to pursue together.
- Works with police officer liaison to address neighborhood/community issues.
- Makes presentations, responds to inquiries, and makes recommendations for policies and practices, with a view to contributing to the safety of offender placements for the neighborhood and community.
- Develops community service opportunities for offenders that support housing providers and works with KDOC case managers to connect offenders to these opportunities.
- Develops and trains correctional facility, risk reduction and reentry and parole staff regarding housing services/options in the community.
- Develops and trains community/neighborhood providers/groups regarding offenders and reentry, with focus on housing.
- Works with KDOC to provide input, recommendations, networking and planning to establish appropriate “sweat-equity” programs in Wichita/Sedgwick County whereby offenders can provide labor in exchange for housing.
- Completion of work assignments will require the operation of a vehicle.
- The examples of work performed are not intended to be all-inclusive. The City of Wichita reserves the right to assign additional duties as needed.

REQUIREMENTS OF WORK

- Considerable knowledge of research techniques and sources of information.
- Knowledge of information resources and information evaluation and reporting techniques.
- Knowledge of Kansas Residential Landlord and Tenant Act, subsidized housing regulations and local housing codes.
- Knowledge of, and ability to engage in, use of computer keyboard and video display monitor in electronic spreadsheet development, using basic mathematical and descriptive statistical operations.
- Ability to perform file maintenance tasks originating, updating and storing files in manual and electronic record keeping systems.
- Ability to develop and maintain effective working relationships with associates, representatives of other organizations and the public.
- Ability to communicate clearly and effectively, orally, in writing, and by whatever creative means is necessary to cross communication barriers.
- Ability to acquire and maintain a valid Kansas driver’s license.
- An employee shall not pose a direct threat to the health or safety of other individuals in the workplace.

REQUIRED EXPERIENCE AND TRAINING

Graduation from a four-year college with a degree in business or public administration, or a social science. Minimum of one year related work experience. Offers of employment will be made contingent upon passing a pre-employment physical, which will include drug screening, and upon satisfactory evaluation of the results of a police records check. Any equivalent combination of experience and training will be considered.

Attachment B

Housing Specialists

Statewide Position

- Partnerships with Public Housing Authorities ~ any visits to counties where other Housing Specialists are responsible, include them
- Partnerships with developers ~ any new units made available make Housing Specialists in that area aware and involve them in discussions about protocols for accessing
- All of Housing Specialist duties for Reno, Barton, Ellis and SE Kansas
- Point of contact for Hutchinson Correctional Facility, Norton Correctional Facility and Larned Correctional Mental Health Facility
- Make presentations at national and state conferences regarding offender housing
- Work with Housing Management Information System provider/staff to add data elements to identify criminal-justice-involved persons receiving housing services; and to generate quarterly reports of this information
- Work with Kansas Housing Resources Corporation (KHRC) staff to maintain current list of offender-available housing list in www.socialservice.com
- Provide monthly progress reports to KHRC and KDOC on each of these main areas of responsibility

Regional Housing Specialist at KHRC

- All of Housing Specialist duties for Shawnee, Saline, Douglas and Lyon counties
- Liaison to corrections for Point in Time Count and report results
- Tenant Responsibility Training development, Training-of-Trainers and quality control
- Development and refreshing of Housing Case Management Training with KDOC Lead Skills Developer; participate in training on this module as requested
- Point of contact for Topeka and Ellsworth Correctional Facility; work also in Lansing Correctional Facility
- Provide monthly progress reports to KHRC and KDOC on each of these main areas of responsibility

Wyandotte County Housing & Resource Developer

- All of Housing Specialist duties for Wyandotte and Johnson counties
- Other duties as assigned by Wyandotte County Reentry Program Director
- Point of contact for Lansing Correctional Facility

Wichita/Sedgwick County Housing Specialist

- All of Housing Specialist duties for Wichita/Sedgwick County
- Other duties as assigned by Sedgwick County Reentry Program Director and City Housing Director
- Point of contact for El Dorado Correctional Facility and Winfield Correctional Facility/Wichita Work Release Facility

Duties of Housing Specialists

- Establish protocols for case managers to receive services, including referral forms
- Make visits to prisons to work with Risk Reduction & Reentry (R3) Coordinators and other staff to identify high-risk offenders for housing instability; work on those cases with case manager
- Hold regular office hours in parole and reentry offices and transitional housing facilities to be available, by appointment, or during established hours, for case managers and offenders to access services
- Meet with landlords/property managers to advocate for more offender access to housing; follow up with referral and placement protocols if landlord/property manager is willing, and trouble shoot if relationship with corrections is having difficulties
- Participate in quarterly meetings with parole staff in assigned counties to assess housing needs and barriers
- Participate in quarterly meetings with facility R3 staff to assess housing needs and barriers at assigned facilities
- Maintain current list of housing resources in community with contact information and protocols for accessing; refresh as new resources are developed
- Identify Community or Faith Based Organizations (CFBOs) to partner with to enhance capacity of CFBO, establishing at least one new partnership per year; and working with the partner, KDOC, and other viable contributors, to increase capacity of partner to serve offenders with housing or housing services
- Participate in meetings with public housing authority staff as requested by Statewide Housing Specialist
- Participate in meetings with tax credit property managers as requested by Statewide Housing Specialist
- Participate in meetings with developers, or entities that will manage newly developer property, to ensure access by offenders to newly developed housing
- Participate in meetings of local housing groups or coalitions to advocate for development of new or access to existing housing for offenders
- Facility or co-facilitate Tenant Responsibility Training and Case Management Housing training in parole offices or facilities assigned
- Track data reflecting number of offenders served/cases worked; number of offenders placed through your services; landlords or property managers with whom new relationships are made including number of units made available; CFBOs with whom partnerships are established and the services accessed thereby; and otherwise as requested by KDOC
- Participate in Point in Time counts conducted by the statewide housing coalition
- Provide information for grant applications as requested regarding housing needs of offenders in counties of responsibility
- Participate in presentations at state and national conferences regarding reentry and offender housing

KDOC Support

- Respond to questions and requests for technical assistance by Housing Specialists
- Participate in Housing Task Force meetings
- Pull data from data system for baseline data on housing stability to provide to Housing Specialists; pull follow up data to determine impact
- Provide evaluation services for work of Housing Specialists through KDOC Evaluation Coordinator
- Conduct quarterly meeting with Housing Specialists
- Participate in meetings with developers when KHRC identifies an available partner as needed
- Participate in presentations as needed regarding housing offenders
- Maintain data base of participants in Tenant Responsibility training
- Provide logistics support for training of trainers for Tenant Responsibility training
- Issue certificates to offenders who complete Tenant Responsibility training

Attachment C

State of Kansas
Department of Administration
DA-146a (Rev. 2-03)

CONTRACTUAL PROVISIONS ATTACHMENT

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

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

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 1st day of July, 2010.

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

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

3. **Termination Due to Lack of Funding Appropriation or Budget Rescission or Allotment:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. If, in the judgment of the Secretary of the state agency party, as a result of a budget rescission ordered by the Governor, or a budget allotment ordered by the Secretary of Administration, insufficient funds remain to support the function performed in this agreement and for payment of charges hereunder, State may terminate this agreement upon giving 30 days' written notice. In the event of termination due to any circumstance set forth above, Contractor shall have the right to take possession of any equipment provided State under the contract, upon the effective date of termination. State will pay to the contractor all regular contractual payments incurred up to the effective date of termination, plus contractual charges, if any, incidental to the return of any such equipment. Upon termination of the agreement by the State, title to any such equipment shall revert to the contractor upon the effective date of termination. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

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

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

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

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

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

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

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

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

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

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

CITY OF WICHITA
City Council Meeting

July 7, 2009

TO: Mayor and City Council Members

SUBJECT: Settlement of Lawsuit

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment.

Background: This claim arose from the November 20, 2007 police response to a call at the residence of Donnell Williams. It alleges that the officers had acted improperly and that he incurred personal injuries as a result.

Analysis: The claimant has offered to accept a lump sum payment of $50,000.00 as full settlement of all his claims against the police officers and the City. Because of the uncertainty and risk that the judgment at trial, plus a potential award of attorney fees to plaintiff, would exceed this amount, the Law Department recommends acceptance of the offer. The settlement of this claim does not constitute an admission of liability on the part of the City or the officers. Rather, it is merely a settlement to resolve a long disputed claim.

Goal Impact: Payment of the negotiated sum contributes to the City goal of providing a safe and secure community. It provides certain resolution to a contingent liability.

Financial Considerations: Funding for this settlement payment is from the City's Tort Claims Fund.

Legal Considerations: The Law Department recommends acceptance of the offer of settlement.

Recommendations/Actions: It is recommended that the City Council authorize payment of $50,000.00 as a full settlement of all possible claims which were made or could have been made in the claim.

Attachments: None.

Agenda Item No. XII-15.

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: Landfill Gas Collection System for the closed Chapin Landfill (District III)

Initiated By: Department of Public Works

Agenda: Consent

Recommendation: Approve the construction and necessary transfers.

Background: On June 25th, 2008, migrated landfill gas (LFG) was discovered adjacent to Chapin Landfill. On July 22, 2008, the City Council officially declared a public exigency and approved expenditures up to $500,000 to address immediate concerns. Burns and McDonnell Engineering Company were initially engaged to develop a landfill gas remediation plan, and later to design the permanent landfill gas collection system. Design of the LFG collection system is nearing completion and staff is preparing to request formal bids for the construction.

Construction will be completed in two phases, with separate bids being obtained for each phase. A majority of the collection system will be installed during the first phase, and then temporarily operated using a rented blower unit. Once sufficient performance data has been obtained, a permanent blower-flare unit will be sized and installed during the second phase.

Analysis: A LFG collection system at Chapin Landfill is a requirement of the Kansas Department of Health and Environment.

Financial Consideration: The construction estimate is $700,000. Funds are available in the Landfill Post Closure Budget to address the cost of the system.

Goal Impact: Expenditures which address LFG migration support the Safe and Secure Communities Goal by ensuring the continued safety of the citizenry.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve construction of the LFG collection system, and authorize the necessary budget transfers.

Attachment: None.

City of Wichita
City Council Meeting
July 7, 2009

TO: Mayor and City Council

SUBJECT: Diesel Emissions Reductions Grants (All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendations: Affirm the grant applications.

Background: The Department of Energy (DOE) has a grant program for reducing dependence on petroleum and improving environmental quality through the use of alternative fuels, emission reduction technologies, and fuel use reduction technologies. Additionally, the Kansas Department of Health and Environment (KDHE) has grant funds available for diesel emissions reductions.

Analysis: In order to meet grant application deadlines, grant requests have been submitted for both grants. The DOE grant requests $738,000 to upgrade eighteen medium-duty trucks to hybrids, with a City match of $1.98 million. The KDHE grant requests $500,000 to accelerate the replacement of several heavy fire apparatus, with a City match of $1.8 million.

Both grants are intended to distribute stimulus funds to improve air quality. It is anticipated that the grants will assist the City in continuing to meet EPA mandated air quality standards, and will reduce the amount of fuel consumed in the course of City operations.

Financial Considerations: The funding sources for the City matches are projects included in the Adopted 2007-2016 Capital Improvement Program (CIP). The match for the DOE grant is the 2010 Fleet Heavy Apparatus Replacement Project, and the match for the KDHE grant is the 2009 Fire Apparatus Replacement Project.

Goal Impact: Replacement of heavy equipment and fire apparatus directly supports the Efficient Infrastructure, Core Area/Neighborhoods, and Safe and Secure Community Goals.

Legal Considerations: The City Council must approve grant requests in excess of $25,000.

Recommendation/Actions: It is recommended that the City Council affirm the grant applications.

Attachment: None.

Second Reading Ordinances for July 7, 2009 (first read on June 23, 2009)

ZON2009-11 – City zone change from GO General Office ("GO") to OW Office Warehouse ("OW") with a Protective Overlay ("PO"); generally located southeast of the intersection of Oak Knoll Street and Pawnee Avenue, approximately 1/3 mile east of Rock Road.

ORDINANCE NO. 48-358

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.

2007/2008 Side walk and Wheelchair Ramp Program.

ORDINANCE NO. 48-359

An Ordinance amending Ordinance No. 47-674 of the City of Wichita, Kansas declaring 13th, between Gatewood and Webb; Macarthur, between Broadway and Laura; Oliver, between 17th and 21st; rock, between the Union Pacific railroad tracks and 45th Street North; Lincoln, between Bluff and Bluffview; 21st street at the bike path link west of Maize; Meridian, between 31st Street South and I-235; Tyler, between 29th Street North and Maize School and Arkansas, between 42nd Street North and 45th Street North. 2007/2008 Sidewalk and Wheelchair Ramp Program (472- 84604) to be main trafficways within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficways; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.