REVISION:
ITEM XII-25 PULLED

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. October 21, 2008

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 October 7, 2008 and minutes of the special meeting on October 13, 2008.

AWARDS AND PROCLAMATIONS

-- Proclamation:

Red Ribbon Week

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. Gordon J. Bakken-Allow Political Signs on City Property for one month prior to Election.

2. Richard Lewis-Prayer and Pledge of Allegiance in public schools.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

None

III. NEW COUNCIL BUSINESS

1. Ordinance Amending the City of Wichita Electrical Code. (Title 19 of the Code of the City of Wichita)

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

2. Parking Lots and Entry Drives. (Districts I, II, and III)

   RECOMMENDED ACTION: Approve the Bonding Resolution; authorize initiation of the project; and authorize all necessary signatures.

3. Sim Park Improvements. (District VI)

   RECOMMENDED ACTION: Approve the Bonding Resolution and authorize initiation of the project.

4. Water Main Benefit Fee.

   RECOMMENDED ACTION: Approve the Ordinance; place the Ordinance on first reading; and authorize the necessary signatures.

5. Improvement to West Street, between Maple and Central. (Districts IV and VI)

   RECOMMENDED ACTION: Approve the project and place the Ordinance on First Reading.

6. Pave Siefkin in Spring Acres Addition, north of 13th, west of Woodlawn. (District I)

   RECOMMENDED ACTION: Approve the Petition, adopt the Resolution 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

None

V. CONSENT PLANNING AGENDA

1. *ZON2008-00044 – City zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR"); generally located north and west of the intersection of Douglas Avenue and Meridian Avenue. (District VI)

   RECOMMENDED ACTION: 1.Adopt the findings of the MAPC, approve the zone change and place the ordinance 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.)

2. *CUP2005-63 (DP-291) and ZON2005-49 – Extension of time to complete the platting requirement for the Cedar Creek Marketplace Commercial Community Unit Plan and a zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial. Generally located east of Greenwich Road and south of K-96. (District II)

   RECOMMENDED ACTION: Approve extension of platting deadline to August 7, 2009.

3. *VAC2007-00042 - Request to vacate a utility easement dedicated by separate instruments; generally located east of Hillside Avenue and south of Kellogg. (District III)

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

4. *VAC2008-00021-Request to vacate the restriction of uses in the plattor's text to allow additional uses in portions of platted reserves; generally located south of Central Avenue and east of 143rd Street East. (District II)

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

5. *SUB 2008-01-Plat of Bellechase Second Addition located on the east side of 127th Street East and north of Harry. (District II)

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

6. *DED 2008-08-Dedication of a Utility Easement located south of 37th Street and west of Hood. (District VI)

   RECOMMENDED ACTION: Accept the Dedication.

7. *DED 2008-09-Dedication of a Drainage and Utility Easement located west of Woodlawn and on the south side of 29th Street North. (District I)

   RECOMMENDED ACTION: Accept the Dedication.

8. *A08-12R Request by Jay W. Russell, of Heights, LLC, to annex land generally located east of Hillside Avenue, between 53rd Street North and 45th Street North, and isolated road segments. (Districts I, II, IV, V, and VI)

   RECOMMENDED ACTION: Approve the annexation request, place the ordinance on first reading, and authorize the necessary signatures.

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

1. *Wichita Water Utilities of the City of Wichita - Lease Agreement for Mid-Continent Waste Water Treatment Plant.

   RECOMMENDED ACTION: Approve the Agreement; and authorize the necessary signatures. (The Director of the Wichita Water Utilities will sign on behalf of the City of Wichita).

2. *Colonel James Jabara Airport, Joint Reseal Change Order No. 1.

   RECOMMENDED ACTION: Adopt a resolution granting an exception to the Change Order policy for this project, approve Change Order No. 1 with Airfield Maintenance and Repair, LLC and authorize the necessary signatures.

3. *2100 Block Airport Road Improvements.

   RECOMMENDED ACTION: Approve the separate projects and budgets.

4. *Temporary Communications Facilities License Agreement - Cox Business.

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

5. *Enterprise Leasing Company Southwest d/b/a Enterprise Rent-A-Car - Supplemental Agreement No. 1.

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

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. Selection of a delegate and alternate for voting eligibility at the NLC Annual Business Meeting, November 15, 2008, Orlando, Florida.

   RECOMMENDED ACTION: Select a voting delegate and alternate.

XI. COUNCIL MEMBER APPOINTMENTS

1.

   RECOMMENDED ACTION: Approve the Appointments

XII. CONSENT AGENDA

1. Report of Board of Bids and Contracts dated October 13 and 20, 2008. (See attached)

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

2. Applications for Licenses:

   None

3. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2008	(Consumption off Premises)
Yehia A. Robert	YMR Group Inc dba C&C Store	1131 East 47th Street South
Hisham Mubaidin	Food Mart Midwest LLC dba Food Mart	10723 West Highway 54
Connie Davis	C & T davis Corp dba Hillside Valero	248 South Hillside
Mong Nguyen	Discount Cigarettes	2160 South Broadway
Renewal	**2008**	**(Consumption on Premises)**
Wyane L. Smith	Wichita Canteen Company, Inc*	1845 Fairmount
New	**2008**	**(Consumption on Premises)**
Brian Johnson	WC's Grill*	521 East Harry

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

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

4. Preliminary Estimates: (See attached)

   RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:
   a. Storm Water Sewer in Foliage Center Addition, north of 13th, west of Webb. (District II)

   RECOMMENDED ACTION: Approve Petition; adopt resolution.

6. Deeds and Easements:

   None

7. Statement of Costs:

   None.

8. Consideration of Street Closures/Uses.

   a. Frostbite Regatta November 2, 2008 6:00 am – 6:00 pm, Riverside Park. (District VI)
      Nims Street Bridge, Murdock Street to Ralph Wulz Riverside Tennis Center driveway.

   b. 2008 Frosty 5K Fun Run January 1, 2009 10:00 am – 3:00 pm. (District VI)
      3rd Street, Market Street to Waco Avenue
      Waco Avenue, 3rd Street to 1st Street
      Lewis Street Bridge, Wichita Street to McLean Blvd. (not including intersections)

RECOMMENDED ACTION: Approve request subject to : 1) hiring off-duty certified law enforcement officers as required: 2) obtaining barricades to close the streets in accordance with requirements of Police, Fire, and Public Works Department; and 3) Certificate of Liability Insurance on file with the Community Events Coordinator.

9. Agreements/Contracts:
   a. Right-of-Way Agreement. (Union Pacific Railroad) (District I)

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

10. Design Services Agreement:

None

11. Change Orders:
   a. 13th/Broadway Intersection Improvement. (District VI)

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

12. Property Acquisition:
   a. Acquisition of 226 East 21st Street North and Partial Acquisition of 2201 North Broadway for the Intersection Improvement Project at 21st and Broadway. (District VI)

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

13. Minutes of Advisory Boards/Commissions

District Advisory Board I, August 4, 2008
Board of Appeals of Plumbers and Gas Fitters, July 9, 2008
Board of Appeals of Plumbers and Gas Fitters, August 6, 2008
Board of Park Commissioners, July 14, 2008
Board of Park Commissioners, August 11, 2008
Board of Appeals of Plumbers and Gas Fitters, September 10, 2008

RECOMMENDED ACTION: Receive and file.

14. Repair or Removal of Dangerous and Unsafe Structures

Property Address	Council District
a. 1327 North Ohio	I
b. 2001 East 21st North	I

RECOMMENDED ACTION: Adopt the resolutions to schedule public hearings before the City Council on December 2, 2008 at 09:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

15. September 2008 Monthly Report to Council.

RECOMMENDED ACTION: Receive and file.

16. Report of Claims for September 2008. (See attached)

RECOMMENDED ACTION: Receive and file.

17. Payment of Judgment.

RECOMMENDED ACTION: Direct payment of $106,773.66 to the federal district court for application to the judgment awarded in case no. 01-1226-JTM, and further authorize the necessary budget adjustments.

18. Resolution: Design and construction of the International Marketplace District (NOMAR) streetscape improvements (in the vicinity of Market /Broadway and 21st Street). (District VI)

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

19. Resolution: Design and construction of an outdoor public market element of a Mercado (NOMAR) Public Market facility on city property along 21st Street North, between Market and Broadway. (District VI)

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

20. Performance Contracts for Arts and Cultural Funding.

    RECOMMENDED ACTION: Approve 33 performance contracts for Tier I, Tier II, and Tier III arts and cultural organizations.

21. Renewal of SRS Purchase of Service Agreement.

    RECOMMENDED ACTION: Approve renewal of the SRS Provider Agreement and authorize the necessary signatures.

22. Chapin Park Improvements. (District III)

    RECOMMENDED ACTION: Approve the Bonding Resolution and authorize initiation of the project.

23. Lease of 321 North Mead for Wichita Police Department. (District VI)

    RECOMMENDED ACTION: Approve the lease, authorize necessary signatures and approve budget adjustments as required.

24. North Woodland Park Improvements. (District VI)

    RECOMMENDED ACTION: Approve the Amended Bonding Resolution.

25. City Of Wichita Special Liquor Tax Grant.

(PULLED PER HOLDEMAN/WILLIAMS)

26. Police Helicopter Repairs.

    RECOMMENDED ACTION: Approve public exigency and the sole source purchase from MDHI for the replacement helicopter transmission.

27. Parking Lots and Entry Drives. (Districts I and IV)

    RECOMMENDED ACTION: Approve the Bonding Resolutions and authorize the necessary signatures.

28. Second Reading Ordinances: (First Read October 7, 2008)
    a. Second Reading Ordinances (See attached)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

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

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendation: Approve first reading of the ordinance amending the City of Wichita Electrical Code (Title 19 of the Code of the City of Wichita).

Background: The National Electrical Code (NEC), published by the National Fire Protection Association, is revised and updated every three years in order to keep current with changing industry equipment, standards and practices; the 2008 Edition of the NEC is the most current. Presently, the City of Wichita is enforcing the 2005 Edition of the NEC, as adopted and amended in Title 19 of the Code of the City of Wichita.

The Board of Electrical Appeals (Board) and Office of Central Inspection reviewed the 2008 Edition of the NEC over an eight-month period, beginning in January 2008. The Board and staff solicited input from various electrical trade organizations, the Wichita Area Builders Association (WABA) and other interested individuals. At its September 9, 2008 meeting, the Board voted unanimously to recommend approval of the attached ordinance, which amends the Electrical Code (Title 19) to adopt the 2008 NEC, with local amendments.

Analysis: Most recommended Electrical Code amendments simply clarify the intent of certain code provisions, or further codify local procedures and/or policies, many of which have been in place for several years. However, there are several significant changes recommended by the Board and staff, which are explained below.

- Both the 2005 and 2008 NEC require that receptacles in garages, in unfinished portions of basements, and in other accessory structures be protected by Ground Fault Circuit Interrupters (GFCIs). However, the 2005 NEC exempted sump pumps and sewer ejector pumps from GFCI protection; the 2008 NEC does not include such an exemption. Over many years, there have been no documented cases of shock hazard or other electrical injury from sump pumps or sewer ejector pumps. Both the Board and staff believe that requiring GFCI protection for sump pumps and sewer ejector pumps would dramatically increase flooding and sewer backup potential in Wichita, without increasing electrical safety protection. The Board and staff recommend that sump pumps and sewage ejector pumps be exempted from GFCI requirements set forth in the 2008 NEC.

- The 2008 NEC requires that all 120-volt circuits (except in kitchens, bathrooms and unfinished basements) be protected by Arc-Fault Circuit Interrupters (AFCIs); the 2005 NEC required AFCI protection for bedroom circuits only. Both the Board and staff recommend that Wichita continue to require AFCI protection for bedroom circuits only. The Board and staff believe this newer AFCI technology should be allowed more time to advance and improve before requiring its use in other rooms. The Board and staff intend to review this matter closely during the 2011 NEC review in 2011.

- The 2008 NEC requires that receptacles be installed on decks and balconies larger than twenty square feet; the 2005 NEC did not require this. Both the Board and staff recommend that the new 2008 NEC requirement be adopted. This additional requirement should significantly reduce safety hazards related to the use of extension cords to connect deck or balcony electrical equipment and/or appliances to interior receptacles.

- The 2008 NEC requires de-rating of NM cable ampacity when two (2) or more NM cables are installed through wood framing members, and bored holes are sealed with caulking or insulation; the 2005 NEC did not require this de-rating. Most builders seal holes bored in framing members (for wiring installation) in order to prevent infiltration of air from basement or attic spaces into exterior walls; by sealing the holes, contractors improve the efficiency of air conditioning and heating systems. Both the Board and staff believe such de-rating of NM cable is unnecessary (having never found this to be a safety hazard or concern in the Wichita area). Since the new requirement could significantly increase the cost of wiring a home, without providing additional safety protection, the Board and staff recommend elimination of this new 2008 NEC requirement.

- The 2008 NEC requires the use and installation of tamper resistant receptacles in dwelling units; the 2005 NEC did not require these receptacles. Both the Board and staff recommend that this new 2008 NEC requirement be adopted by Wichita, primarily due to the proven, additional electrical shock safety protection provided for children.

.

- The 2008 NEC has removed the previous forty-two circuit limit for electrical panels, which was included in earlier editions of the NEC. Both the Board and staff concur with the modified 2008 NEC requirement, and recommend adoption of the 2008 NEC requirement as written.

Financial Considerations: There are no proposed amendments to Wichita Electrical Code (Title 19) permit, license, certification or examination fees.

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. The proposed Electrical Code ordinance amendments support the "Provide a Safe and Secure Community" goal by ensuring that Wichita adopts and follows the most current national electrical equipment and installation standards, and that electrical contractors and installers obtain appropriate testing, training, certification and insurance; obtain required permits inspections; and provide adequate job site and installation supervision.

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

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

Attachment: Delineated Ordinance

First Published in The Wichita Eagle on _____

DELINEATED 09/09/2008

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.150, 19.08.171, 19.12.010, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.140, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS; CREATING SECTIONS 19.08.005, 19.12.085, 19.12.125, 19.12.135, 19.12.165, 19.12.175, 19.12.220, 19.22.085, 19.22.095, 19.22.195, AND 19.22.290; OF THE CODE OF THE CITY OF WICHITA, KANSAS, AND REPEALING THE ORIGINALS OF SECTIONS 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.060, 19.08.150, 19.08.171, 19.12.010, 19.12.040, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020; ALL PERTAINING TO THE ELECTRICAL CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 19.08.005 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Electrical license—Required.** It is unlawful for any person to engage in the business of the installation of electric wiring or of the installation of electrical equipment, devices or apparatus for light, heat, or power purposes in or on any building or premises within the city without having secured an electrical license from the superintendent of central inspection."

SECTION 2. Section 19.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Master and journeyman electricians' certificates—Required. It is unlawful for any person to engage in the business of electrical contracting without first having secured a master electrician's certificate as provided for in this title. The master electrician shall be responsible for all electrical work encompassed in the inspection requested by and/or on the permit issued to his company.

It is further unlawful for any person to engage in the trade or otherwise perform the act of installing electrical wiring or raceways for equipment, apparatus or devices for light, heat or

power, or other purposes within or on any building or premises within the city without first having secured a master electrician's certificate or a journeyman electrician's certificate as herein provided for and both be in the employ of a licensed electrical contractor. A holder of a residential ~~journeyman~~ wireman electrician's certificate may perform the act of installing any and all electrical wiring within or on one- and two-family dwellings only and must be in the employ of a licensed electrical contractor.

The following exception shall be allowed: Except as provided for in Sections 19.08.061 and 19.08.140 hereof."

SECTION 3. Section 19.08.015 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Apprentice electrician and/or electrical helper.

(a) ~~No person issued an electrical contractor's license shall allow any apprentice~~ Apprentice electricians or helpers shall be permitted to perform the act of or install any electrical work within the city ~~unless~~ when he or she is on the job site with and under the supervision of a master, ~~or~~ journeyman or residential wireman electrician certified by the city and both be in the employ of a licensed electrical contractor. If an apprentice electrician or helper works without the required supervision, both the electrical contractor license holder and the apprentice electrician/helper shall be guilty of this offense.

(1) "Job site" is defined as the property that an individual permit is issued for.

(b) A numeric ratio of apprentices or helpers to certified city master, ~~or~~ journeyman or residential wireman electricians on any one job site shall not be greater than four apprentices and/or helpers for each certified electrician."

SECTION 4. Section 19.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Application—Examination. Applications for examination for a master electrician's certificate or a journeyman electrician's certificate or a residential ~~journeyman~~ wireman electrician's certificate shall be made to the office of central inspection.

Applicants for master electrician examination shall provide written documented proof of having a valid journeyman electrician certificate for a minimum of two years.

Applicants for journeyman electrician and residential ~~journeyman~~ wireman electrician examination shall provide written documented proof of at least two years field experience in the electrical construction industry. ''Field experience'' means working under the direct supervision of a person having a valid journeyman certificate or master certificate or attending an accredited electrical trade school. No more than one year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of 240 hours classroom training. Documentation shall be the following:

(1) written letter on company letterhead from employer(s) stating job description and dates of employment and signed by a person qualified in the electrical trade;

(2) copy of a transcript or attendance record from an accredited electrical trade school. The electrical examination will be administered in accordance with K.S.A. 12-1525 and amendments thereto, with a minimum passing score of seventy-five percent.

SECTION 5. Section 19.08.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Reciprocity. Any person with written proof of successful ~~completions~~ completion of the required electrical master, journeyman or residential ~~journeyman~~ wireman electrician test pursuant to K.S.A. 12-1525 and amendments thereto, with a minimum score of seventy-five percent and with proof of having obtained, since January 1, 2006, not less

than 12 hours biennially of continuing education approved by the Office of Central Inspection, shall be issued the appropriate license by the City of Wichita. The Office of Central Inspection shall establish a uniform fee to be charged all applicants for licenses."

SECTION 6. Section 19.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Renewal.

(a) The fee for an examination and original certificate for a master electrician, journeyman electrician or residential ~~journeyman~~ wireman electrician shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. This fee shall be paid to the office of central inspection when the application for an examination is made. ~~The biennial fee for all certificates shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates.~~ All such certificates shall expire on the thirty-first of December of each odd-number year. The biennial fee for the renewal of all certificates shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates.

(b) The applicant must provide written proof of having completed biennially not less than 12 hours of continuing education approved by the Office of Central Inspection. Continuing education may be provided by the Office of Central Inspection or a nationally recognized trade association, community college, technical school or technical college. All 12 hours of education may consist of code up-date training on the electrical code currently adopted.

(c) Any holder of a certificate who fails to renew the same by March 1st from the date of expiration ~~may~~ shall be required to ~~take a new examination before receiving a new certificate.~~ submit one of the following:

(1) Proof of passing a new examination as required per Section 19.08.020 or;

(2) Proof of completing an additional 1 ½ hours of continuing education for each 3 month period the renewal is late and only when the original certificate was issued pursuant to K.S.A. 12-1525."

SECTION 7. Section 19.08.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Electricians' certificates—Contractor's license—Revocation.

(a) The board of electrical appeals is authorized to cancel and recall the certificate of any master electrician, journeyman electrician or residential ~~journeyman~~ wireman electrician for any or all of the following reasons:

(1) Committing of any act in violation of any provisions of this code or any other ordinance of the city, or the refusal or failure to comply with any lawful and reasonable order of the code official or inspector;

(2) Misrepresentation of a material fact by the applicant in obtaining a certificate;

(3) Carelessness or negligence in providing reasonable safety measures for the protection of the public.

(b) The board of electrical appeals is authorized to cancel and recall the license of any electrical contractor for any or all of the following reasons:

(1) Abandonment of any contract without legal cause;

(2) Diversion of funds or property received for performance or completion of a specific contract for a specified purpose, in the performance or completion of any contract, and application or use for any other contract, obligation or purpose, or the failure, negligence or refusal to use such finds or property for the performance or completion of said contract;

(3) Committing of any act in violation of any provisions of this code or any other ordinance of the city, or the refusal or failure to comply with any lawful and reasonable order of the code official or inspector;

(4) Misrepresentation of a material fact by the applicant in obtaining a license;

(5) Failure of any contractor to fully certify all claims for labor and material used in the performance of any work for which he has been engaged or for which he has been paid;

(6) Use of any license to obtain a permit for another as set forth in Section 19.08.120 of this code;

(7) Carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public;

(8) Failure to obtain permits as required in Section 19.08.150 of this title;

(9) Unreasonable delay in the performance and carrying out of any contract;

(10) Failure by the licensee, if a firm, co partnership or corporation, to have at least one active member or officer who has qualified as and has a master's certificate as provided in Section 19.08.070 of this code.

(11) Failure to have the required supervision for apprentice electrician or helper as set forth in Section 19.08.015 of this code;

(12) That the license holder is in arrears on payment of electrical permit and/or re-inspection fees.

(c) Upon presentation by the code official to the board of electrical appeals of charges against any holder of any certificate, as set forth in this section, the board of electrical appeals shall fix a time and place for a meeting to consider such charges and shall notify the holder of such certificate to be present at such meeting. Such notification shall be in writing and shall be presented to the holder at least five days in advance of the meeting. If upon full hearing of all evidence by the board of electrical appeals it shall be decided that such holder of a certificate has been guilty of any of the actions as hereinbefore set forth in this section, then the board shall have the power to place on probation for a specified time period, temporarily suspend or permanently revoke the license or certificate of the holder thereof.

(d) When a certificate of a person has been revoked, a new certificate shall not be granted until he shall have corrected the violation in accordance with this code or any ordinance of the city and shall have made application and have passed an examination as required for the original certificate.

SECTION 8. Section 19.08.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Electrical permit required—Fees listed.** It is unlawful for any person to do or cause to be done any electrical wiring for light, heat or power within any building or on any premises in the city without first obtaining a permit from the office of central inspection. Applications for permits shall be made on forms furnished by the office, duly executed and signed by a person properly authorized to obtain permits for the applicant, which application may be presented in person or by mail, accompanied by the fee as listed below:

Ordinary branch circuits on new construction or remodeling:

120 volt circuits, each $2.00

277 volt circuits, each $2.25

Heating appliances less than 4500 watts, each $3.00

Light fixtures or lamp holders, each $0.75

Motors:

1 HP or smaller, each $5.00

Over 1 HP, each $7.00

Water well motor, each $7.00

Special circuits and additions:

Electric ranges and all heating devices over 4500 watts, each $9.00

Hot Tubs/Sauna, each $15.00

Clothes dryers, each $9.00

Special power outlets, or feeder circuits, each $10.00

Signs, each circuit $7.00

Outlets added to existing circuits $0.75

Transformers, each $12.00

Services:

480 volts or less:

100 amperes or less, per meter $12.00

each additional ampere $0.06

Construction service, per meter $15.00

Re-inspection – Discontinued service, per meter $12.00

Over 480 volts:

Each service entrance $75.00

Construction Service $30.00

Miscellaneous $15.00

Permit Issuance Fee $18.00

Minimum charge for one permit $25.00

Provided also that electrical work done in conjunction with a building project covered by a building permit for a one- or two-family dwelling new construction, repair, remodel or addition is covered and permitted under the authority granted by the building permit and does not require a separate electrical permit. A separate electrical permit is required if a water well motor is installed or will be installed.

Provided, however, permit fees for one- and two-family dwellings shall be established in accordance with the fee schedule as set forth in the applicable section of the currently adopted City of Wichita Building Code. The evaluation used to determine the amount of the permit fee to be used shall be seven percent of the total valuation of a one- or two-family dwelling as

determined by the superintendent of central inspection. A separate fee established by the Superintendent of Central Inspection to cover the administrative costs may be assessed for each construction service to the building site. Payment shall be made by the general contractor at the time a building permit is issued.

A separate electrical permit is required if work requiring a permit and inspection as defined in the code is begun more than one hundred eighty days from the date of the issuance of the building permit.

A separate electrical permit shall be required for each building or tenant space with an electric meter, and anytime a separate electric meter is installed.

Exception: One- and two-family dwellings or multi-family dwellings when such dwelling units are not individually owned.

Any person who installs any electrical wiring for which a permit and inspection are required and who fails to report the same as ready for inspection when such work is completed shall pay a special permit fee of double the amount of the permit issuance as listed above.

Where extra inspections are made because of faulty construction or failure to make necessary repairs, a fee established by the Superintendent of Central Inspection to cover the administrative costs may be charged for each inspection."

SECTION 9. Section 19.08.171 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Insurance required.** Every electrical, ~~mobile home service electrical,~~ elevator or handicapped accessibility lifts contractor licensed under this title shall procure and maintain a policy of general liability insurance covering the activities of the ~~electrical~~ contractor while engaged in contracting hereunder. Such insurance policy shall be written with an insurance company licensed to do business in the state and shall have minimum limits of coverage of three hundred thousand dollars per occurrence. In addition, every such electrical, ~~mobile home service electrical,~~ elevator or handicapped accessibility lifts contractor shall procure and maintain

worker's compensation insurance as required by law and automobile liability insurance as required by law. Every contractor licensed under this title shall, prior to the issuance of a license, file with the office of central inspection certificates of insurance evidencing the insurance coverage specified herein. All such certificates shall indicate that the city shall be given at least thirty days advance written notice of any cancellation or material change in coverage of such insurance. Failure of an electrical, ~~mobile home serviceman electrical,~~ elevator or handicapped accessibility lifts contractor to either procure or maintain such insurance shall be grounds for suspension or revocation of their contractor's license and certificate."

SECTION 10. Section 19.12.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Installation standards.** All electrical installations made within the city shall be in strict conformity with the provisions of this title~~ and with the approved standards of construction for safety to life and property~~. If sections contained within this title, in a given situation, do not prescribe a specific type or class of material or specific standards of construction, then the standards as set forth and contained in the National Electrical Code, ~~2005~~ 2008 Edition, as published by the National Fire Protection Association as N.F.P.A. No. 70-~~2005~~ 2008, as presently constituted and as may be hereinafter amended, shall apply with the exception of Section 110.16; Section 200.6(d); Section 210.4(b); Section 210.5(c); Section 210.12; Section 210.52(c)(1); Section 230.40; Section 250.68(a) Exception No. 2; Section 590.6(b)(2); Section 300.11(a)(2); Section 314.28; Section 334.10; Section 334.12(a)(1) Exception; Section 334.40(b); Section 334.80; Section 406.4(e); Section 406.8(b)(1)&(2); Section 600.3; and Section 680.8~~(a)~~; of such publication. Said N.F.P.A. No. 70-~~2005~~ 2008, was adopted by the National Fire Protection Association on ~~May 26, 2004~~ June 7,2007, and received the approval of the American National Standards Institute on August ~~5, 2004~~ 15, 2007. By this publication, all provisions of such publication, with noted exceptions, are adopted by reference

and made a part of the Code of the City of Wichita, Kansas, and this title as though fully set forth herein."

SECTION 11. Section 19.12.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Section 230.40 amended.** Section 230.40 of the ~~2005~~ National Electrical Code shall be amended to read as follows:

Number of Service-Entrance Conductor Sets. Each building shall be supplied by only one service drop or lateral. Each service drop or lateral shall supply only one set (or sets where connected in parallel) of service-entrance conductors. All service-entrance conductors shall terminate at the same location.

Exception~~:~~ #1: ~~A single-family dwelling unit and a separate structure shall be permitted to have one set of service-entrance conductors run to each from a single service drop or lateral.~~ Where two to six service disconnecting means in separate enclosures are grouped at one location, one set of service-entrance conductors shall be permitted to supply each such service equipment enclosure.

Exception #2: A two family dwelling unit without an approved area separation wall as defined by the currently adopted City of Wichita Building Code, and served from one service drop or lateral, shall be permitted to have one set of service entrance conductors run to each dwelling unit without the mains from both units being located together."

SECTION 12. Section 19.12.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Services~~—Maximum amps, volts, etc~~.

A. ~~Downtown underground district requirements. Raceways extending from the utility company's handhold or vault into the building shall be a minimum of four-inch trade size.~~

~~Exception: For temporary construction services and permanent services for small buildings, billboards and signs, permission may be granted by the electrical inspector to install raceways of smaller size.~~

~~Services of three or more sets of parallel conductors, shall be installed with cable limiters of proper size in each phase conductor, located adjacent to and on the line side of the main service disconnecting means.~~

~~B.~~ Service Length. Unfused service entrance conductors shall not be extended more than fifteen feet inside any building.

~~C~~B. Service Disconnects. Main disconnects shall be installed on the load side of the utility company's meters where not more than six meters and service equipment are grouped together. Where there is an existing main disconnect ahead of six meters or less and all the services are completely revamped, the main disconnects shall be relocated on the load side of the meters.

SECTION 13. Section 19.12.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Section 210.52(c)(1) exception amended.** Section 210.52(c)(1) exception of the ~~2005~~ National Electrical Code shall be amended to read as follows:

Exception: Receptacle outlets shall not be required on a wall directly behind a range or sink."

SECTION 14. Section 19.12.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Concrete-Encased electrode.** The grounding electrode conductor to a concrete-encased electrode shall be not less than that required in Table 250.66 of the National Electrical Code."

SECTION 15. Section 19.12.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Color code~~—Branch circuits~~.** Where installed in raceways, as cable or as open work, ~~the~~ all conductors ~~of multiwire branch circuits and two-wire branch circuits~~ connected to the same system shall conform to the following color code:

Three-phase, four-wire 120/208 volt – phase A - black, phase B - red, phase C – blue, grounded conductor - white;

Three-phase, four-wire 277/480 volt—phase A - brown, phase B - orange, phase C – yellow, grounded conductor - gray.

The grounded conductor of a three wire 240 volt delta system shall be identified by alternating white and red stripes encircling the conductor.

The grounded conductor of a three wire 480 volt delta system shall be identified by alternating gray and orange stripes encircling the conductor.

Ungrounded circuit conductors used as travelers between 3-way and 4-way switches may be of colors other than those specified.

All conductor sizes 6 AWG or smaller shall be identified by a continuous outer finish along its entire length. Sizes larger than 6 AWG shall be identified, at time of installation, by distinctive color markings at its terminations. This marking shall encircle the conductor or insulation.

All circuit conductors of the same color shall be connected to the same ungrounded ~~feeder~~ conductor throughout the premises wiring system(s)."

SECTION 16. Section 19.12.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Smoke detector requirements.** Reference shall be made to the appropriate sections of Title 15 and Title 18 of the ~~currently adopted~~ Code of the City of Wichita ~~Building Code for installation location in dwelling units and sleeping areas of hotels and lodging houses~~."

SECTION 17. Section 19.12.125 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Type NM, NMC and NMS cable ampacity.** The ampacity of Types NM, NMC, and NMS cable shall be determined in accordance with 310.16. The ampacity shall be in accordance with the 60°C (140°F) conductor temperature rating."

SECTION 18. Section 19.12.135 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Type NM, NMC and NMS cable ran exposed in unfinished basements.** Article 334.15(c) of the National Electrical Code shall be amended to read:

(C) In Unfinished Basements. Where cable is run at angles with joists in unfinished basements, it shall be permissible to secure cables not smaller than two 6 AWG or three 8 AWG conductors directly to the lower edges of the joists. Smaller cables shall be run either through bored holes in joists or on running boards. NM cable installed on the wall of an unfinished basement shall be permitted to be installed in a listed conduit or tubing or shall be protected in accordance with Article 300.4. Conduit or tubing shall be provided with a suitable insulating bushing or adapter at the point the cable enters the raceway. The NM cable sheath shall extend through the conduit or tubing and into the outlet or device box not less than 6 mm (1⁄4 in.). The cable shall be secured within 300 mm (12 in.) of the point where the cable enters the conduit or tubing. Metal conduit, tubing, and metal outlet boxes shall be connected to the equipment grounding conductor."

SECTION 19. Section 19.12.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Ceiling grid support wires. The following is added to the section 300.11(A)(2) of the ~~2005~~ National Electrical Code:

Exception No. 2: MC cable or flexible metal conduit may be attached to the ceiling grid support wires serving lighting fixtures located within the ceiling grid area where all the following conditions apply.

1. The MC cable or flexible metal conduit must not be larger than trade size ½ inch.

2. Only a single MC cable or flexible metal conduit may be attached per ceiling grid support wire.

3. Only clips or devices approved for the purpose may be used to attach the MC cable or flex to the support wires."

SECTION 20. Section 19.12.165 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Sewage ejector pumps and sump pumps.** In a dwelling, ground fault circuit interrupter protection shall not be required on a sewage ejector pump or sump pump that is cord and plug connected to a single receptacle installed on a dedicated circuit."

SECTION 21. Section 19.12.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Conduit bodies.** Section 314.28 of the ~~2005~~ National Electrical Code shall be amended to read as follows: Boxes and conduit bodies trade size over 2 inch used as pull or junction boxes shall comply with 314.28(A) through (D)."

SECTION 22. Section 19.12.175 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Arc-Fault Circuit-Interrupter Protection.** (A) Definition: Arc-Fault Circuit Interrupter. An arc-fault circuit interrupter is a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and by functioning to de-energize the circuit when an arc fault is detected.

(B) Dwelling Unit Bedrooms. All 120-volt, single phase, 15- and 20-ampere branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit.

Exception: The location of the arc-fault circuit interrupter shall be permitted to be at

other than the origination of the branch circuit in compliance with (a) and (b):

(a) The arc-fault circuit interrupter installed within 1.8 m (6 ft) of the branch circuit overcurrent device as measured along the branch circuit conductors.

(b) The circuit conductors between the branch circuit overcurrent device and the arc-fault circuit interrupter shall be installed in a metal raceway or a cable with a metallic sheath."

SECTION 23. Section 19.12.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Nonmetallic-Sheathed Cable: Type NM, NMC, and NMS.** Uses permitted: Type NM, Type NMC and Type NMS cable shall be permitted to be used only in one- and two-family dwellings and their accessory structures and multifamily ~~apartment dwellings~~ dwelling units. The structure shall not exceed~~ing~~ three floors above grade. These structures shall be served only by single-phase services."

SECTION 24. Section 19.12.185 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Receptacles in countertops not to be installed face-up.** Section 406.4(E) of the ~~2005~~ National Electrical Code shall be amended to read as follows:

(E) Receptacles in Countertops and Similar Work Surfaces. Receptacles shall not be installed in a face-up position in countertops or similar work surfaces."

SECTION 25. Section 19.12.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Receptacles in wet locations.** Section 406.8(B)(1) & (2) of the ~~2005~~ National Electrical Code shall be amended to read as follows:

(B) Wet Locations. All 15- and 20-ampere, 125- and 250-volt nonlocking receptacles shall be listed weather-resistant type. All receptacles installed in a wet location shall comply with either of the following:

(1) A receptacle installed in a wet location, where the product intended to be plugged into it is not attended while in use, shall have an enclosure that is weatherproof with the attachment plug cap inserted or removed.

(2) A receptacle installed in a wet location where the product intended to be plugged into it will be attended while in use (e.g., portable tools) shall have an enclosure that is weatherproof when the attachment plug is removed."

SECTION 26. Section 19.12.195 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Pools shall not be located under overhead wiring.** Section 680.8~~(A)~~ of the ~~2005~~ National Electrical Code shall be amended to read as follows:

~~**(A) Power.**~~ The following parts of pools shall not be placed under existing ~~service-drop~~ electrical, communication, CATV, Network powered Broadband conductors or any other ~~open~~ overhead wiring; nor shall such wiring be installed above the following:

(1) Pools and the area extending 10 ft horizontally from the inside of the walls of the pool,

(2) Diving structure, or

(3) Observation stands, towers or platforms."

SECTION 27. Section 19.12.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Permitted use of multiplex cable.** Multiplex cable may be installed as an approved wiring method for outdoor aerial use only within the city of Wichita, with the following restrictions.

(a) Permitted for outside aerial use only.

(b) Minimum wire size shall be: ~~#6~~ #1 aluminum or #8 copper.

(c) In all cases, the phase conductors and the neutral conductor must be insulated and identified.

(d) The ampacity of the conductors must comply with the values for the respective size and conductor material as listed in the seventy-five degree column of the Ampacity Tables of the latest adopted edition of the National Electrical Code."

SECTION 28. Section 19.12.220 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Conduits exposed to sunlight on rooftops.** Where conductors or cables are installed in conduits with a horizontal length exceeding 6 feet and exposed to direct sunlight on or above rooftops, the adjustments shown in Table 310.15(B)(2)(c) shall be added to the outdoor temperature to determine the applicable ambient temperature for application of the correction factors in Table 310.16 and Table 310.18 of the National Electrical Code."

SECTION 29. Section 19.16.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Conductor requirements.** All mobile or manufactured home and accessory building wiring conductors rated two hundred amperes or less, including all service conductors ~~required to be installed by the licensed electrical contractor~~ that are not owned and maintained by the electrical utility company, shall be copper."

SECTION 30. Section 19.22.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Penalites for violations.** Any person violating any of the provisions of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or be imprisoned in the city jail not more than six months, or by both such

fine and imprisonment. Each and every day during which any violation of any provision of this title is committed, continued or permitted shall be deemed a separate violation."

SECTION 31. Section 19.22.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Elevator or handicapped accessibility lifts license—Required.** It is unlawful for any person to engage in the business of the installation or repair of elevators, handicapped accessibility lifts, dumbwaiters, escalators or moving walks in or on any building or premises within the city without having secured an elevator license from the superintendent of central inspection.

~~It is further unlawful for any person to engage in the trade or otherwise perform the act of installing or repairing elevator, handicapped accessibility lifts, dumbwaiters, escalators or moving walks within or on any building or premises within the city without first having secured a master electrical elevator's certificate as herein provided for and be in the employ of a licensed elevator contractor. The following exception shall be allowed:~~

~~Apprentices shall be permitted to work when accompanied by, and under the supervision of a master electrical elevator mechanic.~~"

SECTION 32. Section 19.22.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Master and journeyman electrical elevator certificates—Required.** It is unlawful for any person to engage in the business of elevator or handicap handicapped accessibility lifts contracting without first having secured a master electrical elevator certificate as provided for in this title. The master shall be responsible for all work encompassed in the inspection requested by and/or on the permit issued to his company.

It is further unlawful for any person to engage in the trade or otherwise perform the act of installing or repairing elevator, handicapped accessibility lifts, dumbwaiters, escalators or

moving walks within or on any building or premises within the city without first having secured a master or journeyman electrical elevator's certificate as herein provided for and be in the employ of a licensed elevator or handicap handicapped accessibility lifts contractor. The following exception shall be allowed:

Apprentices shall be permitted to work when accompanied by, and under the supervision of a master or journeyman electrical elevator mechanic."

SECTION 33. Section 19.22.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Elevators' certificates—Application—Examination—Renewal.**

Applications for examination for ~~an~~ a master electrical elevators certificate shall be made to the office of central inspection. Applicants for the electrical elevators examination shall provide written documented proof of at least two years practical experience in the elevator construction industry. Documentation shall be one of the following: (1) written letter on company letterhead from employer(s) stating job description and dates of employment; (2) copy of a transcript or attendance record from an accredited elevator trade school; (3) a written letter on a city letterhead from the building official or elevator inspection division of a city where the applicant is licensed as an elevator contractor, or is certified by that city as an electrical elevator master and stating the length of time of the certification or license.

The fee for an examination and original certificate for an electrical elevator master shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. This fee shall be paid to the office of central inspection when the application for an examination is made. Such certificate shall expire on the thirty-first of December of each odd-number year.

~~Any applicant submitting satisfactory proof of having been engaged in the trade of elevator installation or repair for a minimum of two years between January 1, 2002 and January 1, 2006 and who has demonstrated sufficient ability to comply with this code shall upon~~

~~approval of the board and payment of the required fee be issued a certificate without written examination.~~

The biennial fee for renewal of this certificate shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. ~~Such certificate shall expire on the thirty-first of December of each odd-number year.~~ Any holder of a certificate who fails to renew the same by March 1st from the date of expiration shall be required to take a new examination before receiving a new certificate.

A 90 day temporary journeyman electrical elevator certificate may be issued to an applicant providing documented proof of at least four years practical experience in the elevator construction industry. Documentation shall be one of the following: (1) written letter on company letterhead from employer(s) stating job description and dates of employment; (2) a written letter on a city letterhead from the building official or elevator inspection division of a city where the applicant is licensed as an elevator contractor, or is certified by that city as an electrical elevator master and stating the length of time of the certification or license. The fee for this certificate shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. Such certificates shall be limited to one in twenty-four months to each applicant."

SECTION 34. Section 19.22.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License—Issuance of elevator.** Any person, firm or corporation shall be issued an elevator license, provided such person or one active officer of the firm or corporation who devotes full time to that firm or corporation shall have submitted evidence and has qualified as to experience and ability in matters pertaining to the installation and maintenance of elevators. Such experience and ability must be confirmed by successful passage of an examination ~~relevant to elevators and related equipment~~ as required in Section 19.22.100. The fee for such license shall be one hundred dollars per year. The license shall expire on the thirty-first of December of

the year in which so issued. Licensees who have not renewed their license by January 31st of the year in which they are due shall pay a penalty of ten percent for each month they are delinquent in obtaining such renewal."

SECTION 35. Section 19.22.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License—Issuance of handicapped accessibility lifts contractor.** Any person, firm or corporation shall be issued an handicapped accessibility lifts license, provided such person or one active member or officer of the firm or corporation who devotes full time to that firm or corporation shall have submitted evidence of qualifications and experience and has been examined as required in Section 19.22.100 ~~and qualified as to experience and ability~~ in handicapped accessibility lifts. The fee for such license shall be one hundred dollars per year. The license shall expire on the thirty-first of December of the year in which so issued. Licensees who have not renewed their license by January 31st of the year in which they are due shall pay a penalty of ten percent for each month they are delinquent in obtaining such renewal."

SECTION 36. Section 19.22.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Alterations and repairs.** The following alterations and/or repairs require permits from the Office of Central Inspection:

(1) increase in rated load or speed;

(2) increase or decrease in dead weight of car;

(3) increase or decrease in travel;

(4) change in type of operation or control;

(5) replacement, change in size, length or number of suspension ropes, belts or chains;

(6) replacement, change in size or length of safety or governor ropes;

(7) replacement, change in size or type of guide rails;

(8) replacement, change in type or addition of a car or counterweight safety;

(9) change in power supply;

(10) replacement of an existing machine by a new driving machine;

(11) replacement of an existing governor by a new governor;

(12) replacement of an existing controller by a new controller;

(13) replacement of an existing driving machine brake by a new brake;

(14) replacement of tanks or anticreep leveling device;

(15) replacement of pump, motor or valves;

(16) replacement of hoistway doors;

(17) replacement of hoistway door re-opening devices;

(18) addition of hoistway-door locking devices or car-door or gate electric contacts;

(19) addition of hoistway access switches;

(20) addition of top-of-car operating devices;

(21) addition of top-of-car, hoistway-door and/or car-door or gate operating devices;

(22) addition of rope equalizers;

(23) addition of auxiliary rope-fastening devices;

(24) addition of car-leveling or truck-zoning devices;

(25) addition of roller guide shoes;

(26) addition of automatic transfer device;

(27) addition of fire service;

(28) addition of ADA compliant devices;

(29) replacement of hydraulic cylinder or plunger;

(30) replacement, addition or removal of canopy, wall or floor covering;

(31) replacement of car operation panel;

(32) prior to placing an elevator back in service after it has been red tagged;"

SECTION 37. Section 19.22.195 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Elevator inspected prior to use.** All new and red tagged elevators shall be inspected and approved prior to use by the public. The elevator contractor shall notify the elevator inspector two business days before the elevator is ready for inspection.

When the elevator inspector observes or it is called to his attention that any elevator work is installed contrary to or in violation of any provisions of this code, it shall be his duty to immediately notify the person responsible for the installation that the violation or violations exist. All defective or substandard installations shall be corrected within forty-eight hours from time of notification by the elevator inspector."

SECTION 38. Section 19.22.260 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Inspection compliance certificates.** The elevator inspector, as provided for in section 19.22.040, shall perform acceptance and periodic inspections and tests as required by this title and when found in compliance with this chapter will, after all fees are paid in accordance with Section 19.22.200, issue a compliance certificate. This certificate shall be permanently displayed in the elevator car for which the certificate was issued. The certificate shall be framed and installed not less than five feet nor more than five feet six inches from the platform of the car to the bottom of the frame or a location approved by the elevator inspector. Escalators and handicap accessibility lifts shall have the compliance certificate permanently displayed in a frame adjacent to the equipment and at a location approved by the elevator inspector."

SECTION 39. Section 19.22.290 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Insurance, Truth in Advertising and Vehicle Identification.** Compliance with the provisions of Chapter 19 relating to insurance, truth in advertising and vehicle identification shall be required as set forth in Sections 19.08.171, 19.08.172 and 19.08.180 and other amendments."

SECTION 40. Section 19.24.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Installation standards.** All installations of private residence elevators in commercial structures for use by persons with a disability, that are made within the city, shall be in strict conformity with the provisions of this title and with the approved standards of construction for safety to life and property. If sections contained within this title, in a given situation, do not prescribe a specific type or class of material or specific standards of construction, then the applicable standards as set forth for elevators and contained in the currently adopted edition of the ANSI/ASME A17.1 Safety Code for Elevators and Escalators, published by the American Society of Mechanical Engineers shall apply to the design, construction, installation, operation, alteration and repair of this type of elevator.

All installations of wheelchair lifts and stairclimb lifts in commercial buildings within the city, shall be in strict conformity with the provisions of this title and with approved standards of construction for safety to life and property. If sections contained within this title, do not prescribe a specific type or class of material or specific standards of construction, then the applicable standards as set forth in the currently adopted edition of the ANSI/ASME A18.1-~~2003~~ Safety Standard for Platform Lifts and Stairway Chairlifts with all addendums thereto, published by the American Society of Mechanical Engineers, shall apply to the design, construction, installation, operation, alteration and repair of this type of lift."

SECTION 41. The originals of Sections 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.060, 19.08.150, 19.08.171, 19.12.010, 19.12.040, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020 are hereby repealed.

SECTION 41. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

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

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

First Published in The Wichita Eagle on October 31, 2008

09/09/2008

ORDINANCE NO.48-102

AN ORDINANCE AMENDING SECTIONS 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.150, 19.08.171, 19.12.010, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.140, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS; CREATING SECTIONS 19.08.005, 19.12.085, 19.12.125, 19.12.135, 19.12.165, 19.12.175, 19.12.220, 19.22.085, 19.22.095, 19.22.195, AND 19.22.290; OF THE CODE OF THE CITY OF WICHITA, KANSAS, AND REPEALING THE ORIGINALS OF SECTIONS 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.060, 19.08.150, 19.08.171, 19.12.010, 19.12.040, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020; ALL PERTAINING TO THE ELECTRICAL CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 19.08.005 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Electrical license—Required.** It is unlawful for any person to engage in the business of the installation of electric wiring or of the installation of electrical equipment, devices or apparatus for light, heat, or power purposes in or on any building or premises within the city without having secured an electrical license from the superintendent of central inspection."

SECTION 2. Section 19.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Master and journeyman electricians' certificates—Required. It is unlawful for any person to engage in the business of electrical contracting without first having secured a master electrician's certificate as provided for in this title. The master electrician shall be responsible for all electrical work encompassed in the inspection requested by and/or on the permit issued to his company.

It is further unlawful for any person to engage in the trade or otherwise perform the act of installing electrical wiring or raceways for equipment, apparatus or devices for light, heat or power, or other purposes within or on any building or premises within the city without first having secured a master electrician's certificate or a journeyman electrician's certificate as herein provided for and both be in the employ of a licensed electrical contractor. A holder of a residential wireman electrician's certificate may perform the act of installing any and all electrical wiring within or on one- and two-family dwellings only and must be in the employ of a licensed electrical contractor.

The following exception shall be allowed: Except as provided for in Sections 19.08.061 and 19.08.140 hereof."

SECTION 3. Section 19.08.015 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Apprentice electrician and/or electrical helper.

(a) Apprentice electricians or helpers shall be permitted to perform the act of or install any electrical work within the city when he or she is on the job site

with and under the supervision of a master, journeyman or residential wireman electrician certified by the city and both be in the employ of a licensed electrical contractor. If an apprentice electrician or helper works without the required supervision, both the electrical contractor license holder and the apprentice electrician/helper shall be guilty of this offense.

(1) "Job site" is defined as the property that an individual permit is issued for.

(b) A numeric ratio of apprentices or helpers to certified city master, journeyman or residential wireman electricians on any one job site shall not be greater than four apprentices and/or helpers for each certified electrician."

SECTION 4. Section 19.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Application—Examination. Applications for examination for a master electrician's certificate or a journeyman electrician's certificate or a residential wireman electrician's certificate shall be made to the office of central inspection.

Applicants for master electrician examination shall provide written documented proof of having a valid journeyman electrician certificate for a minimum of two years.

Applicants for journeyman electrician and residential wireman electrician examination shall provide written documented proof of at least two years field experience in the electrical construction industry. ''Field experience'' means working under the direct supervision of a person having a valid

journeyman certificate or master certificate or attending an accredited electrical trade school. No more than one year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of 240 hours classroom training. Documentation shall be the following:

(1) written letter on company letterhead from employer(s) stating job description and dates of employment and signed by a person qualified in the electrical trade;

(2) copy of a transcript or attendance record from an accredited electrical trade school. The electrical examination will be administered in accordance with K.S.A. 12-1525 and amendments thereto, with a minimum passing score of seventy-five percent.

SECTION 5. Section 19.08.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Reciprocity. Any person with written proof of successful completion of the required electrical master, journeyman or residential wireman electrician test pursuant to K.S.A. 12-1525 and amendments thereto, with a minimum score of seventy-five percent and with proof of having obtained, since January 1, 2006, not less than 12 hours biennially of continuing education approved by the Office of Central Inspection, shall be issued the appropriate license by the City of Wichita. The Office of Central Inspection shall establish a uniform fee to be charged all applicants for licenses."

SECTION 6. Section 19.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electricians' certificates—Renewal.

(a) The fee for an examination and original certificate for a master electrician, journeyman electrician or residential wireman electrician shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. This fee shall be paid to the office of central inspection when the application for an examination is made. All such certificates shall expire on the thirty-first of December of each odd-number year. The biennial fee for the renewal of all certificates shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates.

(b) The applicant must provide written proof of having completed biennially not less than 12 hours of continuing education approved by the Office of Central Inspection. Continuing education may be provided by the Office of Central Inspection or a nationally recognized trade association, community college, technical school or technical college. All 12 hours of education may consist of code up-date training on the electrical code currently adopted.

(c) Any holder of a certificate who fails to renew the same by March 1st from the date of expiration shall be required to submit one of the following:

(1) Proof of passing a new examination as required per Section 19.08.020 or;

(2) Proof of completing an additional 1 ½ hours of continuing education for each 3 month period the renewal is late and only when the original certificate was issued pursuant to K.S.A. 12-1525."

SECTION 7. Section 19.08.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Electricians' certificates—Contractor's license—Revocation.

(a) The board of electrical appeals is authorized to cancel and recall the certificate of any master electrician, journeyman electrician or residential wireman electrician for any or all of the following reasons:

(1) Committing of any act in violation of any provisions of this code or any other ordinance of the city, or the refusal or failure to comply with any lawful and reasonable order of the code official or inspector;

(2) Misrepresentation of a material fact by the applicant in obtaining a certificate;

(3) Carelessness or negligence in providing reasonable safety measures for the protection of the public.

(b) The board of electrical appeals is authorized to cancel and recall the license of any electrical contractor for any or all of the following reasons:

(1) Abandonment of any contract without legal cause;

(2) Diversion of funds or property received for performance or completion of a specific contract for a specified purpose, in the performance or completion of any contract, and application or use

for any other contract, obligation or purpose, or the failure, negligence or refusal to use such finds or property for the performance or completion of said contract;

(3) Committing of any act in violation of any provisions of this code or any other ordinance of the city, or the refusal or failure to comply with any lawful and reasonable order of the code official or inspector;

(4) Misrepresentation of a material fact by the applicant in obtaining a license;

(5) Failure of any contractor to fully certify all claims for labor and material used in the performance of any work for which he has been engaged or for which he has been paid;

(6) Use of any license to obtain a permit for another as set forth in Section 19.08.120 of this code;

(7) Carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public;

(8) Failure to obtain permits as required in Section 19.08.150 of this title;

(9) Unreasonable delay in the performance and carrying out of any contract;

(10) Failure by the licensee, if a firm, co partnership or corporation, to have at least one active member or officer who has qualified as

and has a master's certificate as provided in Section 19.08.070 of this code.

(11) Failure to have the required supervision for apprentice electrician or helper as set forth in Section 19.08.015 of this code;

(12) That the license holder is in arrears on payment of electrical permit and/or re-inspection fees.

(c) Upon presentation by the code official to the board of electrical appeals of charges against any holder of any certificate, as set forth in this section, the board of electrical appeals shall fix a time and place for a meeting to consider such charges and shall notify the holder of such certificate to be present at such meeting. Such notification shall be in writing and shall be presented to the holder at least five days in advance of the meeting. If upon full hearing of all evidence by the board of electrical appeals it shall be decided that such holder of a certificate has been guilty of any of the actions as hereinbefore set forth in this section, then the board shall have the power to place on probation for a specified time period, temporarily suspend or permanently revoke the license or certificate of the holder thereof.

(d) When a certificate of a person has been revoked, a new certificate shall not be granted until he shall have corrected the violation in accordance with this code or any ordinance of the city and shall have made application and have passed an examination as required for the original certificate.

SECTION 8. Section 19.08.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Electrical permit required—Fees listed.** It is unlawful for any person to do or cause to be done any electrical wiring for light, heat or power within any building or on any premises in the city without first obtaining a permit from the office of central inspection. Applications for permits shall be made on forms furnished by the office, duly executed and signed by a person properly authorized to obtain permits for the applicant, which application may be presented in person or by mail, accompanied by the fee as listed below:

Ordinary branch circuits on new construction or remodeling:

120 volt circuits, each $2.00

277 volt circuits, each $2.25

Heating appliances less than 4500 watts, each $3.00

Light fixtures or lamp holders, each $0.75

Motors:

1 HP or smaller, each $5.00

Over 1 HP, each $7.00

Water well motor, each $7.00

Special circuits and additions:

Electric ranges and all heating devices over 4500 watts, each $9.00

Hot Tubs/Sauna, each $15.00

Clothes dryers, each $9.00

Special power outlets, or feeder circuits, each $10.00

Signs, each circuit $7.00

Outlets added to existing circuits $0.75

Transformers, each $12.00

Services:

480 volts or less:

100 amperes or less, per meter $12.00

each additional ampere $0.06

Construction service, per meter $15.00

Re-inspection – Discontinued service, per meter $12.00

Over 480 volts:

Each service entrance $75.00

Construction Service $30.00

Miscellaneous $15.00

Permit Issuance Fee $18.00

Minimum charge for one permit $25.00

Provided also that electrical work done in conjunction with a building project covered by a building permit for a one- or two-family dwelling new construction, repair, remodel or addition is covered and permitted under the authority granted by the building permit and does not require a separate electrical permit. A separate electrical permit is required if a water well motor is installed or will be installed.

Provided, however, permit fees for one- and two-family dwellings shall be established in accordance with the fee schedule as set forth in the applicable section of the currently adopted City of Wichita Building Code. The evaluation used to determine the amount of the permit fee to be used shall be seven percent

of the total valuation of a one- or two-family dwelling as determined by the superintendent of central inspection. A separate fee established by the Superintendent of Central Inspection to cover the administrative costs may be assessed for each construction service to the building site. Payment shall be made by the general contractor at the time a building permit is issued.

A separate electrical permit is required if work requiring a permit and inspection as defined in the code is begun more than one hundred eighty days from the date of the issuance of the building permit.

A separate electrical permit shall be required for each building or tenant space with an electric meter, and anytime a separate electric meter is installed.

Exception: One- and two-family dwellings or multi-family dwellings when such dwelling units are not individually owned.

Any person who installs any electrical wiring for which a permit and inspection are required and who fails to report the same as ready for inspection when such work is completed shall pay a special permit fee of double the amount of the permit issuance as listed above.

Where extra inspections are made because of faulty construction or failure to make necessary repairs, a fee established by the Superintendent of Central Inspection to cover the administrative costs may be charged for each inspection."

SECTION 9. Section 19.08.171 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Insurance required.** Every electrical, elevator or handicapped accessibility lifts contractor licensed under this title shall procure and maintain a

policy of general liability insurance covering the activities of the contractor while engaged in contracting hereunder. Such insurance policy shall be written with an insurance company licensed to do business in the state and shall have minimum limits of coverage of three hundred thousand dollars per occurrence. In addition, every such electrical, elevator or handicapped accessibility lifts contractor shall procure and maintain worker's compensation insurance as required by law and automobile liability insurance as required by law. Every contractor licensed under this title shall, prior to the issuance of a license, file with the office of central inspection certificates of insurance evidencing the insurance coverage specified herein. All such certificates shall indicate that the city shall be given at least thirty days advance written notice of any cancellation or material change in coverage of such insurance. Failure of an electrical, elevator or handicapped accessibility lifts contractor to either procure or maintain such insurance shall be grounds for suspension or revocation of their contractor's license and certificate."

SECTION 10. Section 19.12.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Installation standards.** All electrical installations made within the city shall be in strict conformity with the provisions of this title. If sections contained within this title, in a given situation, do not prescribe a specific type or class of material or specific standards of construction, then the standards as set forth and contained in the National Electrical Code, 2008 Edition, as published by the National Fire Protection Association as N.F.P.A. No. 70-2008, as presently constituted and as may be hereinafter amended, shall apply with the exception of

Section 110.16; Section 200.6(d); Section 210.4(b); Section 210.5(c); Section 210.12; Section 210.52(c)(1); Section 230.40; Section 250.68(a) Exception No. 2; Section 590.6(b)(2); Section 300.11(a)(2); Section 314.28; Section 334.10; Section 334.12(a)(1) Exception; Section 334.40(b); Section 334.80; Section 406.4(e); Section 406.8(b)(1)&(2); Section 600.3; and Section 680.8; of such publication. Said N.F.P.A. No. 70-2008, was adopted by the National Fire Protection Association on June 7, 2007 and received the approval of the American National Standards Institute on August 15, 2007. By this publication, all provisions of such publication, with noted exceptions, are adopted by reference and made a part of the Code of the City of Wichita, Kansas, and this title as though fully set forth herein."

SECTION 11. Section 19.12.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Section 230.40 amended.** Section 230.40 of the National Electrical Code shall be amended to read as follows:

Number of Service-Entrance Conductor Sets. Each building shall be supplied by only one service drop or lateral. Each service drop or lateral shall supply only one set (or sets where connected in parallel) of service-entrance conductors. All service-entrance conductors shall terminate at the same location.

Exception~~:~~ #1: Where two to six service disconnecting means in separate enclosures are grouped at one location, one set of service-entrance conductors shall be permitted to supply each such service equipment enclosure.

Exception #2: A two family dwelling unit without an approved area separation wall as defined by the currently adopted City of Wichita Building Code, and served from one service drop or lateral, shall be permitted to have one set of service entrance conductors run to each dwelling unit without the mains from both units being located together."

SECTION 12. Section 19.12.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Services. A. Service Length. Unfused service entrance conductors shall not be extended more than fifteen feet inside any building.

B. Service Disconnects. Main disconnects shall be installed on the load side of the utility company's meters where not more than six meters and service equipment are grouped together. Where there is an existing main disconnect ahead of six meters or less and all the services are completely revamped, the main disconnects shall be relocated on the load side of the meters.

SECTION 13. Section 19.12.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Section 210.52(c)(1) exception amended.** Section 210.52(c)(1) exception of the National Electrical Code shall be amended to read as follows:

Exception: Receptacle outlets shall not be required on a wall directly behind a range or sink."

SECTION 14. Section 19.12.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Concrete-Encased electrode.** The grounding electrode conductor to a concrete-encased electrode shall be not less than that required in Table 250.66 of the National Electrical Code."

SECTION 15. Section 19.12.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Color code.** Where installed in raceways, as cable or as open work, all conductors connected to the same system shall conform to the following color code:

Three-phase, four-wire 120/208 volt – phase A - black, phase B - red, phase C – blue, grounded conductor - white;

Three-phase, four-wire 277/480 volt—phase A - brown, phase B - orange, phase C – yellow, grounded conductor - gray.

The grounded conductor of a three wire 240 volt delta system shall be identified by alternating white and red stripes encircling the conductor.

The grounded conductor of a three wire 480 volt delta system shall be identified by alternating gray and orange stripes encircling the conductor.

Ungrounded circuit conductors used as travelers between 3-way and 4-way switches may be of colors other than those specified.

All conductor sizes 6 AWG or smaller shall be identified by a continuous outer finish along its entire length. Sizes larger than 6AWG shall be identified, at time of installation, by distinctive color markings at its terminations. This marking shall encircle the conductor or insulation.

All circuit conductors of the same color shall be connected to the same ungrounded conductor throughout the premises wiring system(s)."

SECTION 16. Section 19.12.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Smoke detector requirements.** Reference shall be made to the appropriate sections of Title 15 and Title 18 of the Code of the City of Wichita."

SECTION 17. Section 19.12.125 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Type NM, NMC and NMS cable ampacity.** The ampacity of Types NM, NMC, and NMS cable shall be determined in accordance with 310.16. The ampacity shall be in accordance with the 60°C (140°F) conductor temperature rating."

SECTION 18. Section 19.12.135 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Type NM, NMC and NMS cable ran exposed in unfinished basements.** Article 334.15(c) of the National Electrical Code shall be amended to read:

(C) In Unfinished Basements. Where cable is run at angles with joists in unfinished basements, it shall be permissible to secure cables not smaller than two 6 AWG or three 8 AWG conductors directly to the lower edges of the joists. Smaller cables shall be run either through bored holes in joists or on running boards. NM cable installed on the wall of an unfinished basement shall be permitted to be installed in a listed conduit or tubing or shall be protected in accordance with Article 300.4. Conduit or tubing shall be provided with a suitable insulating bushing or adapter at the point the cable enters the raceway. The NM

cable sheath shall extend through the conduit or tubing and into the outlet or device box not less than 6 mm (1⁄4 in.). The cable shall be secured within 300 mm (12 in.) of the point where the cable enters the conduit or tubing. Metal conduit, tubing, and metal outlet boxes shall be connected to the equipment grounding conductor."

SECTION 19. Section 19.12.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Ceiling grid support wires. The following is added to the section 300.11(A)(2) of the National Electrical Code:

Exception No. 2: MC cable or flexible metal conduit may be attached to the ceiling grid support wires serving lighting fixtures located within the ceiling grid area where all the following conditions apply.

1. The MC cable or flexible metal conduit must not be larger than trade size ½ inch.

2. Only a single MC cable or flexible metal conduit may be attached per ceiling grid support wire.

3. Only clips or devices approved for the purpose may be used to attach the MC cable or flex to the support wires."

SECTION 20. Section 19.12.165 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Sewage ejector pumps and sump pumps.** In a dwelling, ground fault circuit interrupter protection shall not be required on a sewage ejector pump or

sump pump that is cord and plug connected to a single receptacle installed on a dedicated circuit."

SECTION 21. Section 19.12.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Conduit bodies.** Section 314.28 of the National Electrical Code shall be amended to read as follows: Boxes and conduit bodies trade size over 2 inch used as pull or junction boxes shall comply with 314.28(A) through (D)."

SECTION 22. Section 19.12.175 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Arc-Fault Circuit-Interrupter Protection. (A) Definition: Arc-Fault Circuit Interrupter. An arc-fault circuit interrupter is a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and by functioning to de-energize the circuit when an arc fault is detected.

(B) Dwelling Unit Bedrooms. All 120-volt, single phase, 15- and 20-ampere branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit.

Exception: The location of the arc-fault circuit interrupter shall be permitted to be at other than the origination of the branch circuit in compliance with (a) and (b):

(a) The arc-fault circuit interrupter installed within 1.8 m (6 ft) of the branch circuit overcurrent device as measured along the branch circuit conductors.

(b) The circuit conductors between the branch circuit overcurrent device and the arc-fault circuit interrupter shall be installed in a metal raceway or a cable with a metallic sheath."

SECTION 23. Section 19.12.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Nonmetallic-Sheathed Cable: Type NM, NMC, and NMS.** Uses permitted: Type NM, Type NMC and Type NMS cable shall be permitted to be used only in one- and two-family dwellings and their accessory structures and multifamily dwelling units. The structure shall not exceed~~ing~~ three floors above grade. These structures shall be served only by single-phase services."

SECTION 24. Section 19.12.185 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Receptacles in countertops not to be installed face-up.** Section 406.4(E) of the National Electrical Code shall be amended to read as follows:

(E) Receptacles in Countertops and Similar Work Surfaces. Receptacles shall not be installed in a face-up position in countertops or similar work surfaces."

SECTION 25. Section 19.12.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Receptacles in wet locations.** Section 406.8(B)(1) & (2) of the National Electrical Code shall be amended to read as follows:

(B) Wet Locations. All 15- and 20-ampere, 125- and 250-volt nonlocking receptacles shall be listed weather-resistant type. All receptacles installed in a wet location shall comply with either of the following:

(1) A receptacle installed in a wet location, where the product intended to be plugged into it is not attended while in use, shall have an enclosure that is weatherproof with the attachment plug cap inserted or removed.

(2) A receptacle installed in a wet location where the product intended to be plugged into it will be attended while in use (e.g., portable tools) shall have an enclosure that is weatherproof when the attachment plug is removed."

SECTION 26. Section 19.12.195 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Pools shall not be located under overhead wiring.** Section 680.8 of the National Electrical Code shall be amended to read as follows:

The following parts of pools shall not be placed under existing electrical, communication, CATV, Network powered Broadband conductors or any other overhead wiring; nor shall such wiring be installed above the following:

(1) Pools and the area extending 10 ft horizontally from the inside of the walls of the pool,

(2) Diving structure, or

(3) Observation stands, towers or platforms."

SECTION 27. Section 19.12.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Permitted use of multiplex cable.** Multiplex cable may be installed as an approved wiring method for outdoor aerial use only within the city of Wichita, with the following restrictions.

(a) Permitted for outside aerial use only.

(b) Minimum wire size shall be: #1 aluminum or #8 copper.

(c) In all cases, the phase conductors and the neutral conductor must be insulated and identified.

(d) The ampacity of the conductors must comply with the values for the respective size and conductor material as listed in the seventy-five degree column of the Ampacity Tables of the latest adopted edition of the National Electrical Code."

SECTION 28. Section 19.12.220 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Conduits exposed to sunlight on rooftops.** Where conductors or cables are installed in conduits with a horizontal length exceeding 6 feet and exposed to direct sunlight on or above rooftops, the adjustments shown in Table 310.15(B)(2)(c) shall be added to the outdoor temperature to determine the applicable ambient temperature for application of the correction factors in Table 310.16 and Table 310.18 of the National Electrical Code."

SECTION 29. Section 19.16.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Conductor requirements.** All mobile or manufactured home and accessory building wiring conductors rated two hundred amperes or less,

including all service conductors that are not owned and maintained by the electrical utility company, shall be copper."

SECTION 30. Section 19.22.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Penalites for violations.** Any person violating any of the provisions of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or be imprisoned in the city jail not more than six months, or by both such fine and imprisonment. Each and every day during which any violation of any provision of this title is committed, continued or permitted shall be deemed a separate violation."

SECTION 31. Section 19.22.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Elevator or handicapped accessibility lifts license—Required.** It is unlawful for any person to engage in the business of the installation or repair of elevators, handicapped accessibility lifts, dumbwaiters, escalators or moving walks in or on any building or premises within the city without having secured an elevator license from the superintendent of central inspection."

SECTION 32. Section 19.22.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Master and journeyman electrical elevator certificates—Required.** It is unlawful for any person to engage in the business of elevator or handicap handicapped accessibility lifts contracting without first having secured a master electrical elevator certificate as provided for in this title. The master shall be

responsible for all work encompassed in the inspection requested by and/or on the permit issued to his company.

It is further unlawful for any person to engage in the trade or otherwise perform the act of installing or repairing elevator, handicapped accessibility lifts, dumbwaiters, escalators or moving walks within or on any building or premises within the city without first having secured a master or journeyman electrical elevator's certificate as herein provided for and be in the employ of a licensed elevator or handicap handicapped accessibility lifts contractor. The following exception shall be allowed:

Apprentices shall be permitted to work when accompanied by, and under the supervision of a master or journeyman electrical elevator mechanic."

SECTION 33. Section 19.22.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Elevators' certificates—Application—Examination—Renewal.**

Applications for examination for a master electrical elevators certificate shall be made to the office of central inspection. Applicants for the electrical elevators examination shall provide written documented proof of at least two years practical experience in the elevator construction industry. Documentation shall be one of the following: (1) written letter on company letterhead from employer(s) stating job description and dates of employment; (2) copy of a transcript or attendance record from an accredited elevator trade school; (3) a written letter on a city letterhead from the building official or elevator inspection division of a city where the applicant is licensed as an elevator contractor, or is

certified by that city as an electrical elevator master and stating the length of time of the certification or license.

The fee for an examination and original certificate for an electrical elevator master shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. This fee shall be paid to the office of central inspection when the application for an examination is made. Such certificate shall expire on the thirty-first of December of each odd-number year.

The biennial fee for renewal of this certificate shall be established by the superintendent of central inspection to cover the administrative costs of issuing such certificates. Any holder of a certificate who fails to renew the same by March 1st from the date of expiration shall be required to take a new examination before receiving a new certificate.

A 90 day temporary journeyman electrical elevator certificate may be issued to an applicant providing documented proof of at least four years practical experience in the elevator construction industry. Documentation shall be one of the following: (1) written letter on company letterhead from employer(s) stating job description and dates of employment; (2) a written letter on a city letterhead from the building official or elevator inspection division of a city where the applicant is licensed as an elevator contractor, or is certified by that city as an electrical elevator master and stating the length of time of the certification or license. The fee for this certificate shall be established by the superintendent of

central inspection to cover the administrative costs of issuing such certificates. Such certificates shall be limited to one in twenty-four months to each applicant."

SECTION 34. Section 19.22.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License—Issuance of elevator.** Any person, firm or corporation shall be issued an elevator license, provided such person or one active officer of the firm or corporation who devotes full time to that firm or corporation shall have submitted evidence and has qualified as to experience and ability in matters pertaining to the installation and maintenance of elevators. Such experience and ability must be confirmed by successful passage of an examination as required in Section 19.22.100. The fee for such license shall be one hundred dollars per year. The license shall expire on the thirty-first of December of the year in which so issued. Licensees who have not renewed their license by January 31st of the year in which they are due shall pay a penalty of ten percent for each month they are delinquent in obtaining such renewal."

SECTION 35. Section 19.22.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**License—Issuance of handicapped accessibility lifts contractor.** Any person, firm or corporation shall be issued an handicapped accessibility lifts license, provided such person or one active member or officer of the firm or corporation who devotes full time to that firm or corporation shall have submitted evidence of qualifications and experience and has been examined as required in Section 19.22.100 in handicapped accessibility lifts. The fee for such license

shall be one hundred dollars per year. The license shall expire on the thirty-first of December of the year in which so issued. Licensees who have not renewed their license by January 31st of the year in which they are due shall pay a penalty of ten percent for each month they are delinquent in obtaining such renewal."

SECTION 36. Section 19.22.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Alterations and repairs.** The following alterations and/or repairs require permits from the Office of Central Inspection:

(1) increase in rated load or speed;

(2) increase or decrease in dead weight of car;

(3) increase or decrease in travel;

(4) change in type of operation or control;

(5) replacement, change in size, length or number of suspension ropes, belts or chains;

(6) replacement, change in size or length of safety or governor ropes;

(7) replacement, change in size or type of guide rails;

(8) replacement, change in type or addition of a car or counterweight safety;

(9) change in power supply;

(10) replacement of an existing machine by a new driving machine;

(11) replacement of an existing governor by a new governor;

(12) replacement of an existing controller by a new controller;

(13) replacement of an existing driving machine brake by a new brake;

(14) replacement of tanks or anticreep leveling device;

(15) replacement of pump, motor or valves;

(16) replacement of hoistway doors;

(17) replacement of hoistway door re-opening devices;

(18) addition of hoistway-door locking devices or car-door or gate electric contacts;

(19) addition of hoistway access switches;

(20) addition of top-of-car operating devices;

(21) addition of top-of-car, hoistway-door and/or car-door or gate operating devices;

(22) addition of rope equalizers;

(23) addition of auxiliary rope-fastening devices;

(24) addition of car-leveling or truck-zoning devices;

(25) addition of roller guide shoes;

(26) addition of automatic transfer device;

(27) addition of fire service;

(28) addition of ADA compliant devices;

(29) replacement of hydraulic cylinder or plunger;

(30) replacement, addition or removal of canopy, wall or floor covering;

(31) replacement of car operation panel;

(32) prior to placing an elevator back in service after it has been red tagged;”

SECTION 37. Section 19.22.195 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Elevator inspected prior to use.** All new and red tagged elevators shall be inspected and approved prior to use by the public. The elevator contractor shall notify the elevator inspector two business days before the elevator is ready for inspection.

When the elevator inspector observes or it is called to his attention that any elevator work is installed contrary to or in violation of any provisions of this code, it shall be his duty to immediately notify the person responsible for the installation that the violation or violations exist. All defective or substandard installations shall be corrected within forty-eight hours from time of notification by the elevator inspector."

SECTION 38. Section 19.22.260 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Inspection compliance certificates.** The elevator inspector, as provided for in section 19.22.040, shall perform acceptance and periodic inspections and tests as required by this title and when found in compliance with this chapter will, after all fees are paid in accordance with Section 19.22.200, issue a compliance certificate. This certificate shall be permanently displayed in the elevator car for which the certificate was issued. The certificate shall be framed and installed not less than five feet nor more than five feet six inches from the platform of the car to the bottom of the frame or a location approved by the elevator inspector. Escalators and handicap accessibility lifts shall have the compliance certificate

permanently displayed in a frame adjacent to the equipment and at a location approved by the elevator inspector."

SECTION 39. Section 19.22.290 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Insurance, Truth in Advertising and Vehicle Identification.** Compliance with the provisions of Chapter 19 relating to insurance, truth in advertising and vehicle identification shall be required as set forth in Sections 19.08.171, 19.08.172 and 19.08.180 and other amendments."

SECTION 40. Section 19.24.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Installation standards.** All installations of private residence elevators in commercial structures for use by persons with a disability, that are made within the city, shall be in strict conformity with the provisions of this title and with the approved standards of construction for safety to life and property. If sections contained within this title, in a given situation, do not prescribe a specific type or class of material or specific standards of construction, then the applicable standards as set forth for elevators and contained in the currently adopted edition of the ANSI/ASME A17.1 Safety Code for Elevators and Escalators, published by the American Society of Mechanical Engineers shall apply to the design, construction, installation, operation, alteration and repair of this type of elevator.

All installations of wheelchair lifts and stairclimb lifts in commercial buildings within the city, shall be in strict conformity with the provisions of this title and with approved standards of construction for safety to life and property. If

sections contained within this title, do not prescribe a specific type or class of material or specific standards of construction, then the applicable standards as set forth in the currently adopted edition of the ANSI/ASME A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts with all addendums thereto, published by the American Society of Mechanical Engineers, shall apply to the design, construction, installation, operation, alteration and repair of this type of lift."

SECTION 41. The originals of Sections 19.08.010, 19.08.015, 19.08.020, 19.08.025, 19.08.030, 19.08.050, 19.08.060, 19.08.150, 19.08.171, 19.12.010, 19.12.040, 19.12.050, 19.12.060, 19.12.090, 19.12.100, 19.12.150, 19.12.170, 19.12.180, 19.12.185, 19.12.190, 19.12.195, 19.12.200, 19.16.110, 19.22.090, 19.22.100, 19.22.110, 19.22.140, 19.22.190, 19.22.260 AND 19.24.020 are hereby repealed.

SECTION 42. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of October, 2008.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

Agenda Report No. XII-28

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Parking Lots and Entry Drives (Districts I and IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the Bonding Resolutions.

Background: On December 19, 2006, the Bonding Resolution for the 2007 Capital Improvement Program (CIP) was approved for Parking Lots, Signage and Entry Drives improvements. On March 4, 2008, City Council rescinded the original Bonding Resolution and approved this funding for the Westside Athletic Field parking lot paving and reconstruction. The contract was awarded to Cornejo Construction and is currently under construction. The parking lot project is now adequately funded with construction expected to be completed this fall.

Analysis: On September 19th, 2008, the City received bids for the K96 lake road and parking lot which subsequently connects to the new Animal Control Facility located at K96 and North Hillside. Bids received were short of the engineer's estimate by over $80,000. When the bid exceeds the bonded amount, staff is then required to amend the project for each occurrence.

The attached Amended Bonding Resolution reallocates $40,000 of available funding from the Westside Athletic Field parking lot to the K96 Lake road and parking lot and the remaining $40,000 will come from the 2008-2009 Parking Lots and Entry Drives CIP.

Financial Considerations: The 2007 Park CIP includes $450,000 for parking lots and entry drive improvements. The funding source is general obligation bonds.

Goal Impact: New construction of an entry road and parking at the existing K96 Fishing Lake will improve the Quality of Life and help to increase and sustain neighborhood vibrancy and community satisfaction.

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

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

Attachments:

1. Amended Bonding Resolution – Westside Athletic Field parking lot
2. Bonding Resolution - K96 lake road and parking lot

397-216/785097

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-500

A RESOLUTION AMENDING RESOLUTION NO. 08-130, AND AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS.

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

SECTION 1: That the description of public improvements identified in Section 1 of Resolution No. 08-130, adopted March 7, 2008 is hereby amended to read as follows:

The labor, material, and equipment for the construction or repair of entry drives and parking lots at Westside Athletic Field.

SECTION 2: That Section 2 of Resolution No. No. 08-130 is hereby amended to provide the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at $410,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

785131

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-502

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS AT K96 LAKE.

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:

Labor, Material, and Equipment for the repair, paving and reconstruction of entry drives and parking lots at K96 Lake.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $40,000.00 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

Agenda Item No. III-03.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Sim Park Improvements (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the Bonding Resolution and authorize initiation of the project.

Background: In 1917, Coler L. Sim donated land located just north of the confluence of the Arkansas and Little Arkansas Rivers to the City of Wichita in memory of his son Arthur. The Park and Recreation Department has developed portions of this property for public use by the citizens of Wichita. There are picnic areas, exercise equipment, walking trails, and restroom and shelter facilities within the park. Sim Park is heavily used by neighborhood residents for walking, biking, jogging and other recreational activities. Sim Park Drive, the roadway that serves Sim Park, is in various stages of disrepair and in need of improvements.

Analysis: Arthur B. Sim Memorial Park serves as a cornerstone of the Wichita Park system and is a key feature of the Arkansas River Corridor. Paving resurfacing and reconstruction of parking lots will protect the City's investment in this popular park and improve access for park users. The 2009 Park Capital Improvement Program (CIP) includes funding for Sim Park. Staff recommends funding the resurfacing of a majority of Sim Park Drive and adjacent parking starting at the roadway's intersection with Amidon and continuing through the Park. Complete replacement of the section of roadway and parking adjacent to the workout station, with the addition of appropriate storm water drainage, will also be completed.

Financial Considerations: The 2009 Park CIP includes $300,000 in improvements to Sim Park. The funding source is general obligation bonds.

Goal Impact: This project will improve public access to Sim Park as well as improve the Quality of Life and neighborhood vibrancy.

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

Recommendation/Action: It is recommended that the City Council 1) approve the Bonding Resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

Attachment: Bonding Resolution

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-487

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR, PAVING AND RECONSTRUCTION OF ROADWAY AND DRAINAGE ON SIM PARK DRIVE.

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:

Labor, Material, and Equipment for the repair, paving and reconstruction of roadway and drainage on Sim Park Drive. Improvements will include the resurfacing of a majority of Sim Park Drive; adjacent parking from the roadway's intersection with Amidon throughout the Park; complete replacement of the section of roadway and parking adjacent to the workout station and any additional storm water drainage requirements.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $300,000.00 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Water Main Benefit Fee

INITIATED BY: Water Utilities

AGENDA: New Business

Recommendation: Approve the Ordinance for a water main benefit fee to equitably distribute the cost of water mains for new developments.

Background: Water mains are installed to distribute water to large areas, and smaller distribution lines transport water to the individual lots. When developments on the fringe of the City are platted and become part of the City, new home buyers in the developments only pay the cost of an 8-inch water main. Generally, the mains that serve developments are 16 inches in diameter. The home buyer pays for an 8-inch water line, and the Utility pays for the additional cost of the 16-inch water main.

This arrangement creates an inequity in that the first new development(s) on the fringe of the City pays for water mains that may eventually serve a much larger area. The City successfully addressed this same situation for sewer service by assessing a sewer main fee for all new developments, based on per-square-foot cost to provide sewer mains.

Analysis: The Urban Fringe Area Development Standards for Wichita and Sedgwick County state that the City's goal should be to connect subdivisions within the City's area of influence to the municipal system, when possible and financially feasible. Under current policy, however, Water Utilities and new developments pay the cost to provide service to future customers who have not financially contributed to installing the water mains. The portion that the Utility pays is passed on to all current Water Utility customers.

To equitably distribute the cost for installation of water mains to newly platted areas, inside or out of the City limits, the proposed Ordinance will enable Water Utilities to collect a Water Main Benefit Assessment per square foot of development, through special assessments. The amount based on recent construction cost (currently 2.6 cents) will be adjusted annually. This will provide equitable payment for water mains by all future customers. Staff reviewed this proposal with the Wichita Area Builders Association and obtained their support.

Financial Considerations: The typical residential development is comprised of 80 acres divided into 240 lots (approximately 3 lots per acre). Using the current rate of 2.6 cents per square foot, each lot would be assessed $378 for a 14,520 square foot lot. The Water Main Benefit Assessment would be a one-time cost for receiving water service for a new residential customer and would be paid through special assessments spread over 15 or 20 years. This would off set the cost presently paid by existing customers.

Goal Impact: The water main benefit fee will more equitably distribute the cost of installing water mains to newly platted areas, and provide secure and reliable infrastructure.

Legal Considerations: The Ordinance has been approved as to form by the Law Department. A Private Letter Ruling has been obtained from the State of Kansas Department of Revenue confirming that the water main benefit fee will be excluded from the tax base for utility charges.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Ordinance; 2) place the Ordinance on first reading; and 3) authorize the necessary signatures.

Attachments: Ordinance - Water Main Benefit Fee

(Published in *The Wichita Eagle* on October 31, 2008)

ORDINANCE NO. 48-103

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR THE APPLICATION OF BENEFIT FEES RECEIVED BY THE CITY FROM OWNERS OF PROPERTY WHICH BENEFIT FROM CERTAIN WATER IMPROVEMENTS INITIATED BY PETITION PURSUANT TO K.S.A. 12-6a04, AS AMENDED, ALL OR A PORTION OF THE COST OF WHICH HAS BEEN PAID FROM EITHER PROCEEDS OF WATER AND SEWER UTILITY REVENUE BONDS OF THE CITY OR OTHER AVAILABLE FUNDS OF THE WATER AND SEWER UTILITY OF THE CITY.

WHEREAS, the City of Wichita, Kansas (the "City") is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the City is authorized under the laws of the State to construct, reconstruct, alter, repair, improve, extend or enlarge its municipal utilities and to issue general obligation bonds or revenue bonds or use other available funds in payment of the cost there; and

WHEREAS, the governing body of the City has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility" (hereinafter sometimes referred to as the "Utility"); and

WHEREAS, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended and supplemented, including particularly K.S.A. 12-6a19 (hereinafter referred to as the "Act"), the City requires the owners of property which benefits from the construction of certain water improvements initiated by petition pursuant to K.S.A. 12-6a04, and amendments thereto, all or a portion of the cost of which has been paid from either proceeds of water and sewer utility revenue bonds of the City or other available funds of the Utility, to pay certain benefit fees; and

WHEREAS, no part of the cost of the improvements with respect to which the benefit fees are required has been or will be paid by the owners of property included in the original benefit district, and no part of the cost of such improvements has been or will be paid from general obligation bonds or other funds provided by the city at large; and

WHEREAS, the Act makes no provision in such cases for the application of such benefit fees, and the governing body of the City desires to make such provision under the authority of Article 12, Section 5 of the Constitution of the State;

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

Section 1. In cases where the City has constructed water improvements initiated by petition pursuant to K.S.A. 12-6a04, and amendments thereto, all or a portion of the cost of which has been paid from either proceeds of water and sewer utility revenue bonds of the City, or other available funds of the Utility, and acting pursuant to K.S.A. 12-6a19, as amended, the City has required owners of property which benefits from such improvements but which was not included within the original benefit district to pay a benefit fee, such benefit fees shall upon receipt be considered Gross Revenues of the City derived from the operation of the Utility, and shall be applied to and deposited in the Water and Sewer Utility Revenue Fund created and maintained by the City, all as more specifically provided in Ordinance No. 41-934 of the City adopted January 26, 1993, and the various ordinances and resolutions of the City adopted thereafter with respect to the parity water and sewer utility revenue bonds of the City.

Section 2. This ordinance shall be in force and take effect from and after its passage and approval by the governing body of the City, and its publication one time in the City's official newspaper.

PASSED AND APPROVED by the governing body of the City of Wichita, Kansas on October 28, 2008.

(Seal)

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

Agenda Item No. III-05.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Improvement to West Street, between Maple and Central (Districts IV & VI)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the Project.

Background: The 2007-2016 Capital Improvement Program (CIP) includes a project to improve West Street, between Maple and Central. On August 2, 2004, District VI Advisory Board sponsored a neighborhood hearing on the project. The Board voted 7-0 to recommend approval of the project. On August 4, 2004, District IV Advisory Board sponsored a neighborhood hearing on the project. The Board voted 6-0 to recommend approval of the project. On October 18, 2005, the City Council approved the design concept and right-of-way funding for the project.

Analysis: The improvement will replace the existing pavement on West Street with a new five-lane roadway, with four through lanes and a center two-way left turn lane, left turn lanes at all four approaches at the Douglas and 2nd Street intersections and reconstruction of the Central intersection. A new storm water sewer will be installed. During construction of the project, traffic will be limited to one lane in each direction with no left turn lanes allowed at the intersections and alternating closures of Douglas and 2nd Street. Utility relocation work has underway been since early 2008, and will be completed by spring of 2009. Reconstruction of West Street is scheduled to begin early next year with completion in the spring, 2010.

Financial Considerations: The construction budget is $9,600,000, with $9,000,000 paid by the City and $600,000 by Federal Grants administered by the Kansas Department of Transportation (KDOT). The funding source for the City share is General Obligation Bonds.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic safety and capacity along a major roadway in west Wichita.

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

Recommendation/Action: It is recommended that the City Council approve the project and place the Ordinance on first reading.

Attachments: **Map, CIP Sheet, Ordinance.**

132019

First Published in the Wichita Eagle October 31, 2008

ORDINANCE NO. 48-104

AN ORDINANCE DECLARING **WEST STREET, BETWEEN DOUGLAS AND CENTRAL AVENUE (472-84761)** 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 **West Street, between Douglas and Central Avenue (472-84761)** 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 **West Street, between Douglas and Central Avenue (472-84761)** as a main trafficway in the following particulars:

> The design, construction of a roadway, acquisition of right-of-way, installation of traffic signals, drainage improvements, 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 $9,600,000 exclusive of the cost of interest on borrowed money, with $9,000,000 paid by the City of Wichita and $600,000 paid by Federal Grants, administered by the Kansas Department of Transportation. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689.

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of October 2008.

_____
CARL BREWER, MAYOR

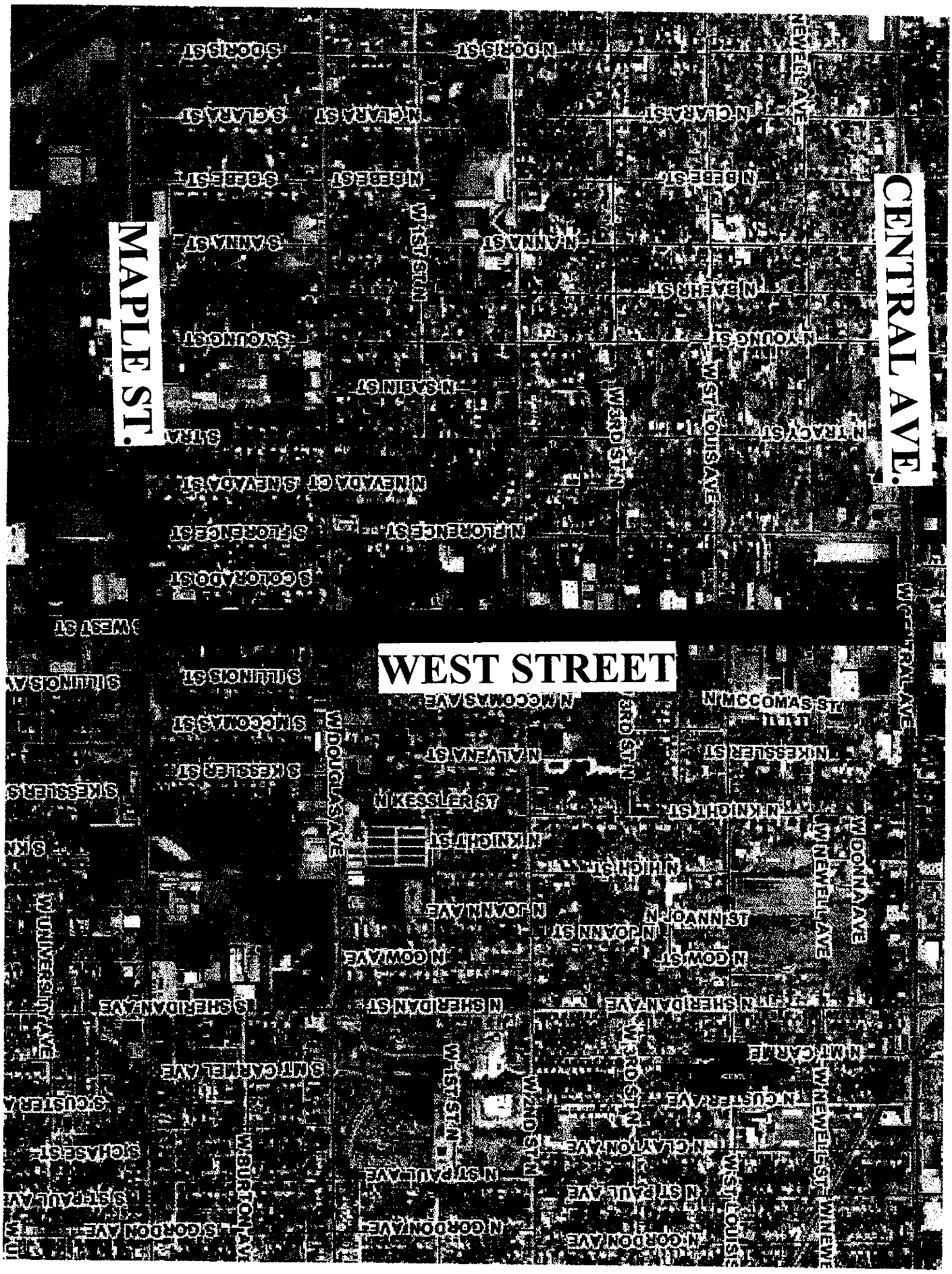
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW


CENTRAL AVE.
MAPLE ST.
WEST STREET
N DORIS ST
S DORIS ST
N CLARA ST
S CLARA ST
N BEBE ST
S BEBE ST
N ANNA ST
S ANNA ST
N SABIN ST
S YOUNG ST
N TRACY ST
N NEVADA CT
S NEVADA ST
N FLORENCE ST
S FLORENCE ST
S COLORADO ST
S ILLINOIS ST
N MCCOMAS ST
S MCCOMAS ST
N ALVENA ST
S KESSLER ST
N KESSLER ST
N KNIGHT ST
N HIGH ST
N JOANN AVE
N JOANN ST
N COW AVE
N COW ST
N SHERIDAN ST
N SHERIDAN AVE
S SHERIDAN AVE
N MT CARMEL
S MT CARMEL AVE
N CLUSTER AVE
N CLAYTON AVE
N ST PAUL AVE
N GORDON AVE
S GORDON AVE
W 1ST ST N
W 2ND ST N
W 3RD ST N
W ST LOUIS AVE
W NEWELL AVE
W DONNA AVE
W DOUGLAS AVE
W UNIVERSITY AVE
W BURTON 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	10/1/2008	West St, Maple - Central

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-200433		2008	

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.	$9,000,000		$600,000	$9,600,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Bike Path				
Totals	$9,000,000		$600,000	$9,600,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84761

13. Recommendation: Approve the Project and Ordinance

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Item No. III-06.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Petition to pave Siefkin in Spring Acres Addition (north of 13th, west of Woodlawn) (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

- -

Recommendation: Approve the Petition.

Background: The signatures on the Petition represent 5 of 9 (56%) resident owners and 64% of the improvement district area. District I Advisory Board sponsored an October 8, 2008, neighborhood hearing on the project.

Analysis: The project will provide paved access to an existing residential area.

Financial Considerations: The estimated project cost is $187,000 with $181,850 assessed to the improvement district and $5,150 paid by the City. The City share is for the cost of metal culverts driveway approaches with General Obligation Bonds as the funding source. The method of assessment is the fractional basis. The estimated assessment to individual properties is $34,066 per tract.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing street paving in an existing residential area.

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

Recommendations/Actions: It is recommended that the City Council approve the 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 October 24, 2008

RESOLUTION NO. 08-488

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON SIEFKIN FROM THE EAST LINE OF WILLOW LANE, NORTH TO AND INCLUDING THE CUL-DE-SAC (NORTH OF 13TH, WEST OF WOODLAWN) 472-84762 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 SIEFKIN FROM THE EAST LINE OF WILLOW LANE, NORTH TO AND INCLUDING THE CUL-DE-SAC (NORTH OF 13TH, WEST OF WOODLAWN) 472-84762 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 Siefkin from the east line of Willow Lane, north to and including the cul-de-sac (north of 13th, west of Woodlawn) 472-84762.

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

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to One Hundred Eighty-Seven Thousand Dollars ($187,000) exclusive of the cost of interest on borrowed money, with 97.1 percent payable by the improvement district and 2.9 percent payable by the City-at-large. 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, 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:

REPLAT SPRING ACRES ADDITION
Tract 1: Lot 33 & ½ Vacated Farmivew Lane Adjacent on North
Tract 2: Lot 33A & ½ Vacated farmview Lane Adjacent on South & West of Siefkin Lane
Tract 3: Lot 34
Tract 4: Lot 35
Tract 5: Lot 35A

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 with each tract paying (1/5th) the total amount assessed to the benefit district. With each tract being described above.

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 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

Estimated assessments for paving Siefkin from Willow Lane to existing cul-de-sac.						10/01/08	
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Annual Payment**	Resident Owners
REPLAT SPRING ACRES ADD.							
C 34056	MAY, ROBERT W & TAMMY R	1571 N SIEFKIN	LOT 33 & 1/2 VAC FARMVIEW LANE ADJ ON N	70847.5	$34,066	$2,734	2
C 34057	LUKENS, JOSEPH C II	1601 N SIEFKIN	LOT 33A & 1/2 VAC FARMVIEW LANE ADJ ON S & W OF SIEFKIN LA	108507	$34,066	$2,734	1
C 34058	LOGAN, JAMES E & DONNA L	1550 N WILLOW LN	LOT 34	61276	$34,066	$2,734	2
C 34059	KENDRICK, WILLIE L & LINDA S	1521 N SIEFKIN	LOT 35	54428.7	$34,066	$2,734	2
C 34060	MC KEE, TIMOTHY E & BARBARA A	1531 N SIEFKIN	LOT 35A	56128.8	$34,066	$2,734	2
			Total:	351,188	$170,330		9

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

* Estimated assessment for street construction based on (1/5) of the total assessment excluding drive approach (if applicable), inflation, and/or temporary financing.

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

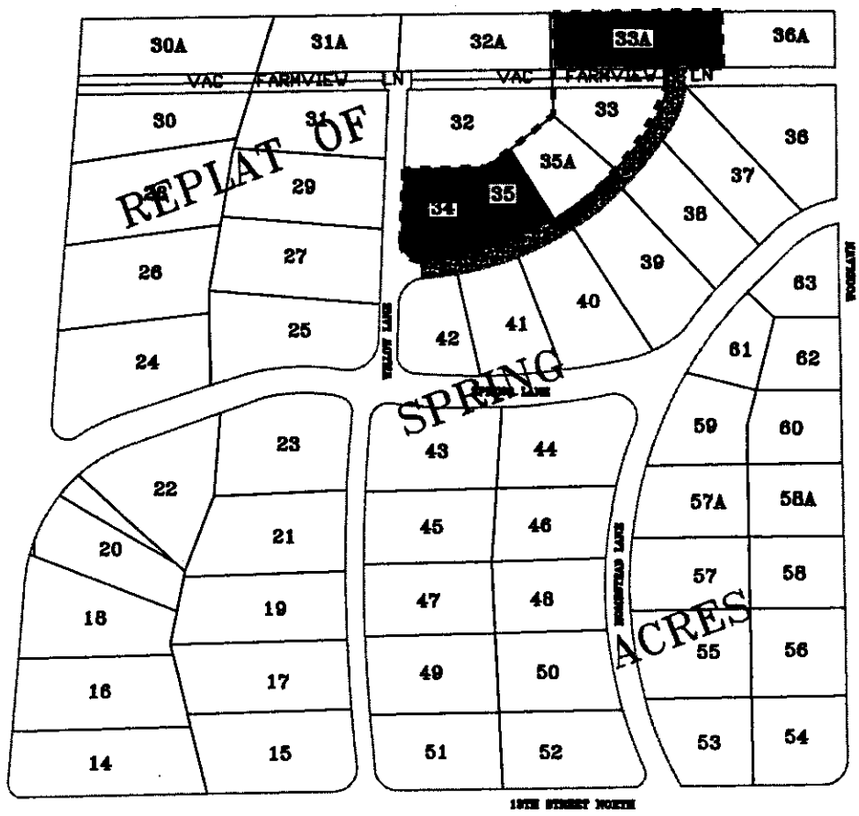
BREAKDOWN OF PROJECT COSTS

Amount assessed to the improvement district	$170,330
Add: City Share for Cluvert Installation (1.70%)	$3,150
Add: Estimated driveway costs***	$11,520
Total Estimated project cost	$185,000

*** Driveway approach costs are assessed to individual properties based on the actual size of drive approach requested. Driveway approach costs are in addition to the estimated assessment shown for the street construction.

Area Signed	63.84%
Reident Owners Signed	55.56%

PROPOSED PAVING OF SIEFKIN LANE FROM WILLOW LANE TO AND INCLUDING CUL-DE-SAC



RESIDENT OWNERS (56%)

AREA SIGNED (64%)

IMPROVEMENT DISTRICT

PROPOSED IMPROVEMENT

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	10/1/2008	Pave Siefkin, from Willow to cul-de-sac

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

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & const.	$5,150	$181,850		$187,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Other				
Totals	$5,150	$181,850		$187,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	x	
Ordered by WCC		

Remarks:

64% Petition

472-84762

13. Recommendation:

Approve the petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
Jan Aemon	[signature]	Catherine A. Gill	
		Date	Date

RECEIVED

SEP 17 '08

CITY CLERK OFFICE

PAVING 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:

Replat Spring Acres Addition
Tract 1: Lot 33 & 1/2 Vacated Farmview Lane Adjacent on North
Tract 2: Lot 33A & 1/2 Vacated Farmview Lane Adjacent on South & West of Siefkin Lane
Tract 3: Lot 34
Tract 4: Lot 35
Tract 5: Lot 35A

472-84762

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

(North of 13th, West of Woodlawn)

(a) That there be constructed pavement on **Siefkin** from the east line of **Willow Lane**, north to and including the cul-de-sac. 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 **One Hundred Eighty Five Thousand Dollars ($185,000)** exclusive of the cost of interest on borrowed money, with **98.3** percent payable by the improvement district and **1.7** percent payable by the City-at-large. Said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after **June 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.

(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 (**1/5th**) the total amount assessed to the benefit district. With each tract being described above.

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 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 **Replat Spring Acres Addition**	SIGNATURE DATE
Tract1: LOT 33 & 1/2 VAC FARMVIEW LANE ADJ ON N	MAY, ROBERT W & TAMMY R
Tract 2: LOT 33A & 1/2 VAC FARMVIEW LANE ADJ ON S & W OF SIEFKIN LANE	LUKENS, JOSEPH C II 8/9/08
Tract 3: LOT 34	LOGAN, JAMES E & DONNA L 8/2/08 8/2/08
Tract 4: LOT 35	KENDRICK, WILLIE L & LINDA S 8/9/08 8/9/08
Tract 5: LOT 35A	MC KEE, TIMOTHY E & BARBARA A

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.

Shawn Mellers
Name

455 N Main
Address

4632
Telephone Number

Sworn to and subscribed before me this 17 day of September, 2008.

Deputy City Clerk

Agenda Item No. V- 01.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: ZON2008-00044 – City zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR"); generally located north and west of the intersection of Douglas Avenue and Meridian Avenue. (District VI)

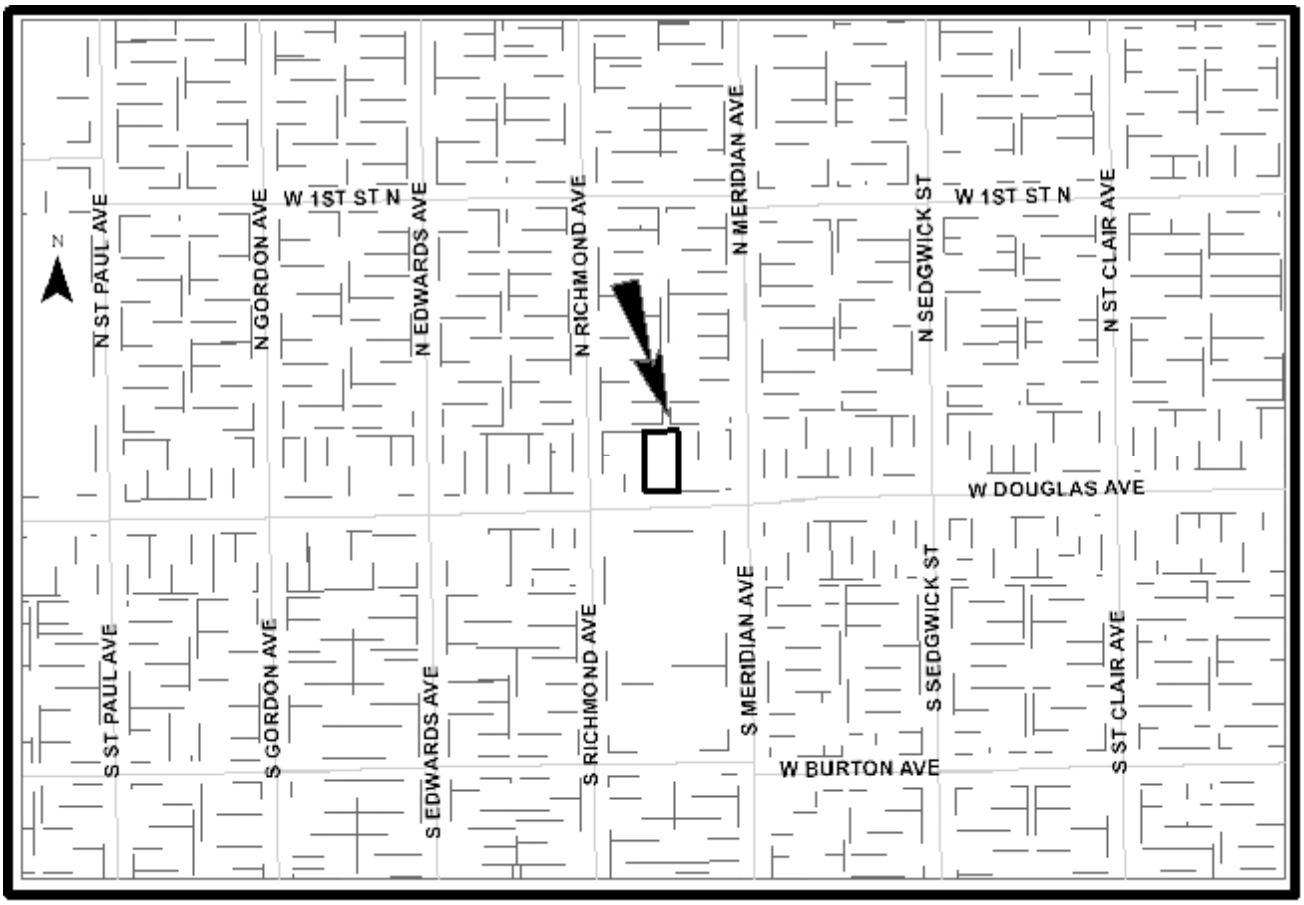
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

DAB V Recommendation: Approve, vote (8-0)

MAPC Recommendation: Approve, subject to staff recommendation, vote (11-0)

MAPD Staff Recommendation: Approve



Background: The applicant requests a zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR") on a 0.25-acre piece of property generally located north of Douglas and west of Meridian Avenue. The property requesting the rezone is currently developed as a retail use in a structure that was built in 1945.

The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The property to the south of Douglas is zoned LC Limited Commercial ("LC") and currently has a vacant Dillons store on the site. Property directly to the east of the subject site is zoned LC and is developed with retail uses. Other uses along Douglas to the east include retail and office uses and residential uses to the west.

Analysis: At the MAPC meeting held September 11, 2008, the MAPC voted (11-0) to recommend approval of the request for NR zoning, subject to staff recommendations. There was no opposition.

At the DAB VI meeting held on September 9, 2008, the DAB voted (8-0) to recommend approval per planning staff recommendations. The only question/concern the DAB had was if there was enough room for parking in case the applicant planned to expand in the future. There were not any citizens that spoke in favor or in opposition of the case.

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 and place the ordinance 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.)

ORDINANCE NO. 48-105

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

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

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

Case No. ZON2008-00044

Zone change from TF-3 Two-family Residential ("TF-3") to Neighborhood Retail ("NR") on property described as:

Lots 45, 46 and 47, Block 1, Academy Park Addition to the City of Wichita, Sedgwick County, Kansas; generally located north and west of the intersection of West Douglas Avenue and North Meridian Avenue (2514 W. Douglas Avenue)

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, October 28, 2008.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

INTEROFFICE MEMORANDUM

TO: Metropolitan Area Planning Commission Members

FROM: Terri Dozal, District VI Neighborhood Assistant

SUBJECT: ZON2008-00044 Zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR") generally located north of Douglas Avenue and 150 feet west of Meridian Avenue (2514 W. Douglas Avenue).

DATE: September 9, 2008

On Monday, September 8, 2008 the District VI Advisory Board (DAB) considered a Zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR") generally located north of Douglas Avenue and 150 feet west of Meridian Avenue (2514 W. Douglas 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 applicant was not present.
No members of the public were present to speak for or in opposition of the request.

******* Action:** The District VI Advisory Board made a motion to recommend to the City Council to Approve the zone change request based on staff recommendations. (**8-0**)

Board Members questions/concerns included: 1) will there be sufficient parking for any future expansion plans of this property?

Please review this information when **ZON2008-00044** is considered.

mtd

EXCERPT OF THE AUGUST 21, 2008, MAPC HEARING

Case No.: ZON2008-44 – Wayne & Vev Kessler (owner/applicant) Request City zone change from TF-3 Two-family Residential to NR Neighborhood Retail on property described as:

Lots 45, 46 and 47, Block 1, Academy Park Addition to the City of Wichita, Sedgwick County, Kansas. Generally located north of Douglas Avenue and 150 feet west of Meridian Avenue.

BACKGROUND: The applicant requests a zone change from TF-3 Two-family Residential ("TF-3") to NR Neighborhood Retail ("NR") on a 0.25-acre piece of property generally located north of Douglas and west of Meridian Avenue. The property requesting the rezone is currently developed as a retail use in a structure that was built in 1945.

The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The property to the south of Douglas is zoned LC Limited Commercial ("LC") and currently has a vacant Dillon's store on the site. Property directly to the east of the subject site is zoned LC and is developed with retail uses. Other uses along Douglas to the east include retail and office uses and residential uses to the west.

CASE HISTORY: The property is platted as Lots 45, 46 and 47, Block 1, Academy Park Addition, recorded February 9, 1909.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Residence
SOUTH:	LC	Vacant Commercial Property
EAST:	LC	Retail
WEST:	TF-3	Residence

PUBLIC SERVICES: Douglas is a two-lane minor arterial with recorded 2007 annual average daily traffic was 7,500 vehicles per day on Douglas west of Meridian. All normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for "local commercial." The requested rezoning to NR is in conformance with the local commercial designation for the property along Douglas. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

Commercial Locational Guidelines #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; **#5** commercially-generated traffic should not feed directly onto local residential streets; and **#6** commercial uses that are not located in planned centers or

nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas, including established areas of similar development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends the zone change be APPROVED.

This recommendation is based on the following findings.

1. The zoning, uses and character of the neighborhood: The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The property to the south of Douglas is zoned LC Limited Commercial ("LC") and currently has a vacant Dillons store on the site. Property directly to the east of the subject site is zoned LC and is developed with retail uses. Other uses along Douglas to the east include retail and office uses and residential uses to the west.

2. The suitability of the subject property for the uses to which it has been restricted: The property to the east and south is zoned LC. The rezoning tract has been occupied by the same retail use for some time, and at this time, it is unlikely that any single-family or duplex development would occur on the site if it were retained in TF-3 zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of NR zoning on this property, and the existing use should not have a detrimental effect on the surrounding property. The existing use has been in operation for many years and fits well as a buffer between a residential area and the intersection of Douglas and Meridian.

4. The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If the property remains zoned TF-3, the applicant would remain a non-conforming use which could create a financial hardship on the applicant if any damage were to occur to the structure or property. There should no change to public health, safety of welfare since the use will not change from what is currently being operated on the property.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for "local commercial." The requested rezoning to NR is in conformance with the local commercial designation for the property along Douglas. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

   In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the Commercial/Office Objective to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." Strategy III.B.6 recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

6. Impact of the proposed development on community facilities: The should not be a significant impact on public service or traffic since the use is existing and no changes are planned for the site.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **VAN FLEET** seconded the motion, and it carried (11-0).

Agenda Item No. V-02.

City of Wichita
City Council Meeting
October 21, 2008

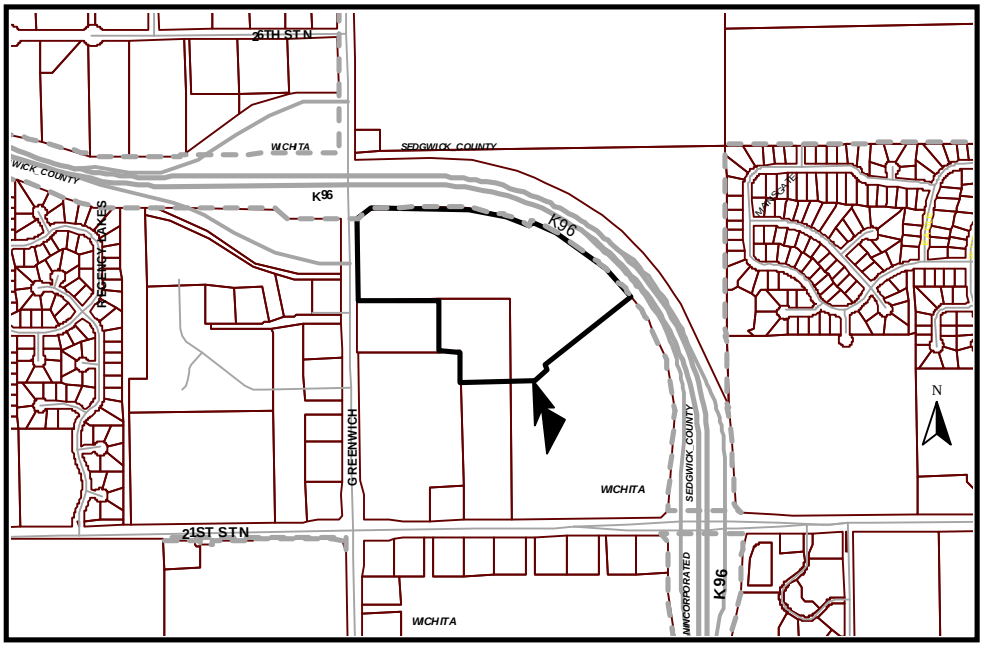
TO: Mayor and City Council Members

SUBJECT: CUP2005-63 (DP-291) and ZON2005-49 – Extension of time to complete the platting requirement for the Cedar Creek Marketplace Commercial Community Unit Plan and a zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial. Generally located east of Greenwich Road and south of K-96. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve extension of platting deadline to August 7, 2009.



Background: On February 7, 2006, the City Council approved the creation of DP-291 Cedar Creek Marketplace CUP and a zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial, subject to the condition of platting the property within one year. The applicant's attached letter indicates that a preliminary plat was conditionally approved. The applicant previously received a one year platting extension. The applicant again requests a one-year platting extension to August 7, 2009, in order to complete the platting process.

Analysis: Staff recommends that an extension of time to complete platting requirements be granted. The City Council may deny the request for an extension of time to complete platting; however, denying the extension would declare the CUP and zone change null and void and would require reapplication and rehearing if the property owner still desired a CUP and zone change.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Recommendations/Actions: Approve extension of platting deadline to August 7, 2009.

Ruggles & Bohm P.A.
Engineering, Surveying, Land Planning

924 North Main
Wichita, Kansas 67203

(316) 264-8008
fax (316) 264-4621

www.rbkansas.com
info@rbkansas.com

July 24, 2008

John Schlegel, Director
Wichita-Sedgwick County Metropolitan Area
Planning Department
455 N. Main
Wichita KS 67202

Re: Rezoning north of 21st, east of Greenwich, case ZON2005-49
Cedar Creek Marketplace CUP (DP-291), case CUP2005-63
Cedar Creek Marketplace Addition, case SUB2006-07

Dear Mr. Schlegel,

The above zoning and CUP cases were approved subject to platting of the property, and a preliminary plat also has been approved conditionally. The applicant has previously received an extension of time to complete the platting process, and continues to work toward meeting the conditions. It is the applicant's intent to complete the plat and the development.

As authorized agent for the applicant, Kensington Gardens LLC, I hereby request an additional one-year extension of time beyond the current August 7, 2008, deadline. If you require further information regarding this request, please call.

Respectfully submitted,

Ruggles & Bohm P.A.

Thomas C. Ruggles

Thomas C. Ruggles, P.E., L.S.

cc: Ashley Cozine
Bill Cozine

RUGGLES & BOHM RB WICHITA

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: VAC2007-00042 - Request to vacate a utility easement dedicated by separate instruments; generally located east of Hillside Avenue and south of Kellogg. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant, Catholic Diocese of Wichita, is requesting vacation of a utility easement, dedicated by separate instrument, located on the east 10 feet of Lots 52-60 (even) (Miscellaneous Record 69, recorded May 16, 1929) and the utility easement dedicated by separate instrument located on the north 5 feet and the east 8 feet of Lot 50, (Miscellaneous Book 513, page 135, recorded February 5, 1963) all on Rutan Avenue, all in the Indiana Subdivision in Vincennes Addition, Wichita, Sedgwick County, Kansas. There are no manholes, water or sewer lines located in the described easements. The applicant has relocated Westar utilities located in a portion of the described easements. The request will allow an expansion of the abutting cemetery. The Indiana Subdivision in Vincennes Addition was recorded with the Register of Deeds on May 5, 1887.

Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

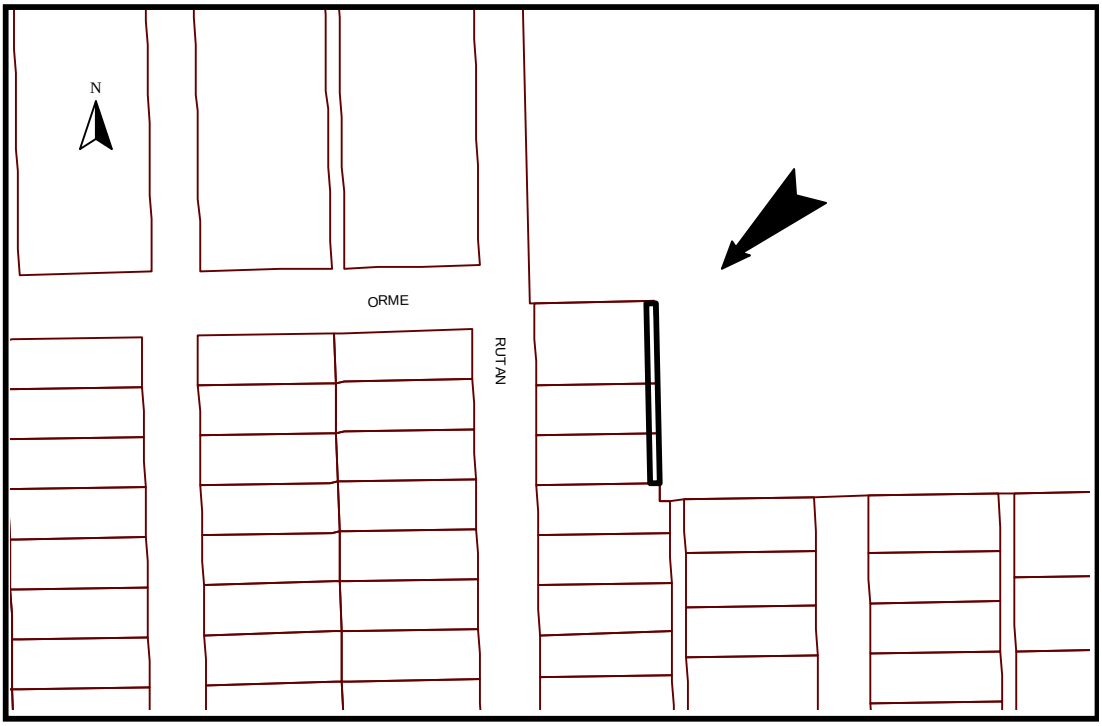
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order 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: None.


N
ORME
RUTAN

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: VAC2008-00021-Request to vacate the restriction of uses in the plattor's text to allow additional uses in portions of platted reserves; generally located south of Central Avenue and east of 143rd Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting consideration for the vacation of the restriction of uses in the plattor's text to allow entry signs in a portion of the platted Reserves A in Blocks 1 and 2, Shadybrook Farm Addition. The size of the proposed solid masonry signs are 9 feet, 10.5 inches tall (highest point) and 24 feet, 4 inches long. The proposed signs will replace entry signs already located in the reserves. Per the plattor's text, the uses that the reserves have been set aside for include open space, drainage easements and utility easements. The plattor's text does not allow signage in the reserves, thus if the existing signs are torn down, they could not be replaced unless the plattor's text was amended, via the vacation process, to allow signage. There are no platted utility or drainage easements in the reserves. Water is located in the street rights-of-way. A sewer line and manhole appear to be located in a portion of Reserve A, Block 1, but are outside of the area where the proposed signs are to be located. The applicant needs approval, permits and inspection by the Office of Central Inspection for the signs. The Shadybrook Farm Addition was recorded with the Register of Deeds on November 2, 1972.

Analysis: The MAPC voted (8-0) 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.

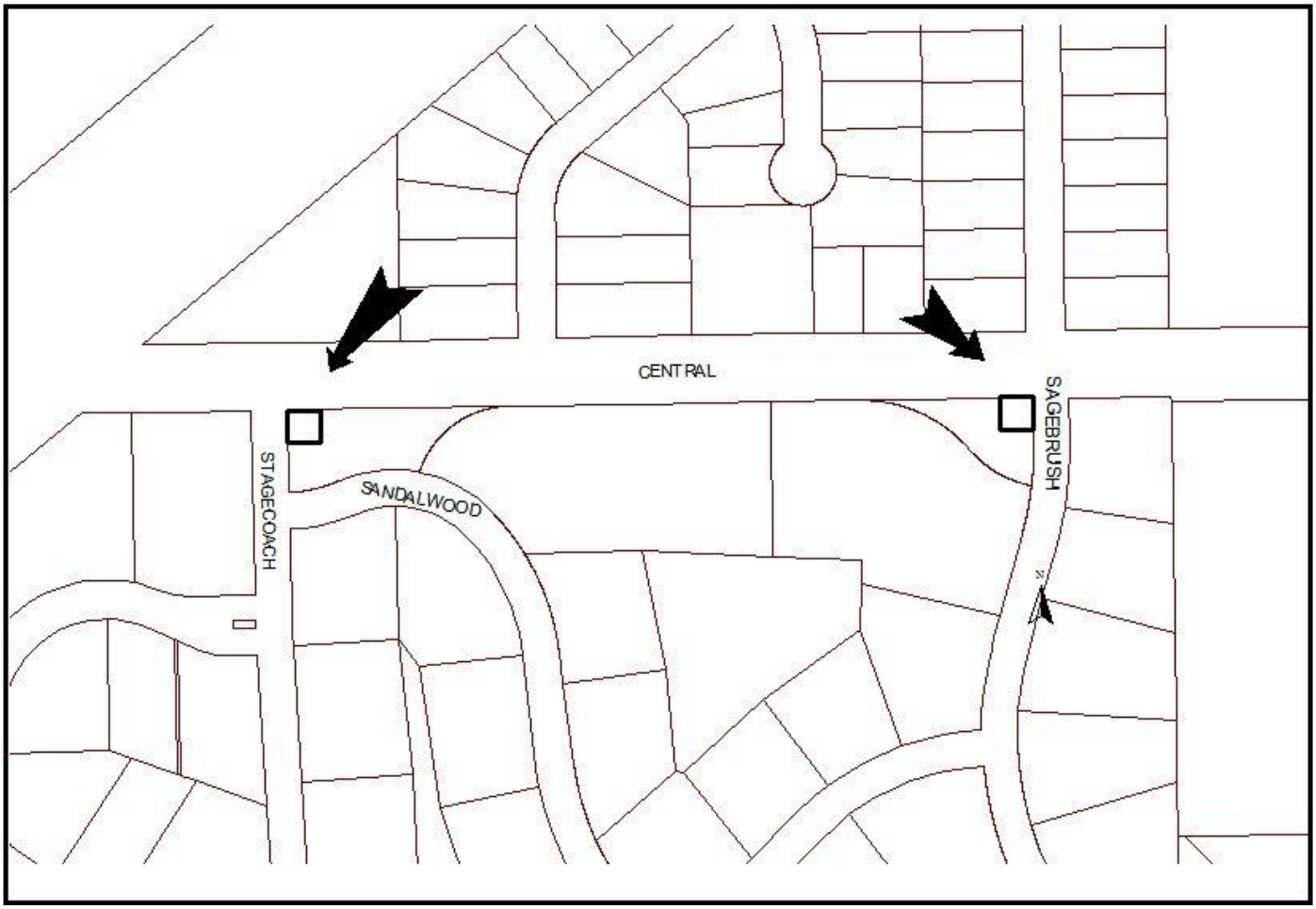
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order 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: None.


SAGEBRUSH
N
SANDALWOOD
STAGECOACH
CENTRAL

Agenda Item No. V-05.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: SUB 2008-01 -- Plat of Bellechase Second Addition located on the east side of 127th Street East and north of Harry. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

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

Background: This site, consisting of 56 lots on 38.98 acres, is the south portion of the overall preliminary plat approved for the site and represents the second phase of the development. The site is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

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

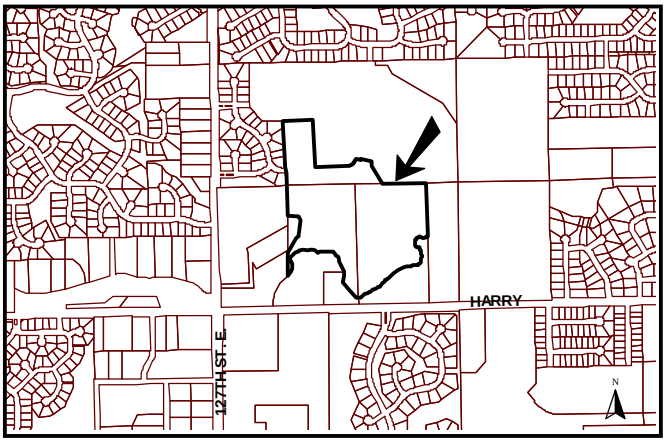
The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

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

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



132019

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-489

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90406 (EAST OF 127TH ST. EAST, NORTH OF HARRY) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90406 (EAST OF 127TH ST. EAST, NORTH OF HARRY) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Water Distribution System Number 448-90406 (east of 127th St. East, north of Harry).

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be One Hundred Twelve Thousand Dollars ($112,000) exclusive of the cost of interest on borrowed money, with 100 percent of the total cost payable by the improvement district Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after September 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:

BELLECHASE SECOND ADDITION
Lots 1 through 12, Block 1
Lots 1 through 27, Block 2
Lots 1 through 16, Block 3

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 12, Block 1, Lots 1 through 27, Block 2, and Lots 1 through 16, Block 3, BELLECHASE SECOND ADDITION shall each pay 1/55 of the total cost of the improvement district.

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

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 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

132019

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-490

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 415, FOUR MILE CREEK SEWER (EAST OF 127TH ST. EAST, NORTH OF HARRY) 468-84551 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 415, FOUR MILE CREEK SEWER (EAST OF 127TH ST. EAST, NORTH OF HARRY) 468-84551 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 415, Four Mile Creek Sewer (east of 127th St. East, north of Harry) 468-84551.

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

SECTION 2. That the cost of said improvements provided for hereof is estimated to be One Hundred Fifteen Thousand Dollars ($115,000), 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 September 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:

BELLECHASE SECOND ADDITION
Lots 5 through 27, Block 2
Lots 1 through 16, Block 3

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

> That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall b on a fractional basis: Lots 5 through 27, Block 2 and Lots 1 through 16, Block 3 BELLECHASE SECOND ADDITION shall each pay 1/39 of the total cost payable 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 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-491

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER DRAIN NO. 351 (EAST OF 127TH ST. EAST, NORTH OF HARRY) 468-84552 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. 351 (EAST OF 127TH ST. EAST, NORTH OF HARRY) 468-84552 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 2. That it is necessary and in the public interest to improve Storm Water Drain No. 351 (east of 127th St. East, north of Harry) 468-84552.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Three Hundred Eight Thousand Dollars ($308,000) 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 September 1, 2008, exclusive of the costs of temporary financing.

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

BELLECHASE SECOND ADDITION
Lots 1 through 12, Block 1
Lots 1 through 27, Block 2
Lots 1 through 16, Block 3

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: Lots 1 through 12, Block 1, Lots 1 through 27, Block 2, and Lots 1 through 16, Block 3, BELLECHASE SECOND ADDITION shall each pay 1/55 of the total cost payable by the improvement district.

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

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

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement

and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

132019

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-492

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON BELLECHASE FROM THE WEST LINE OF BELLECHASE SECOND ADDITION TO THE EAST LINE OF BELLECHASE SECOND ADDITION; BELLECHASE CT. FROM THE NORTH LINE OF BELLECHASE TO AND INCLUDING CUL-DE-SAC; SIERRA HILLS FROM THE SOUTH LINE OF BELLECHASE TO THE EAST LINE OF LOT 9, BLOCK 3, BELLECHASE SECOND ADDITION; ALDEN FROM THE EAST LINE OF LOT 9, BLOCK 3, BELLECHASE SECOND ADDITION TO THE SOUTH LINE OF BELLECHASE (EAST OF 127TH ST. EAST, NORTH OF HARRY) 472-84763 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 BELLECHASE FROM THE WEST LINE OF BELLECHASE SECOND ADDITION TO THE EAST LINE OF BELLECHASE SECOND ADDITION; BELLECHASE CT. FROM THE NORTH LINE OF BELLECHASE TO AND INCLUDING CUL-DE-SAC; SIERRA HILLS FROM THE SOUTH LINE OF BELLECHASE TO THE EAST LINE OF LOT 9, BLOCK 3, BELLECHASE SECOND ADDITION; ALDEN FROM THE EAST LINE OF LOT 9, BLOCK 3, BELLECHASE SECOND ADDITION TO THE SOUTH LINE OF BELLECHASE (EAST OF 127TH ST. EAST, NORTH OF HARRY) 472-84763 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 Bellechase from the west line of Bellechase Second Addition to the east line of Bellechase Second Addition; Bellechase Ct. from the north line of Bellechase to and including cul-de-sac; Sierra Hills from the south line of Bellechase to the east line of Lot 9, Block 3, Bellechase Second Addition; Alden from the east line of Lot 9, Block 3, Bellechase Second Addition to the south line of Bellechase (east of 127th St. East, north of Harry) 472-84763.

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 Three Hundred Thirty-Six Thousand Dollars ($336,000) 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 September 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:

BELLECHASE SECOND ADDITION
Lots 1 through 12, Block 1
Lots 1 through 27, Block 2
Lots 1 through 16, Block 3

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

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 12, Block 1, Lots 1 through 27, Block 2, and Lots 1 through 16, Block 3, BELLECHASE SECOND ADDITION shall each pay 1/55 of the total cost of the improvement district.

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

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

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

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

CERTIFICATE

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

I, Stephen G. Miller, president of Bellechase Development L.L.C., owner of Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas, do hereby certify that petitions for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Street Improvements
2. Sanitary Sewer Improvements
3. Water Distribution System
4. Storm Water Drain

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

Signed this 8th day of September, 2008.

BELLECHASE DEVELOPMENT L.L.C.

Stephen G. Miller, president

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

The foregoing instrument was acknowledged before me this 8th day of September 2008, by Stephen G. Miller, president, BELLECHASE DEVELOPMENT L.L.C., owner of Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas.

Seal or Stamp

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

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

My appointment expires: 02-13 2011.

RESTRICTIVE COVENANT

This covenant, executed this 5th day of September, 2008

WITNESSETH: That,

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

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

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

1. Maintenance of Reserve A, Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas, shall be the responsibility of Bellechase Development L.L.C., until such time that a homeowners association is formed and charged with maintenance responsibilities of said Reserve.

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

its successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice of Delinquency are not proper for any reason, may, within the twenty-day period to be provided in said notice, apply for a hearing before the governing body having jurisdiction over the Notice of Delinquency, to appeal said assessments and any further proceedings with respect to such appeal.

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

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

EXECUTED the day and year first above written.

BELLECHASE DEVELOPMENT L.L.C.

_____ President
Stephen G. Miller

State of Kansas)
) SS
Sedgwick County)

The foregoing instrument acknowledged before me, this 8th day of September, 2008, by Stephen G. Miller, president of BELLECHASE DEVELOPMENT L.L.C., owner, Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas.

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

_____ Notary Public

My Appointment Expires: 02-13-2011

RESTRICTIVE COVENANT
(OFF STREET PARKING)

THIS DECLARATION made this 8th day of September, 2008, by Stephen G. Miller, president of BELLECHASE DEVELOPMENT L.L.C., owner, Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas

WITNESSETH

WHEREAS, Declarant is owner of the following described property:

BELLECHASE SECOND ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

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

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

Lots 1 through 12, Block 1, Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas.

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

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

EXECUTED the day and year first above written.

BELLECHASE DEVELOPMENT L.L.C.

Stephen G. Miller, president

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The foregoing instrument acknowledged before me this 8th day of September, 2008, by Stephen G. Miller, president, BELLECHASE DEVELOPMENT L.L.C., owner of Bellechase Second Addition, an Addition to Wichita, Sedgwick County, Kansas.

MILDRED E. FRANZ
NOTARY PUBLIC
STATE OF KANSAS

Notary Public

My Appointment expires: 02-13-2011

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: DED 2008-08 -- Dedication of a Utility Easement located south of 37th Street and west of Hood. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedication.

Background: This Dedication is associated with Lot Split Case No. SUB 2008-53 (Pleasant Valley Addition). The Dedication is for construction and maintenance of public utilities.

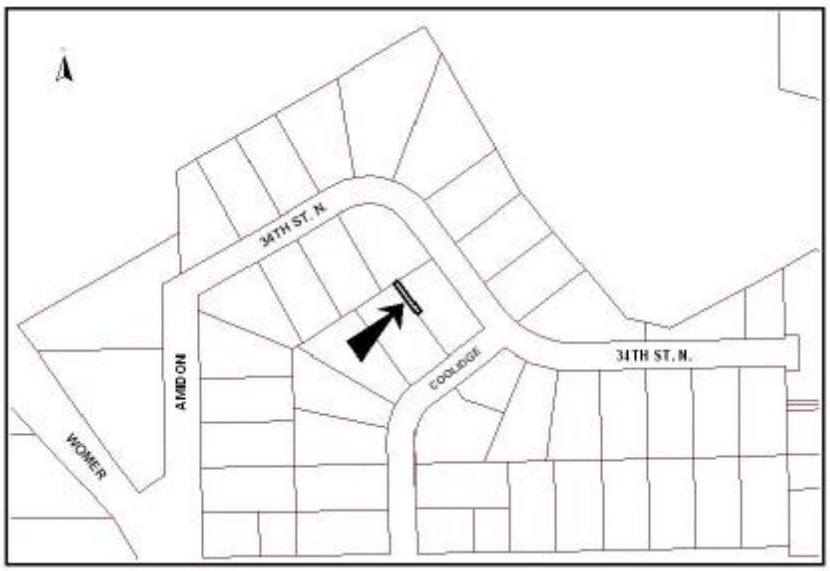
Analysis: None.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Dedication has been recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedication.



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29004042
Receipt #: 1697462
Pages Recorded: 1
Cashier Initials: DH
Recording Fee: $8.00
Authorized By:
Date Recorded: 9/3/2008 11:51:46 AM

TO CORRECT LEGAL DESCRIPTION ON DOC.#28996577
EASEMENT

THIS EASEMENT made this 3 day of September, 2008, by and between Donald L. Kutilek 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 covey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing sewer and all other public utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

That part of Lot 7, Block B, Pleasant Valley Addition, Sedgwick County, Kansas described as BEGINNING at the West most corner thereof; THENCE S 35^{0}28'50" E along the Southwest line of said Lot 7, 84.53 feet; THENCE N 53^{0}30'E, 12.50 feet; THENCE N 35^{0}28'50" W, 83.29 feet to the Northwesterly line of said Lot 7; THENCE S 59^0 10'40" W along said Northwesterly line, 12.54 feet to the POINT OF BEGINNING.

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 and all other public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

Donald L. Kutilek
Donald L. Kutilek

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Be it remembered that on this 3 day of September, 2008, before me, a notary public in and for said County and State, came Donald L. Kutilek to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof I have hereunto set my hand and affixed my notarial seal day and year above written.

SEAL CHELSEA L. SCHUCKMAN Notary Public - State of Kansas My Appt. Expires 7-18-2012

Chelsea L. Schuckman
Chelsea L. Schuckman Notary Public

(DED 2008-08)
(1/5 # SUB-2008-53)

My Commission expires: July 18, 2012

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: DED 2008-09 -- Dedication of a Drainage and Utility Easement located west of Woodlawn and on the south side of 29th Street North. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedication.

Background: This Dedication is associated with Lot Split Case No. SUB 2008-57 (Northeast Elementary School Addition). The Dedication is for construction and maintenance of public utilities.

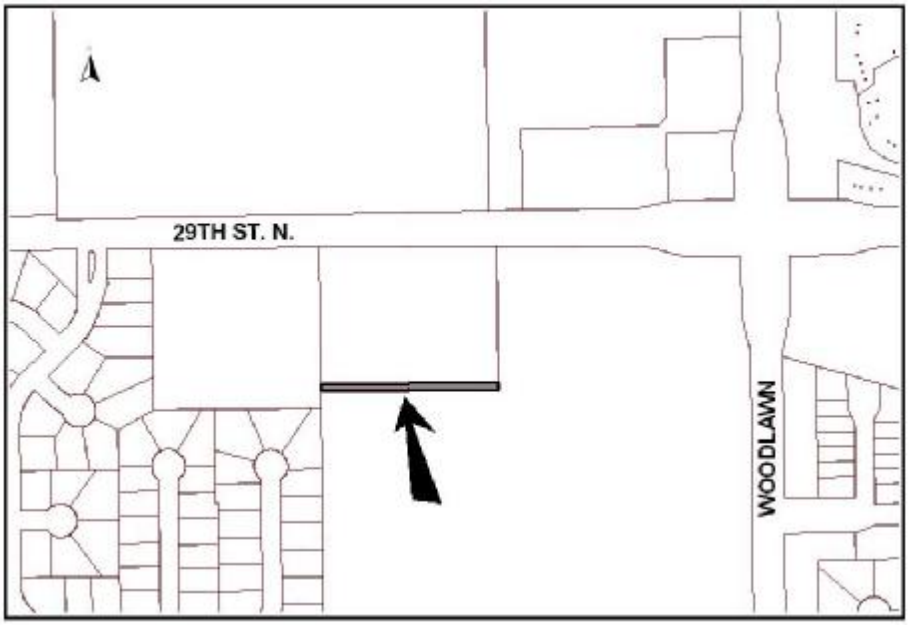
Analysis: None.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

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

Recommendations/Actions: It is recommended that the City Council accept the Dedication.



DRAINAGE AND UTILITY EASEMENT

THIS EASEMENT made this 15th day of September, 2008, by **Central Congregation of Jehovah's Witnesses; and Unified School District No. 259, Wichita, Sedgwick County, Kansas**, 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 their drainage system and utilities, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

> A 20.00 foot wide tract lying within a portion of Lot 1, Block 1, Northeast Elementary School Addition, an addition to Wichita, Sedgwick County, Kansas, said 20.00 foot wide tract being centered on the following described line:
> BEGINNING at a point on the west line of said Lot 1, lying 416.64 feet south of the northwest most corner thereof; thence on a platted basis of bearing N89°11'46"E, 523.16 feet to the POINT OF TERMINUS.

And said party is hereby granted the right to enter upon said premises at any time for the purposes of constructing, operating, maintaining, and repairing their drainage system and utilities.

DED 2008-09
(4SA SUB 2008-5-7)

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

as to the north 10.00 feet:

CENTRAL CONGREGATION OF JEHOVAH'S WITNESSES

Phil Stover P.C.
Phil Stover

STATE OF KANSAS, SEDGWICK COUNTY } ss:
Personally appeared before me a notary public in and for the County and State aforesaid **xxxxx, xxxxx, Central Congregation of Jehovah's Witnesses**, 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 8th day of September, 2008.
Notary Public: Kimberly K. Mudd
Print name below Kimberly K. Mudd

My Appointment Expires: 2-9-09

KIMBERLY K. MUDD
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 2-9-09

as to the south 10.00 feet:

UNIFIED SCHOOL DISTRICT NO. 259, WICHITA, SEDGWICK COUNTY, KANSAS

Lynn W. Rogers,
Lynn W. Rogers, Board Vice President

STATE OF KANSAS, SEDGWICK COUNTY } ss:
Personally appeared before me a notary public in and for the County and State aforesaid **Lynn W. Rogers, Board Vice President, Unified School District No. 259, Wichita, Sedgwick County, Kansas**, 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 15 day of September, 2008.
Notary Public: Mike Willome
Print name below

My Appointment Expires: 6-9-2009

MIKE WILLOME
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 6-9-09

K:\WP\PROJECT\2008\08112 - Jehovah's Witness Campus\Lot Split\Utility Easement s1.doc
Upon Recording mail to:
MKEC Engineering Consultants, Inc.
411 N. Webb Rd.
Wichita, KS 67206

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: A08-12R Request by Jay W. Russell, of Heights, LLC, to annex land generally located east of Hillside Avenue, between 53rd Street North and 45th Street North, and isolated road segments. (Districts I, II, IV, V, VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

Background: The City has received a request to annex 54.93 acres of land generally located east of Hillside Avenue, between 53rd Street North and 45th Street North. The annexation area abuts the City of Wichita to the north, southeast and west. The property does not contain any structures at this time. The property owner anticipates developing approximately 97 single-family units within the next four years. On June 19, 2008, the Metropolitan Area Planning Commission approved the final plat of the Falcon Falls East Addition as recommended by the Subdivision Committee.

In addition, House Bill No. 2083 requires the City to annex road right-of-way, if requested by the County, when the road has a common boundary with the City. As a result of this legislation, the Sedgwick County requested that the City annex a series of road segments. After several discussions between the City of Wichita and Sedgwick County, a final plan for 2008 was developed, and this annexation includes these agreed upon road segments. A map of these road segments is attached.

Analysis:
Land Use and Zoning: The proposed annexation consists of approximately 54.93 acres of property currently zoned “SF-20” Single-Family Residential. Upon annexation, the "SF-20" Single-Family Residential zoning will convert to "SF-5" Single-Family Residential. Property directly to the north are farmsteads and currently zoned “SF-20” & SF-5” Single-Family Residential. Property to the east is also a farmstead that is zoned “SF-20” Single-Family Residential. Property to the south is primarily undeveloped with just two single-family units within the Normandy Park Addition and is zoned “SF-20” Single-Family Residential. Property to the west is developed with single-family residences and is zoned “SF-5” Single-Family Residential.

Public Services: The nearest water line is an 8", and a 14” main is located along Hillside Avenue, directly west of the subject property. There is also an 18" gravity flow sanitary sewer main that runs through the subject property. As a part of the Falcon Falls East Addition plat, the property owner will be required to extend water and sanitary sewer lines to serve this development.

Street System: Hillside Avenue, a two-lane paved road, runs along the west edge of the subject property. K-254, a four-lane paved highway, also runs along the southeast corner of the subject property. The Sedgwick County Capital Improvement Program 2008-2012, the City of Wichita Capital Improvement Program (CIP) 2007-2016 and the 2008 Transportation Improvement Program do not call for street improvements near the proposed annexation site.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita will provide fire protection from Fire Station No. 3, located at 3261 North Broadway, with an eight (8) to nine (9) minute response time. Upon annexation, police protection will be provided to the area by the Patrol North Bureau of the Wichita Police Department, headquartered at 3015 East 21st Street North.

Parks: K-96 Lake Park, a 112-acre park, is located approximately 2 miles to the south of the proposed annexation site and contains a fishing pond. Grove Park, a 125-acre park, is located just south of the K-96 Lake Park, approximately 2½ miles to the south of the proposed annexation site and contains a football field, a multi-use court, a parking area, two drinking fountains, a children's play area, an open shelter, a restroom facility and twelve picnic tables. Chisholm Creek Park, a 281-acre park, is located approximately 3 miles to the southeast of the proposed annexation site and contains two fishing ponds, a paved nature trail, four parking areas, 23 picnic tables, nine charcoal grills, an open shelter and two restrooms. Bridgeport Soccer Field, a 7-acre park, is located approximately 2½ miles to the southwest of the proposed annexation site and is currently being developed with adult soccer fields.

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

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

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is $3,970 with a total assessed value of $1,191. Using the current City levy ($31.979/$1000 x assessed valuation), this roughly yields $38 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that approximately 97 single-family housing units will be developed within the next four years. The total appraised value of this residential development after completion is estimated at $11,640,000. Assuming the current City levy remains about the same, this would roughly yield a total of $42,807 in City annual tax revenues.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

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

Recommendations/Actions: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

OCA150005 BID #37529-009 CID #76383

PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 31, 2008

ORDINANCE NO.48-106

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A08-12)

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

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

That part of the W ½ of the NW ¼ of Sec. 23, Twp. 26-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the NE corner of the W ½ of said NW ¼; thence S00°08'52"E along the east line of the W ½ of said NW ¼, 854.80 feet for a point of beginning; thence N90°00'00"W parallel with the north line of said NW ¼, 325.85 feet; thence N00°08'52"W parallel with the east line of the W ½ of said NW ¼, 110.00 feet, more or less, to the approximate center line of a creek; thence following the approximate center line of said creek, S22°00'44"W, 47.92 feet; thence S16°02'04"W, 110.34 feet; thence S00°29'36"W, 84.54 feet; thence S09°57'36"W, 127.74 feet; thence S02°59'31"E, 145.34 feet; thence S16°06'19"W, 133.72 feet; thence S29°37'55"W, 120.21 feet; thence S54°33'50"W, 43.77 feet; thence S69°46'35"W, 53.87 feet; thence S61°36'54"W, 65.25 feet; thence S43°39'57"W, 79.48 feet; thence S30°03'00"W, 91.40 feet; thence S42°56'45"W, 87.09 feet to a point 530.00 feet east of the west line of said NW ¼; thence S00°05'56"E parallel with the west line of said NW ¼, 79.17 feet; thence N90º00'00"E parallel with the north line of said NW ¼, 792.33 feet, more or less, to a point on the east line of the W ½ of said NW ¼; thence N00°08'52"W along the east line of the W ½ of said NW ¼, 983.48 feet, more or less, to the point of beginning, TOGETHER with that part of the W ½ of the NW ¼ of said Sec. 23 described as follows: Commencing at the NW corner of said NW ¼; thence S00°05'56"E along the west line of said NW ¼, 1760.00 feet for a point of beginning; thence N89°54'04"E perpendicular to the west line of said NW ¼, 530.00 feet; thence S00°05'56"E parallel with the west line of said NW ¼, 79.17 feet; thence N90°00'00"E parallel with the north line of said NW ¼, 792.33 feet, more or less, to a point on the east line of the W ½ of said NW ¼; thence S00°08'52"E along the east line of the W ½ of said NW ¼, 822.43 feet, more or less, to the SE corner of the W ½ of said NW ¼; thence S89°44'56"W along the south line of the W ½ of said NW ¼, 1323.03 feet to the SW corner of said NW ¼; thence N00°05'56"W along the west line of said NW ¼, 906.50 feet, more or less, to the point of beginning EXCEPT for that part designated as Hillside Avenue, TOGETHER with that part of the NW ¼ of the SW ¼ of Sec. 23, Twp. 26-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the NW corner of the NW ¼ of said SW ¼; thence southerly along the west line of said SW ¼, 538.34 feet, more or less, to the intersection with the westerly extension of the north line of Normandy Park Addition, Sedgwick County, Kansas; thence easterly along the extended north line of said Normandy Park Addition, 671.00 feet to the NE corner of said Normandy Park Addition; thence southerly along the east line of said Normandy Park Addition, 206.00 feet; thence easterly parallel with the south line of the NW ¼ of said SW ¼, 520.87 feet, more or less, to a point on the northwesterly right-of-way line of Kansas Highway 254, (Condemnation Case No. B19603); thence northeasterly along said right-of-way, being a curve to the left, having a radius of 2745.51 feet, an arc length of 222.70 feet to a point on the east line of the NW ¼ of said SW ¼; thence northerly along the east line of the NW ¼ of said SW ¼, 571.27 feet to the NE corner of the NW ¼ of said SW ¼; thence westerly along the north line of the north line of the NW ¼ of said SW ¼, 1323.03 feet to the point of beginning, EXCEPT for that part designated as Hillside Avenue.

And Also:
127th Street East, from the south line of the North Half of Section 2, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and the south line of the Northeast Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence north, to the south right-of-way line of 29th Street North

And Also:

29th Street North, from the west right-of-way line of 127th Street East; thence west, to a point located 300 feet east of the west line of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and west line of Section 34, Township 26 South, Range 2 East of the 6th P.M. Sedgwick County, Kansas

And Also:
143rd Street East, from the north right-of-way line of 13th Street North; thence north, to the north line of the south half of Section 1, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and the north line of the south half of Section 2, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas

And Also:
Maize Road, from the south line of the Northeast Quarter of Section 6, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas and the south line of the Northwest Quarter of Section 5, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence north, to the south right-of-way line of Pawnee Avenue

And Also:
Pawnee Avenue, from a point located 366.60 feet west of the east line of Section 36 Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the east line of Section 1, Township 28 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence west, to the east right-of-way line of 135th Street West

And Also:
Maple Street, from the east right-of-way line of 151st Street West; thence west, to the west line of the Southeast Quarter of Section 22, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the west line of the Northeast Quarter of Section 27, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas

And Also:
Hoover Road, from the north right-of-way line of K-96 Highway to the north line of the Southeast Quarter of Section 22, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas and the north line of the Southwest Quarter of Section 23, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas

And Also:
That portion of 45th Street North lying west of Hoover Road and in the south 60 feet of the north 347.63 feet of the Northeast Quarter of Section 27, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas

And Also:
That portion of 29th Street North lying in the Southeast Quarter of Section 34, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, from the west line of said quarter section; thence east, to a line parallel to and 1,145 feet west of the east line of said Quarter Section

And Also:
61st Street North, beginning at the northeast corner of Lot 110, Vanview Addition; thence north, parallel with the east line of Section 18, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas to the south line of Section 7, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence east along said south line to the east line of the west half of vacated Fairfield Street; thence northeasterly, along said east line to the north right-of-way line of 61st Street North; thence east along said north right-of-way line to the east right-of-way line of Seneca Street; thence south along said east right-of-way line to the south right-of-way line of 61st Street North; thence west along said south right-of-way line to point of beginning

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

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

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

ADOPTED at Wichita, Kansas, this October 28, 2008.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

Planning Agenda **Item:** A08-12 Attachment No. 1

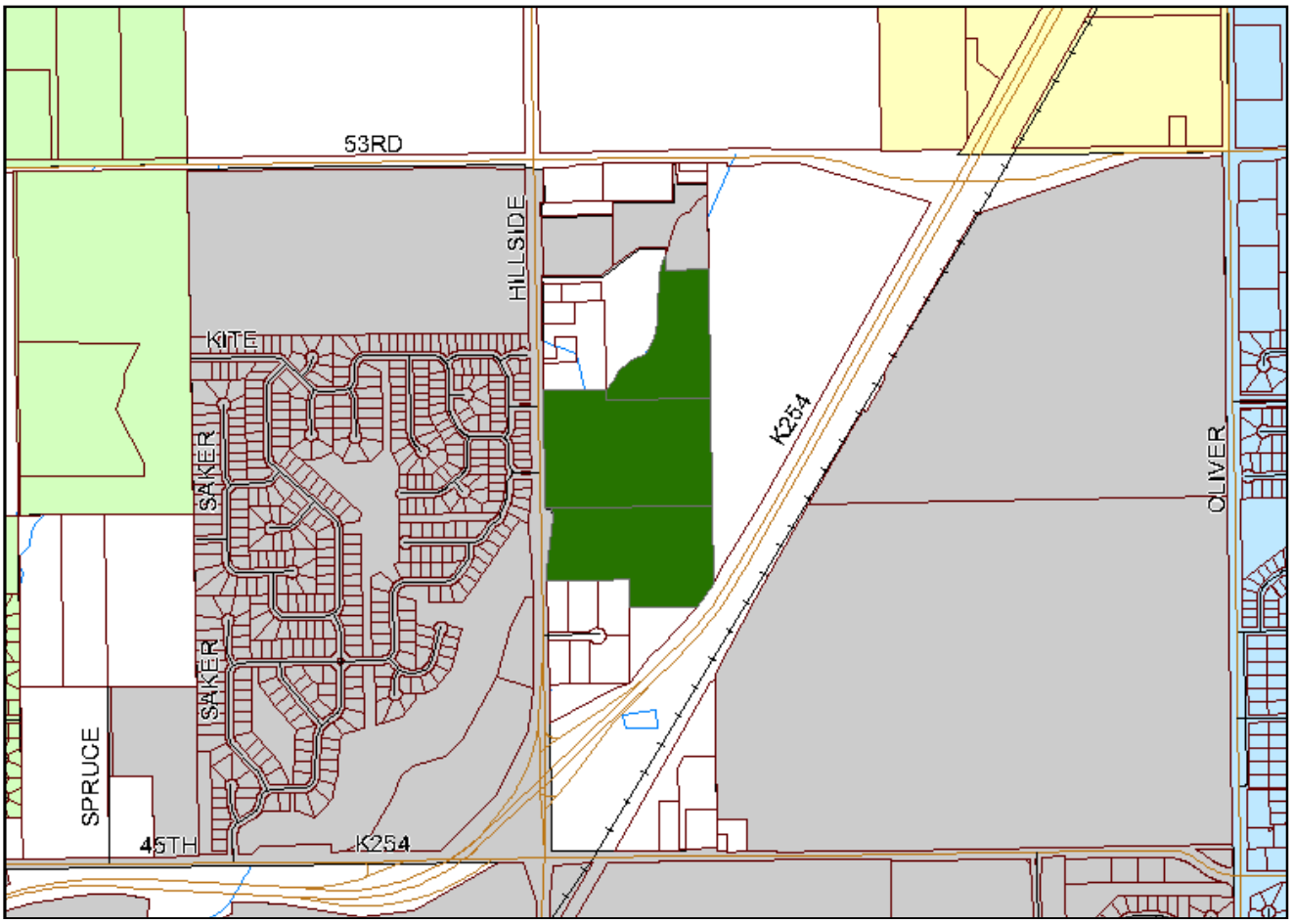
An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

General Location: Land generally located east of Hillside Avenue, between 53rd Street North and 45th Street North, and isolated road segments. (District I, II, IV, V, VI)

Address: _____

54.93	Area in Acres	X	Request
0	Existing population (est.)		Unilateral
0	Existing dwelling units		Island
0	Existing industrial/commercial units		Other:

Existing zoning:	"SF-20" Single-Family Residential

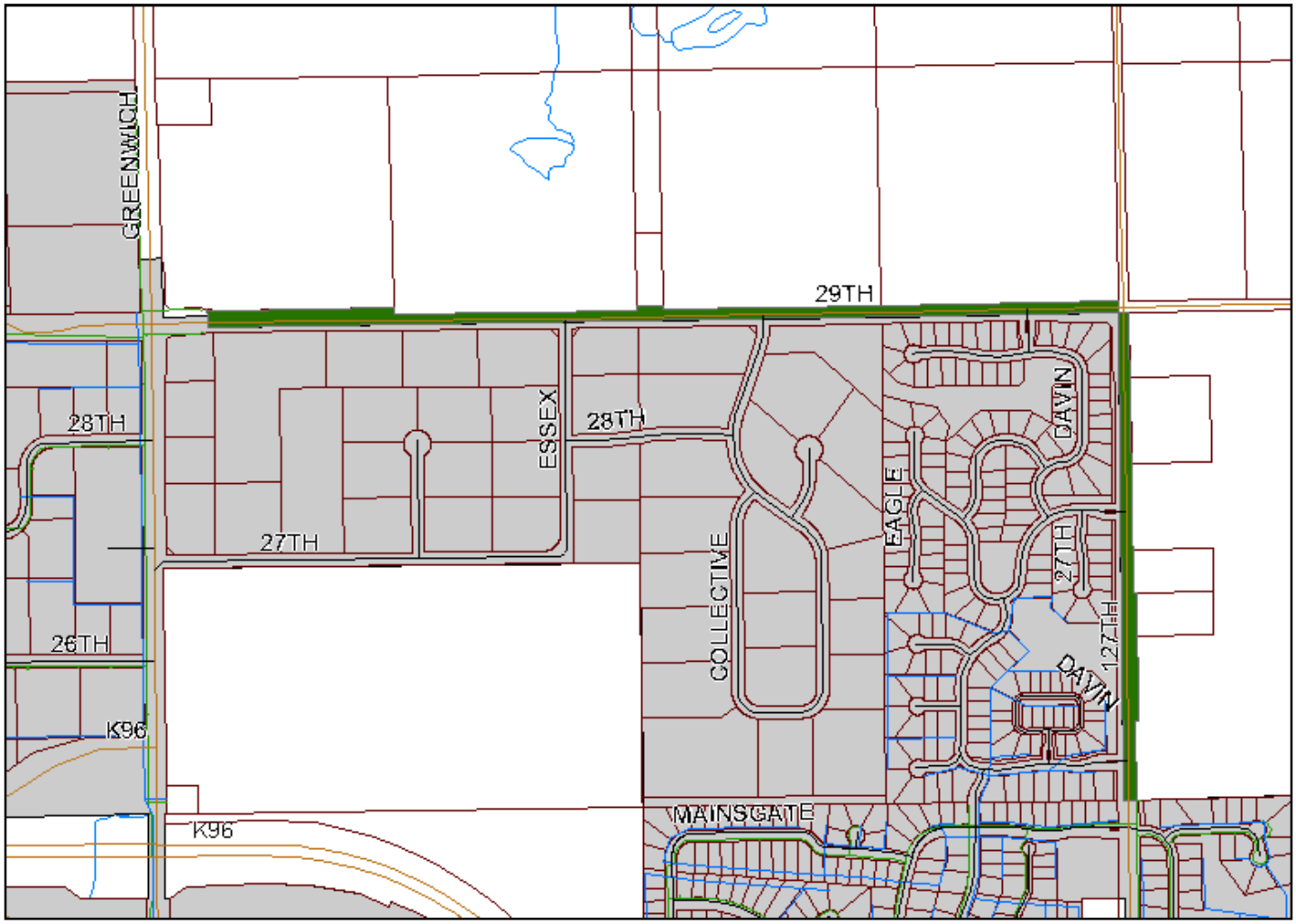


District I

AREA TO BE ANNEXED
PARK CITY
BEL AIRE
WICHITA
KECHI

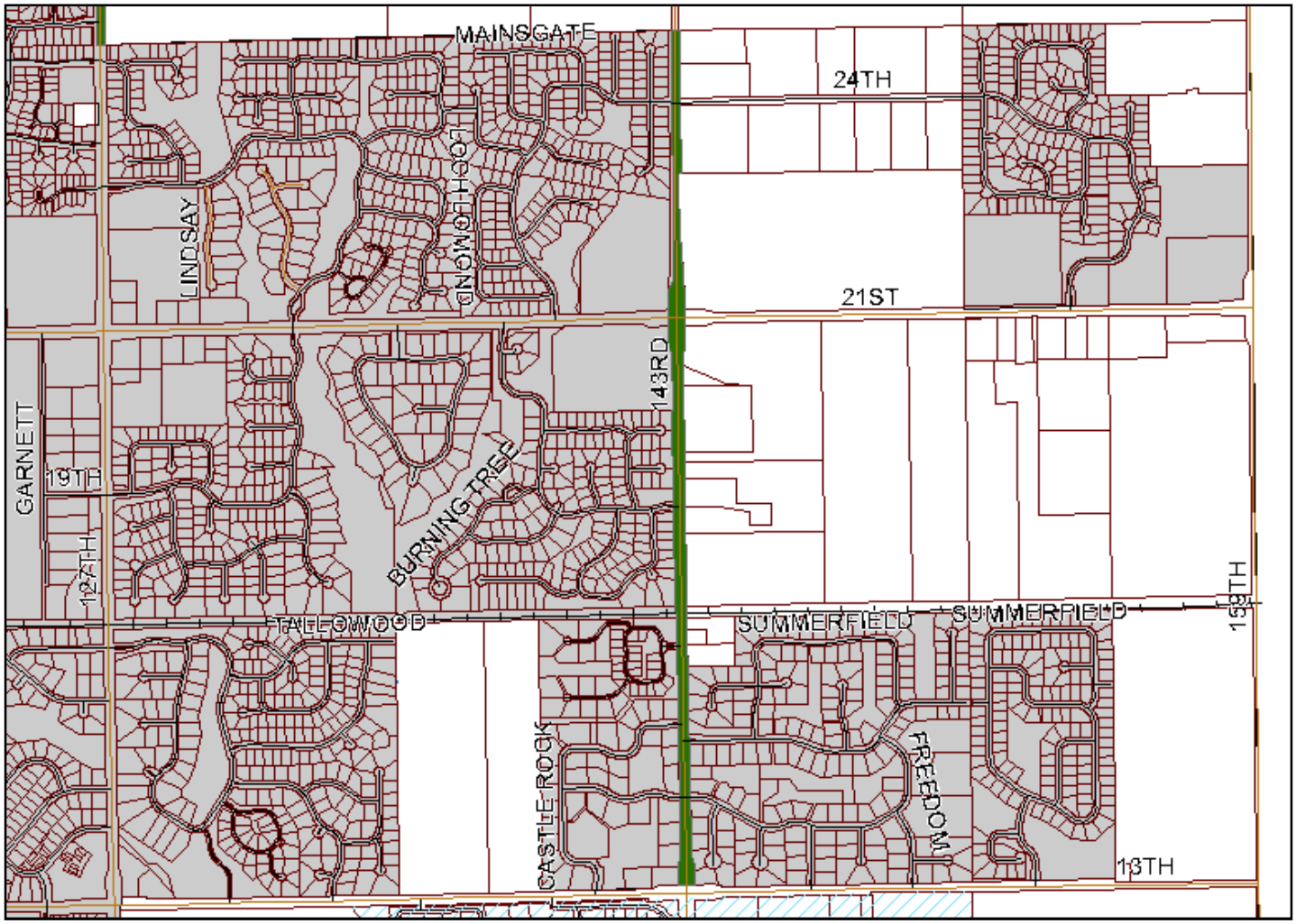
1. **<u>127th Street East</u>** – Located from ½ mile south of 29th Street North to 29th Street North

2. **<u>29th Street North</u>** – Located from Greenwich Road to 127th Street East.



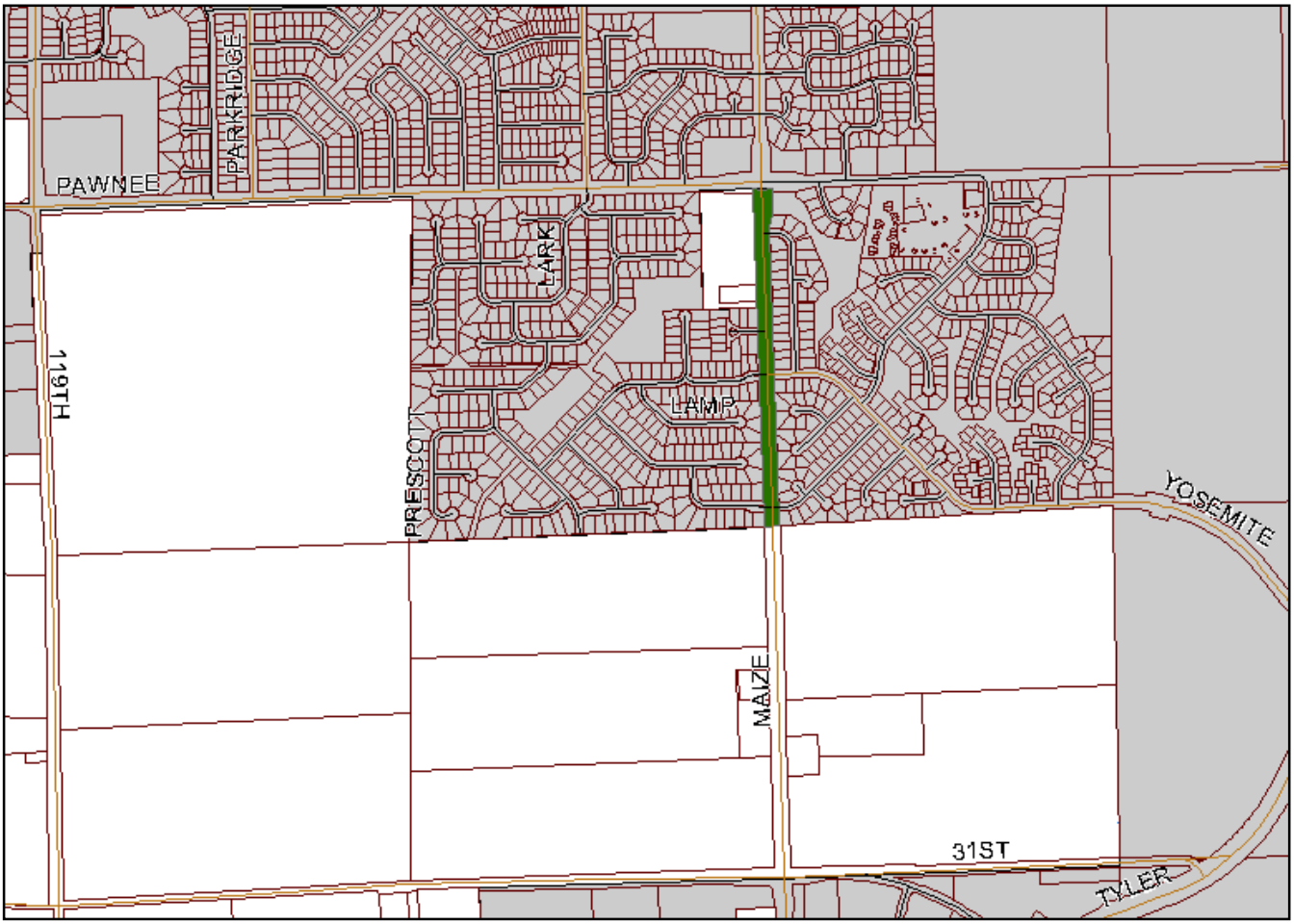
District II

3. <u>143rd Street East</u> – Located from 13th Street North to ½ mile north of 21st Street North



District II

4. <u>Maize Road</u> – Located from Pawnee Road to ½ mile north of 31st Street South

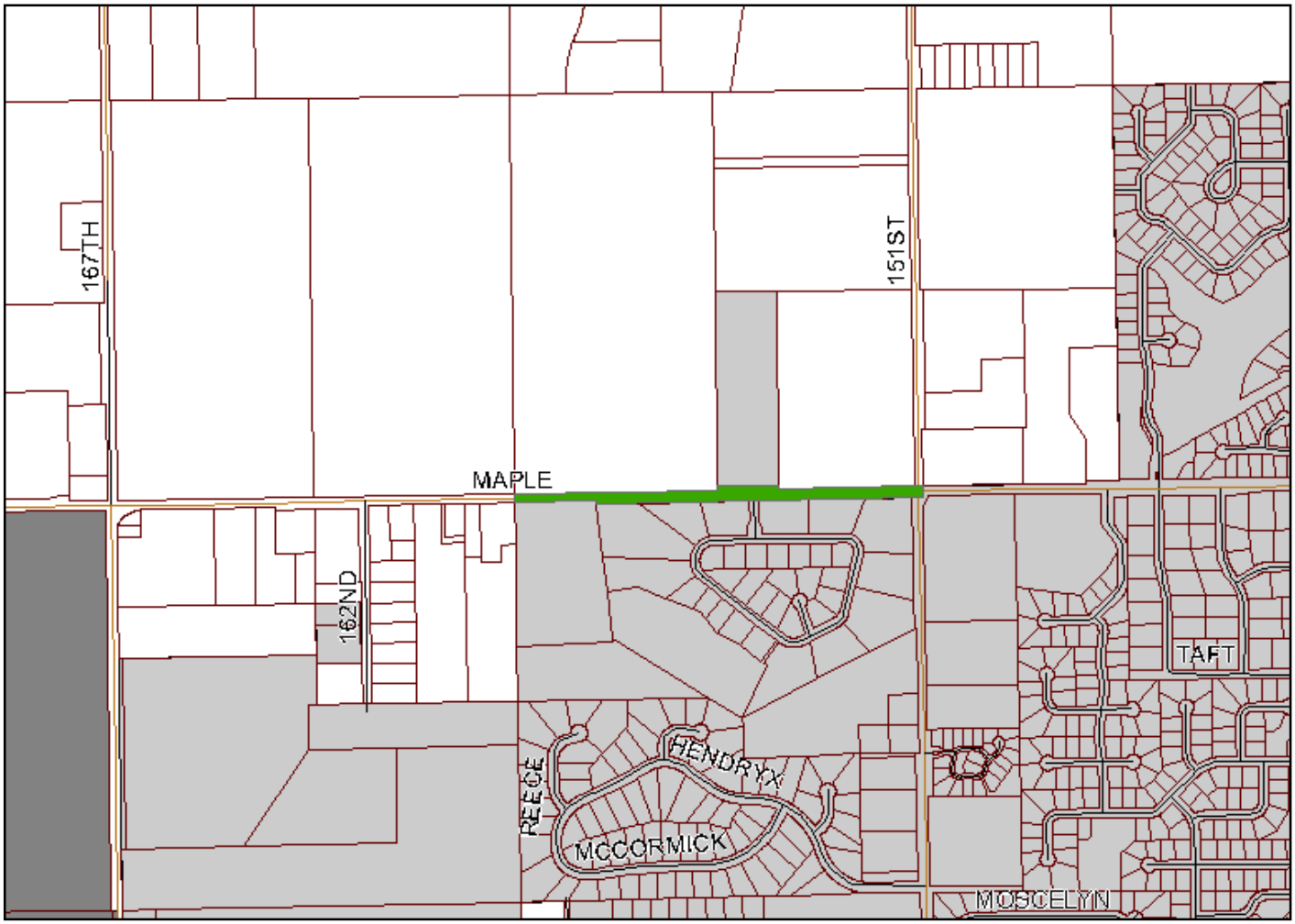


District IV

5. <u>Pawnee Avenue</u> – Located from 119th Street West to 135th Street West

District IV

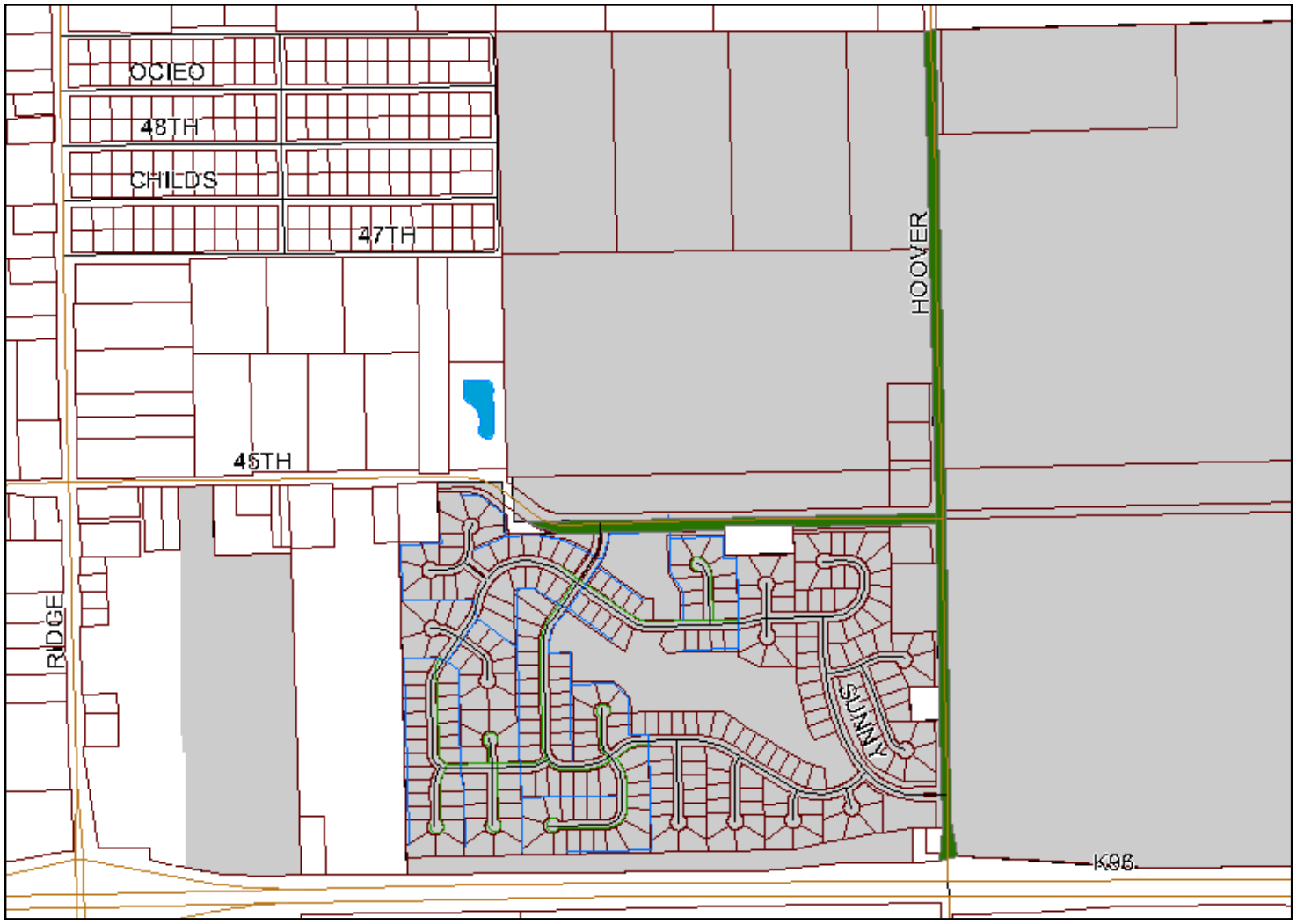
6. <u>Maple Street</u>– Located from 151st Street West to ½ mile east of 167th Street West



District V

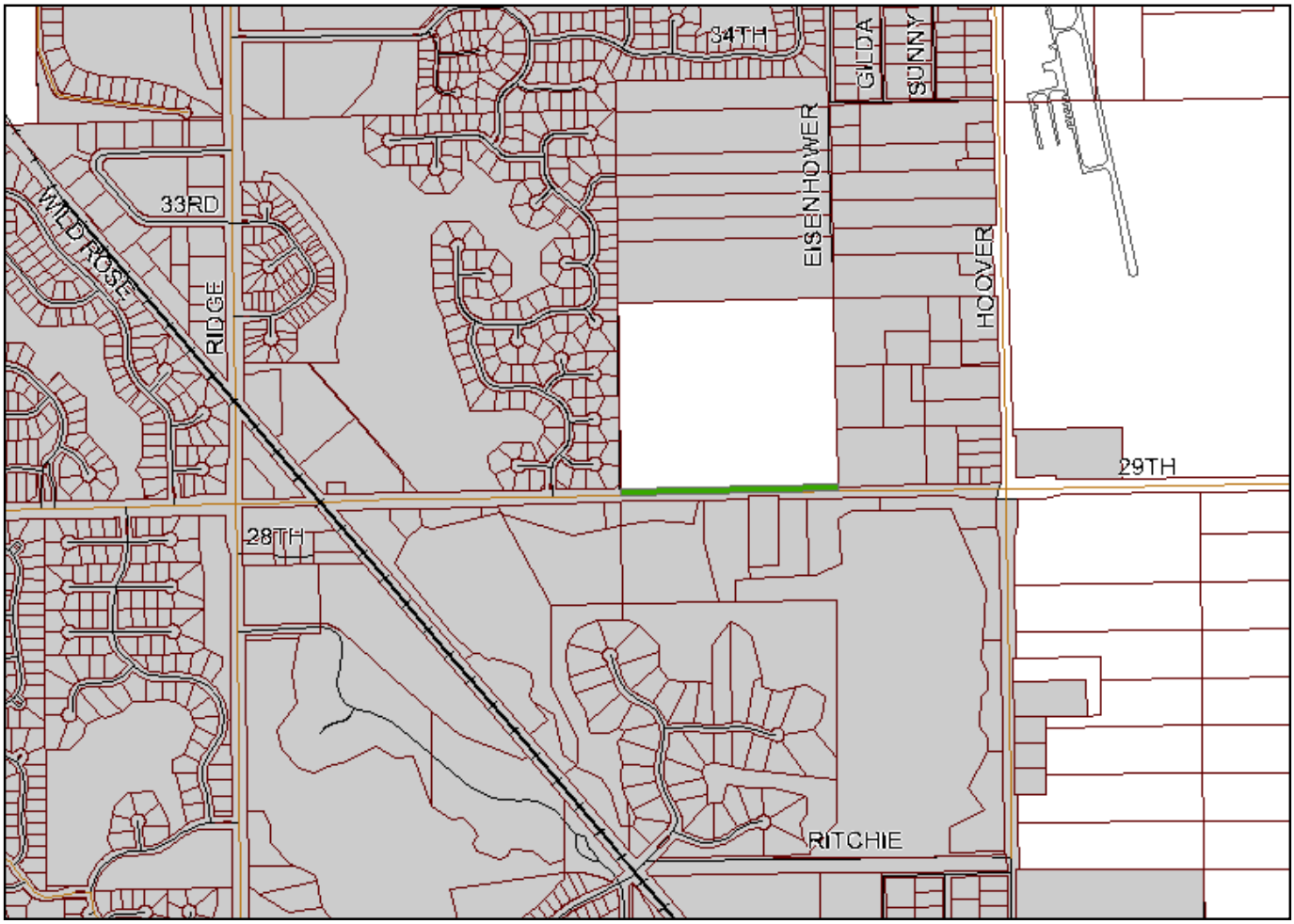
7. **<u>Hoover Road</u>** – Located from K-96 to ½ mile south of 53rd Street North

8. **<u>45th Street North</u>** – Located from Hoover Road to ½ mile east of Ridge Road



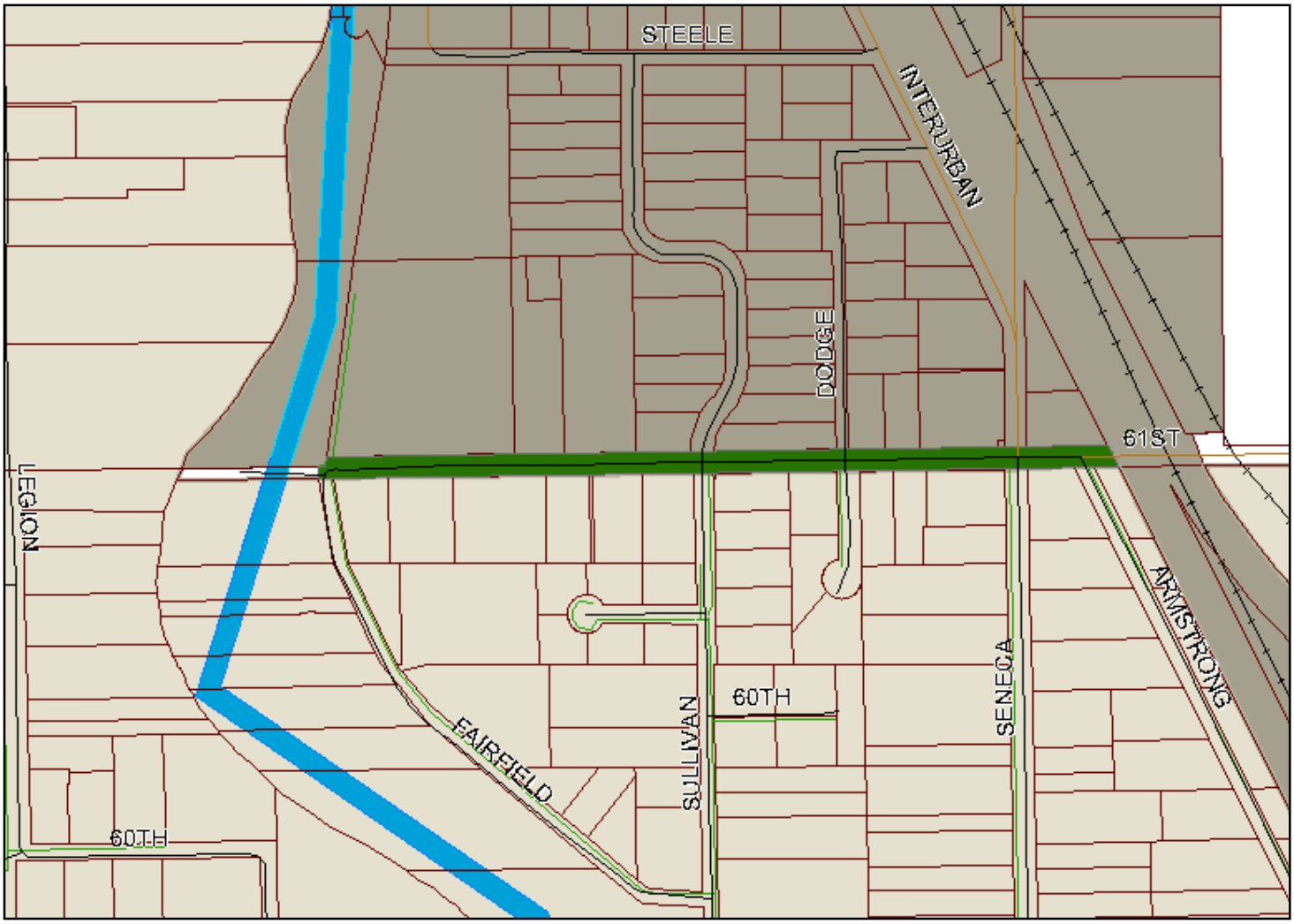
District VI

9. <u>29th Street North</u> – Located from ¼ mile west of Hoover Road to ½ mile east of Ridge Road



District V

10. <u>61st Street North</u> – Located from Seneca Street to ½ mile west of Seneca Street



District VI

Agenda Item No. IX-01.

City of Wichita
City Council Meeting
October 21, 2008

TO: Wichita Airport Authority

SUBJECT: Wichita Water Utilities of the City of Wichita – Lease Agreement For Mid-Continent Waste Water Treatment Plant

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Agreement.

Background: The updated Sewer Master Plan calls for the construction of a new sewage treatment facility (Waste Water Treatment Plant – WWTP) in southwest Wichita. The City hired Professional Engineering Consultants to assist in the identification and evaluation of possible sites. The City employed a multi-phase approach to identifying an appropriate site. The first phase was evaluation of sites by a committee composed of City Staff, the consulting engineers and citizens appointed by the District Advisory Board. Citizen input was also solicited through a public information fair. A technical review resulted in various sites being ranked. Ultimately a site located on Wichita Mid-Continent Airport was selected. At its April 19, 2005 Council meeting, the City Council approved the airport location, subject to approval by the FAA.

In March 2006, a letter was presented to the Federal Aviation Administration outlining the project and its location on Mid-Continent Airport, and suggesting the plant is needed to support and promote the anticipated development at Wichita Mid-Continent Airport, as well as the needs of the neighboring Wichita community. In a letter dated April 12, 2006 from Jeffrey Deitering, Airport Planning Engineer for the Federal Aviation Administration, Mr. Deitering stated that adequate information had been provided by Airport staff to justify utilizing the site for the WWTP, and that it will be acceptable for the property to be leased to the City at fair market value. The project has also been endorsed by the Wichita Airport Advisory Board.

Analysis: Airport and Water Utilities staff members are presenting a 50-year term lease agreement for use of airport land on which to construct a wastewater treatment plant. The site encompasses 5.62 acres and will serve airport development and the neighboring Wichita community. Facility ownership will remain with the Water Utilities Department as will the maintenance and operation of the facility throughout the term of the agreement.

Financial Considerations: Payment to the Wichita Airport Authority will result in an up-front payment of $1,202,789 from the Wichita Water Utilities Department, which represents the net present value of land rental payment.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which improve the infrastructure of the Airport and facilitate future development.

Legal Considerations: The Law Department has approved the Agreement as to legal form. It is necessary for the Airport Authority to enter into a formal lease with the City because they are separate legal entities, and the obligations of each party and financial arrangements satisfactory to the FAA must be set out.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Agreement; and authorize the necessary signatures. The Director of the Wichita Water Utilities will sign on behalf of the City of Wichita

Attachments: Agreement.

A G R E E M E N T

By and Between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas
and

WICHITA WATER UTILITIES OF THE CITY OF WICHITA
for

Use of Land – Wichita Mid-Continent Airport
8018 West K-42 Highway

THIS AGREEMENT, made and entered into this October 21, 2008, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the "LESSOR;" and the WICHITA WATER UTILITIES OF THE CITY OF WICHITA, hereinafter referred to as the "LESSEE."

WITNESSETH:

WHEREAS, the Wichita Airport Authority of the City of Wichita, Kansas (the "Lessor") is a governmental or quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into this Agreement by and through its governing body; and

WHEREAS, the City of Wichita is a municipal corporation of the State of Kansas (the "Lessee") with the lawful authority to enter into this Agreement; and the Wichita Water Utilities is a department of the City of Wichita and operates wastewater treatment facilities on behalf of the City of Wichita; and

WHEREAS, Lessee desires to lease the premises from Lessor for the rentals and upon the terms and conditions hereinafter set forth; and

WHEREAS, the parties are separate legal entities but desire to cooperate to the fullest extent allowed by law, to provide for the efficient construction and operation of a wastewater treatment facility for their mutual benefit, and desire to interpret the provision of this Agreement to allow for the fullest cooperation and coordination.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, Lessor and Lessee do hereby covenant and agree as follows:

1. **PREMISES**. Lessor does hereby lease to Lessee the premises located at 8018 West K-42 Highway on Wichita Mid-Continent Airport, consisting of 5.62 acres (244,807 sq. ft.), as outlined on Exhibit "A", attached hereto and made a part hereof. Such premises shall include the land and any facilities/improvements hereafter located on the land.

2. **TRAVERSED LAND FOR PIPING.** Lessee shall be allowed, on the Airport, to install piping underground to the Premises, in locations as reflected on Exhibit "B", attached hereto and made a part hereof. Such piping shall constitute a part of the Premises; however, no land rent shall be assessed to the land area reflected on Exhibit "B".

3. **USE.** The Premises shall be used only for the construction and operation of a publicly-owned, operated, and managed wastewater treatment plant, and for no other purposes unless approved by Lessor. It is understood and agreed that the Premises shall be used and occupied for purposes incidental or related to the utility support of Wichita Mid-Continent Airport's activities and anticipated development of the Airport and neighboring Wichita community.

4. **TERM.** The term of this Agreement shall commence October 21, 2008 for a period of 50 years through October 20, 2058, so long as the Premises are used for the purposes stated herein.

5. **RENTAL.** It is understood and agreed that the net present value, as determined by Lessor, of the annual land rental payments with a net present value is $1,202,789. Payment of the net present value shall be paid to Lessor by Lessee no later than December31, 2008. In the event the land area is less than or greater than the 5.62 acres, the up-front payment shall be adjusted subject to agreement by both parties.

6. **OWNERSHIP OF IMPROVEMENTS.** The parties recognize and agree that during the term of this Agreement, so long as the improvements are used for the purposes outlined in Paragraphs 2 and 3 and are operated by the Lessee, ownership of the improvements shall remain with Lessee. At the termination of this Agreement, at the sole discretion of the Lessor, ownership shall revert to Lessor, unless a new lease Agreement is entered into at that time and the decision is made to allow ownership to remain with Lessee. In the event a new lease Agreement is not entered into, and Lessor elects not to assume ownership of the improvements at the termination of this Agreement, Lessee shall be required to comply with requirements set out in Paragraph 40 of this Agreement. Ownership shall not be transferred at any time to a third party, without consent of Lessor.

   At the time ownership of the facility and improvements vest in Lessor, said ownership shall vest in Lessor without any cost or expense and be free and clear of any and all liens and encumbrances of whatsoever nature, except that Lessee shall have the right to contest such a lien and the requirements to remove a lien shall be stayed as long as Lessee is prosecuting in good faith the defense of such lien, including appeals. Lessee shall give Lessor such documentation satisfactory to Lessor evidencing the testing of ownership of the facility and improvements in Lessor. On the day of conveyance of the facility and improvements, the Lessee shall execute and deliver to the Lessor documentation transferring and conveying to the Lessor the facility and improvements as the case may be and warranting the facility and improvements conveyed to be free and clear of all liens and encumbrances, including but not limited to, construction mortgages, financing statements, and/or security agreements, laborer's, mechanic's, or materialman's liens, and any other liens

for encumbrances not specifically enumerated herein. Further, on the date of conveyance, Lessee shall present to Lessor a release, in writing, releasing any interest it may have had in the Premises or the facility and improvements.

7. **REMOVAL OR ABANDONMENT OF A PORTION OF ALL OF THE FACILITY AND/OR IMPROVEMENTS.** Lessee agrees, upon the reasonable determination of the Lessor, to timely remove the existing pipeline or portions thereof and related improvements outside the runway and taxiway safety areas upon activation of the replacement line, as reflected on Exhibit "B". Upon the request of the Lessee, the Lessor shall consider the present and future expenses of such removal in the context of potential future development and may allow for the delay of such removal or may allow for identified portions of the pipeline to be appropriately capped and remain in place. The performance and costs of removal of abandoned pipeline shall be the responsibility of the Lessee, provided that the Lessee shall reimburse the Lessor for the reasonable costs of such removal in the event that the Lessee can not perform such removal in a timely manner as reasonably determined by the Lessor.

If at any time during the term of this Agreement, a portion or all of the facility and/or improvements is removed or abandoned, Lessee shall be required to restore the Premises, at Lessee's expense, to as good condition as existed at the commencement date of this Agreement. Such restoration shall be as directed by Lessor at the time the event occurs.

8. **LESSOR'S RIGHTS & PRIVILEGES.** Lessor expressly reserves from the Premises:

(a) Mineral Rights. All gas, oil and mineral rights in and under the soil;

(b) Air Space. A public right of flight through the air space thereabove;

(c) Navigational Aids. The right to install maintain and modify and/or permit others to install, maintain and modify on the Premises navigational aids; and

(d) Utility Installation. The right to install, maintain and modify utilities and to grant utility installations to others under, through, across or on the Premises located within 25 feet of the outside boundary lines;

(e) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the Premises. Revenue-producing communication systems or systems not directly applicable to Lessee's operations on the Premises are prohibited except upon the specific approval of the Lessor.

Provided that exercise by Lessor of any such reserved rights (a) through (d) will be without expense to the Lessee and will not unreasonably or materially interfere with Lessee's use of the Premises and will not delay Lessee in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance. Lessor shall give Lessee notice in writing of the exercise of its rights under (c) and (d).

9. **LESSEE'S RIGHTS & PRIVILEGES.** Lessee shall have the following rights and privileges on the Airport:

(a) The right to install, operate, maintain, repair and store upon the Premises all equipment necessary for the conduct of Lessee's business.

(b) The right of ingress and egress to and from the Premises, as outlined on Exhibit "A", which rights shall extend to Lessee's employees, invitees and guests, subject, however, to all security and operational requirements and regulations; and

(c) The right in common with others authorized to do so to use the common areas of the Airport.

10. **FURNISHING OF WATER AND SANITARY SEWER SERVICES TO LESSOR'S AIRFIELD MAINTENANCE FACILITIES.** Lessee agrees to provide and maintain, at no cost to Lessor, water and sanitary sewer service infrastructure to all of Lessor's existing airfield maintenance facilities located adjacent to the site of the wastewater treatment plant, up to the demarcation points of Lessor responsibility as reflected on Exhibit "B". It is understood and agreed that, once constructed, Lessee may charge Lessor a fee for water and sewer service usage.

11. **CONSTRUCTION OF ACCESS ROAD.** Lessee agrees to construct, at Lessee's sole cost, an access road from Highway K-42 to the Premises, in a location mutually agreed upon between the parties. At all times during construction of the access road, Lessee agrees to allow for uninterrupted vehicular access between K-42 and the construction staging area north of the Premises and the Lessor's airfield maintenance facilities. Upon notice of completion of construction, the Lessor shall become responsible for maintenance of the access road at its sole cost.

12. **LESSEE'S CONTROL OF ODORS.** In the event significant odors are detected on Lessor's properties adjacent to the Premises, Lessee shall take immediate corrective action to remedy the cause of the odors.

13. **REPAIR OF PAVEMENTS/LAND AREAS.** If any displacement or shifting of pavement or land area occurs in the runway and taxiway safety areas or in areas traversed by the underground pipe at any time during construction of the project or throughout the term of this Agreement as a result of the construction or operation of the facility, Lessee shall be required to take corrective action to repair the damaged area to Lessor's satisfaction.

14. **DESIGN & CONSTRUCTION.** Lessee agrees to construct a 65,600 sq.ft. facility on that portion of the Premises shown on Exhibit "A". If construction on the facility has not substantially begun by one year from the commencement of this Agreement, then Lessor has the option of giving notice and canceling this Agreement. Lessor may extend such time period in writing. If the Agreement is cancelled due to failure to construct the facility, Lessee shall be required to restore the Premises to as good condition as existed at the commencement date of this Agreement, and the Lessor will refund Lessee's up-front land rental payment, less any administrative charges assessed by Lessor.

Lessee agrees to and shall construct the improvements on the Premises subject to the terms and conditions herein set forth. Lessee shall cause the construction of the improvements to be coordinated with time schedules established by the Lessor should other construction be occurring at the Airport, which may be impacted by this project. Once the permits are obtained and the Director of Airports has approved the project, the Lessee has the right to enter the Premises and begin construction.

Lessee agrees to cause facilities for Lessee's use to be constructed on the Premises in accordance with plans and specifications to be prepared by Lessee and approved by Lessor. Plans and specification review submittals shall follow accepted practice for such deliverables; and the Lessor shall provide comments, as applicable, on each submittal. Lessor retains the right to ask for special submittals, as reasonably needed, to fully understand the proposed improvements. No above-ground wires shall be installed.

A storm water management plan developed by an engineer familiar with storm water management must be submitted as part of the preliminary plan review process. Storm water management facilities shall be designed in accordance with guidelines established by the City of Wichita, the Wichita Airport Authority, and the Federal Aviation Administration.

Lessee agrees (1) construction shall be administered, documented and observed on-site by professional architects and/or engineers to ensure compliance with the approved plans and specifications; (2) proposed construction changes to the approved plans and specifications shall be submitted to Lessor; (3) quality control testing shall be by an independent testing laboratory certified to provide services; (4) to repair or replace, at Lessee’s expense and to Lessor’s satisfaction, property damaged in the construction of the facilities and improvements by Lessee, its agents or employees; and (5) to provide Lessor, within 60 days following occupancy of the facilities, a complete reproducible set of record drawings and an electronic file in a format usable by Lessor. Upon completion of the facility, Lessee shall furnish a Certificate of Completion to Lessor which states that (1) the improvements have been completed in accordance with the plans and specifications; (2) the improvements have been completed in a good and skilled manner; (3) no liens have been filed, nor is there any basis for the filing of such liens, with respect to the improvements; and (4) all improvements constituting a part of the project are located or installed upon the Premises.

The approvals of this paragraph shall be deemed approval by the Lessor in its capacity as a property owner and landlord but shall not be deemed the approval as required for the Zoning Code, Building Code, or any other approval required by the City of Wichita in a regulatory or governmental capacity. Notwithstanding any other indemnity provision, Lessee shall indemnify and hold the Lessor harmless for any liability for regulatory or governmental approvals. Lessee shall be responsible for obtaining all permits and approvals required for the construction, maintenance, and operations of the facilities.

15. **CONSTRUCTION COSTS, ALTERATIONS & NEW IMPROVEMENTS.** Lessee agrees to pay for all costs incurred in connection with the construction of said improvements, by making direct payment for all

such costs as they are incurred. Lessee agrees to require contractors to name the Lessee, Lessor, and the City of Wichita as insureds, as their respective interests may appear, in any performance and labor and material payment bonds; comprehensive accident and public liability insurance; builder's risk completed value form insurance; or any other policies required in the construction of the Premises.

Lessee warrants that the improvements, when completed, will be necessary or useful in its development for use by Lessee for its purposes. Lessee agrees to proceed diligently to complete the improvements.

Lessee shall have the right during the term hereof, at Lessee's expense, at any time and from time to time, to construct upon the Premises such additional facilities and other fixed improvements as it may deem necessary or desirable in connection with its operation under this Agreement; provided, however, that Lessee shall first submit plans and specifications for such facilities to the Lessor for approval, which approval shall not be unreasonably withheld or unduly delayed. All such alterations, additions, or improvements shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value of the building and the Premises, or change the purposes for which the building or any part thereof, may be used. Any such alterations, additions, or improvements shall be erected at the sole cost and expense of Lessee, and Lessee shall have no right, authority, or power to bind Lessor or any interest of Lessor in the Premises, for the payment of any claim for labor or material or for any charge or expense incurred in the erection, construction, operation, or maintenance of said improvements and Premises. All alterations, additions, and improvements, except "trade fixtures", put in at the expense of Lessee, shall remain upon and be surrendered with the Premises as a part thereof, at any termination of this Agreement, for any cause, and shall become the property of the Lessor, unless otherwise directed by Lessor. The term "fixed improvements", whenever used in this Agreement, shall be construed to include all structures erected upon the Premises; all fencing, grading and pavement; all underground wires, cables, pipes, conduits, tanks and drains; and all other property of every kind and nature which is permanently affixed to the Premises, except Lessee's trade fixtures.

It shall be the responsibility of Lessee, to file all necessary alteration and construction forms with the Director of Airports for submission to the Federal Aviation Administration for approval, as may be required.

16. **LANDSCAPING AND SCREENING.** During the term of the Agreement, as properties adjacent to Lessee's site develop and/or a new access road into the interior of the Airport north of Lessee's site is constructed, Lessee shall provide landscaping on the north, east, and south portions of its leasehold to screen the facility from public view. Such landscaping shall be in accordance with the Airport's design guidelines in effect at that time, and shall not be installed in such a manner so as to create a wildlife hazard to aircraft operations.

All proposed landscaping plans and screening designs shall be submitted to the Director of Airports for review and approval. Lessee further agrees to provide any further landscaping that may be required, during the term hereof, by the Director of Airports for the purpose of screening from view any area of the Premises.

17. **INSPECTIONS.** Lessor shall have the right at any reasonable time prior to the completion of the improvements or any additions to the improvements, to enter upon the Premises for the purpose of inspecting the construction thereof, to determine whether or not the improvements are being constructed substantially in accordance with the plans and specifications. If at any time during the progress of such construction, it is determined that the improvements are not being constructed substantially in accordance with the plans and specifications, upon receipt of written notice from the Lessor, the Lessee shall make or cause to be made such reasonable alterations as may be required to cause the improvements to substantially conform to the plans and specifications.

18. **GRANTING OF EASEMENTS.** Lessee shall not, without the prior written approval of the Lessor (i) grant easements, licenses and other rights or privileges in the nature of easements with respect to the land, or (ii) release existing easements, licenses, rights-of-way and other rights or privileges, and Lessee agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by Lessee of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, and (b) a written application signed by the Lessor requesting execution and delivery of such instrument, provided that, such grant or release is not detrimental to the proper conduct of the business of Lessee, and such grant or release will not impair the effective use or interfere with the efficient and economical operation of the facilities. Any payments or other consideration received by Lessor for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of Lessor.

19. **LIENS.** Lessee, shall cause to be removed any and all liens of any nature arising out of or because of any construction performed by Lessee, or any of its contractors or subcontractors upon the Premises or arising out of or because of the performance of any work or labor upon or the furnishing of any materials for use at the Premises by or at the direction of Lessee, except that Lessee, shall have the right to contest such a lien and the requirement to remove a lien shall be stayed as long as Lessee, is prosecuting in good faith the defense of such lien, including appeals.

20. **UTILITIES.** All utilities and utility services used by Lessee, in, on or about the Premises shall be contracted for by Lessee, in Lessee's own name and Lessee shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith. Lessee agrees to pay, as and when due and payable, all bills for utility services. Lessor shall not be liable to Lessee for damages arising out of any cessation or interruption of gas, water, electricity, telephone, or other utility service during the

lease term or any extension thereon, unless said damages were caused by Lessor and/or its employees, agents or contractor's negligence, acts of commission, or acts of omission.

Lessee agrees to pay for all utilities furnished through facilities owned by Lessor at the published rate established by Lessor and charged to other Lessees.

21. **MAINTENANCE & REPAIR.** Except as otherwise expressly provided herein, and excepting also reasonable wear and tear and damage by fire or other casualty or the elements, Lessee, at Lessee's sole cost and expense, shall take good care of and maintain, repair and replace the Premises and keep the Premises and all parts thereof in good order, condition and repair, including, without limitation, (i) all alterations, the roof, foundation, footings and all structural and non-structural components thereof) and all other improvements located in, on or about the Premises, (ii) all heating, plumbing, electrical, air-conditioning, mechanical and other systems, fixtures and equipment with respect to the Premises and all other improvements located in, on or about the Premises, (iii) utilities, and (iv) all common areas including, without limitation, lawns and planted areas, roadways, walks, parking lots, and loading areas.

    Lessee, at its sole expense, shall at all times keep and maintain said Premises and the fixtures and appurtenances thereto in a clean and sightly condition, free of trash, debris and obstructions; remove all snow and ice from the Premises pavements and parking areas, and mow and trim all natural growth when necessary.

    Lessor, its agents or employees, shall have the right to enter upon said Premises at any and all reasonable times to inspect the condition of the same. Should Lessee, refuse or neglect to maintain its Premises as herein provided, Lessor shall have the right to perform such maintenance on behalf of and for the Lessee after thirty days written notice to Lessee. Any costs for such maintenance shall be paid for by Lessee, not later than thirty (30) days following demand by Lessor for such payment at Lessor's costs, plus twelve percent (12%).

22. **EXTERIOR SIGNS & ADVERTISING.** Lessee, agrees that no signs or advertising material shall be erected on the Premises unless the design and layout of such signs and advertising material, together with the materials and method of construction of such signs and advertising material, shall have been approved in writing by Lessor, which approval shall not be unreasonably withheld.

23. **IMPOSITIONS.** Lessee shall, during the life of this Agreement, bear, pay and discharge, before the delinquency thereof, any and all impositions. In the event any impositions may be lawfully paid in installments, Lessee shall be required to pay only such installments thereof as become due and payable during the life of this Agreement as and when the same become due and payable. Lessor covenants that without Lessee's written consent it will not, unless required by law, take any action intended to cause or induce the levying or assessment of any imposition (other than special assessments levied on account of special benefits or other impositions for benefits or services uniformly imposed) which Lessee would be

required to pay under this Paragraph and that should any such levy or assessment be threatened or occur Lessor shall, at Lessee's request, fully cooperate with Lessee in all reasonable ways to prevent any such levy or assessment.

24. **INDEMNITY.** Lessee, shall protect, defend and hold Lessor and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the Premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of Lessor. The Lessor shall give to Lessee reasonable notice of any such claims or actions.

Lessor shall protect, defend and hold Lessee, its officers, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the Premises or the acts of omissions of Lessor's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage is caused by the negligence of Lessee. The Lessee shall give Lessor reasonable notice of any such claims or actions.

The provisions of this section shall survive the expiration or early termination of this Agreement.

25. DAMAGE, DESTRUCTION OR CONDEMNATION.

(a) In the event that the improvements are damaged or destroyed in whole or in part by fire, lightning or any other peril of other casualty during the term of this Agreement, this Agreement shall remain in full force and effect and Lessee shall proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed improvements or parts thereof to as good condition as the same were in immediately prior to such damage or destruction, subject to such alterations as Lessee may elect to make as permitted in this Agreement.

(b) In the event that the improvements are damaged or destroyed in whole or in part by fire, lightning or any other peril or other casualty during the term of this Agreement, and such damage, destruction or loss is not capable of being repaired at the determination of Lessee, Lessee shall have the election, indicated by written notice given to Lessor within 180 days after the occurrence of such event, not to repair, restore, rebuild or replace the improvements, such election to be effective as of the date of such damage, destruction or loss. Where allowed by the insurance policy, insurance proceeds shall first be applied to the removal of damaged improvements from the Premises before such distribution.

(c) If, during the term, title to, or the temporary use of, all or any part of the Premises shall be condemned by any authority exercising the power of eminent domain, Lessee shall, within ninety (90) days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify Lessor in writing as to the nature and extent of such condemnation and whether it is practicable for Lessee to acquire or construct substitute improvements.

(d) Lessor shall cooperate fully with Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof. In no event will Lessee voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Premises without the written consent of Lessor.

26. **NON-WAIVER.** The waiver by Lessor of any breach of the Lessee of any term, covenant, provision, or condition hereof shall not operate as a waiver of any subsequent breach of the same or a waiver of any breach of any other covenant, term, provision, or condition hereof, nor shall any forbearance by Lessor to seek a remedy for any breach by Lessee be a waiver by Lessor of its rights and remedies with respect to such or any subsequent breach of the same or with respect to any other breach.

27. **FIRE EQUIPMENT.** Lessee, shall furnish and maintain on the Premises sufficient fire extinguishing systems as may be required by city code, insurance risks, or as designated by Lessor.

28. **FIRE AND POLICE PROTECTION.** Lessor agrees to extend to Lessee the same fire and police protection extended to the other tenants on the Airport, provided that Lessor may impose a fair and equitable charge for fire and police protection to all tenants on the Airport.

Lessee shall comply with all applicable regulations relating to Airport security and shall control the Lessee's Premises so as to prevent or deter unauthorized persons from obtaining access to the air operations area of the Airport.

29. ENVIRONMENTAL ASSESSMENT. Lessor, at its expense, and to establish background levels, shall conduct a Phase-I environmental assessment and Limited Phase-II soil and groundwater investigation at the proposed site to establish a background level for volatile organic compounds (VOC) and the RCRA metals. Soil samples shall be collected from the site location, and these samples shall be analyzed for FOC's and total petroleum hydrocarbons (TPH). A copy of these reports shall be provided to Lessee upon execution of this Agreement, or prior to development of the site. A Phase-I and Phase-II shall also be conducted, at Lessee's expense, by an environmental consultant satisfactory to the Lessor, at the termination of this Agreement, and results shall be compared to the original background levels established prior to the Lessee's occupancy of the Premises. It any contamination of the property has occurred through Lessee's fault, Lessee shall be required to re-establish background levels, in a timely manner and acceptable to Lessor.

30. **ENVIRONMENTAL.**

(a) The Lessee hereby covenants that it will not cause or permit any Hazardous Substances to be placed, held, located or disposed of, on, under or at the Premises, other than in the ordinary course of business and in compliance with all applicable laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided to the Lessor hereunder, the Lessee hereby agrees to indemnify and hold harmless the Lessor and the City of Wichita from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Lessor or the City of Wichita by any person or entity for or arising out of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during any term of this lease of any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any hazardous substance) if such presence, escape, seepage, leakage, spillage, discharge, emission was caused by the Lessee, or persons within the control of the Lessee, its officers, employees, agents, and/or licensees, or if such Hazardous Substance was owned by, or located on the Premises by, the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(c) If, during the term of this Agreement, the Lessee receives any notice of (i) the happening of any event involving the use (other than in the ordinary course of business and in compliance with all applicable laws), spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance on the Premises or in connection with the Lessee's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health, or safety matter affecting the Lessee (an "Environmental Complaint") from any persons or entity (including, without limitation), the United States Environmental Protection Agency (the "EPA") or the Kansas Department of Health and Environment ("KDHE"), the Lessee shall immediately notify the Lessor in writing of said notice.

(d) The Lessor shall have the right, but not the obligation, and without limitation of the Lessor's other rights under this Agreement, to enter the Premises or to take such other actions as deemed necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any hazardous substance or environmental complaint following receipt of any notice from any person, including, without limitation, the EPA or KDHE, asserting the existence of any hazardous substance or an environmental complaint pertaining to the Premises or any part thereof which, if true, could result in an order, suit or other action against the Lessee and/or which, in the reasonable judgment of the Lessor, could jeopardize its interests under this Agreement. If such conditions are caused by circumstances within the control of the Lessee or if such circumstances result from a Hazardous Substance owned by, or located on the Premises by, the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage,

discharge, emission or release) all reasonable costs and expenses incurred by the Lessor in the exercise of any such rights shall be payable by the Lessee, within 15 days of written demand by Landlord.

(e) If an event of default shall have occurred and be continuing, the Lessee at the request of the Lessor shall periodically perform (at the Lessee's expense) an environmental audit and, if reasonably deemed necessary by the Lessor, an environmental risk assessment (each of which must be reasonably satisfactory to the Lessor) of the Premises, or the hazardous waste management practices and/or hazardous waste disposal sites used by the Lessee with respect to the Premises. Such audit and/or risk assessment shall be conducted by an environmental consultant satisfactory to the Lessor. Should the Lessee fail to perform any such environmental audit or risk assessment within 90 days of the written request of the Lessor, the Lessor shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the Lessor in the exercise of such rights shall be payable by the Lessee on demand.

(f) Neither Lessee nor Lessor shall install or permit to be installed in the Premises friable asbestos, electrical equipment containing polychlorinated biphenyls (PCBs), or any substance containing asbestos and deemed hazardous by federal or state regulations applicable to the Premises and respecting such material. The Lessee shall defend, indemnify, and save the Lessor and the City of Wichita harmless from all costs and expenses (including consequential damages) asserted or proven against the Lessee by any person, as a result of the presence of said substances, and any removal or compliance with such regulations, if said substance was installed by the Lessee, or persons within its control.

(g) Subject to any limitations or restrictions imposed by the Kansas Budget Law or Cash Basis Law, the Lessor hereby agrees to indemnify and hold harmless the Lessee from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Lessee by any person or entity for, arising out of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during the term of this Agreement and the period prior to the term of this Agreement of any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order of decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning any hazardous substance) unless such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the Lessee, or persons within the control of the Lessee, its officers, employees, agents, business invitees and/or licensees, or if such hazardous substance was owned by, or placed upon the Premises by, the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release except to the extent such was caused by the Lessor).

(h) The provisions of this article shall survive the termination of this Agreement.

31. **CANCELLATION BY LESSOR.** The Lessor, in addition to any other rights to which it may be entitled by law or equity, may cancel this lease as set forth herein.

In the event that Lessee shall fail to perform, keep and observe any of the terms, covenants or conditions herein contained on the part of Lessee to be performed, kept or observed, Lessor may give Lessee written notice to correct such condition or cure such default, and if any such condition or default shall continue for sixty (60) days after receipt of such notice by Lessee, Lessor may terminate this lease and the term hereof shall cease and expire at the end of such sixty (60) days in the same manner and to the same effect as if it were the expiration of the original term, unless such condition or default cannot reasonably be corrected within the 60-day period and Lessee has demonstrated due diligence with respect to curing said default, then such default will be treated as cured until cured.

Acceptance of rental by Lessor for any period or periods after a default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessee shall not be deemed a waiver of any other right on the part of Lessor to cancel this lease for failure by Lessee so to perform, keep and observe any of the terms, covenants or conditions hereof to be performed, kept and observed. No waiver of default by Lessor of any of the terms, covenants or conditions hereof to be performed, kept and observed by Lessee, shall be
construed to be or act as a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by Lessee.

32. **CANCELLATION BY LESSEE.** The Lessee, in addition to any other rights of cancellation herein given to Lessee, or any other rights to which the Lessee may be entitled by law or otherwise, may cancel this lease by giving Lessor sixty (60) days' advance written notice in the event of default by Lessor under this lease continuing for more than sixty (60) days after the Lessor's receipt of written notice of such default from the Lessee, upon or after the happening of any one of the following events:

(a) Issuance by any court of competent jurisdiction of a permanent injunction in any way preventing or restraining the use of the airport or any major part thereof for airport purposes and the remaining in full force of such permanent injunction for a period of at least ninety (90) days.

(b) Inability of the Lessee to use, for a period in excess of ninety (90) days, the airport or any part of the facility because of any law, order, rule, regulation or other action or nonaction of the Federal Aviation Administration or any other governmental authority, or because of fire, earthquake, other casualties or acts of God or the public enemy.

(c) Default by the Lessor in the performance of any covenant or agreement herein required to be performed by the Lessor and failure of the Lessor to remedy such default for a period of sixty (60) days after receipt from the Lessee of a written notice to remedy the same; provided, however, no notice of cancellation as above provided shall be of any force or effect if the Lessor shall have remedied the default prior to receipt of the Lessee's notice of cancellation.

(d) Assumption by the United States Government or any other authorized agency thereof of the operation, control or use of the airport and the facility herein described, or of any substantial part or parts thereof in such a manner as to substantially restrict the Lessee for a period of ninety (90) days from operating on and within the facility.

(e) In the event of total destruction of the building or the demised Premises.

(f) When the Lessee's customers or potential customers shall have been prevented from using the Airport by military or any other source or activity beyond the Lessor's or the Lessee's control.

No waiver of default by the Lessee of any of the terms, covenants and conditions hereof to be performed, kept and observed by Lessor, shall be construed to be or act as a waiver by the Lessee of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessor.

Upon cancellation of this Agreement by the Lessee, upon or after the happening of any of the events enumerated in this Article, it shall be relieved of any and all obligations under this lease, excepting those which had accrued prior to such cancellation.

33. **RULES & REGULATIONS.** Lessee, its agents and employees, shall be subject to any and all applicable rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by the Lessor or the City of Wichita, Kansas, in respect to the operation of the Airport; and shall also be subject to any and all applicable laws, statutes, rules, regulations or orders of any governmental authority, federal or state, lawfully exercising authority over the Wichita Mid-Continent Airport or Lessee's operations conducted hereunder. Such observation and compliance by Lessee shall not obligate Lessee to make any alterations or do any other work, structural or otherwise, within the Premises unless failure of the Premises to comply with such rules, laws, statutes and regulations shall have been caused by Lessee's specific use of Premises.

Lessor shall not be liable to Lessee for any diminution or deprivation of its rights hereunder on account of the exercise of any such authority as in this section provided, nor shall Lessee be entitled to terminate this Agreement by reason thereof unless exercise of such authority shall so interfere with Lessee's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of Kansas.

34. **SECURITY REGULATIONS.** Lessee must obtain Airport Security Identification (I.D.) Media for its employees, subcontractors, suppliers, agents, and representatives requiring access to the sterile areas, secured air operations area (AOA), and security identification display area (SIDA), or other secured areas as identified in Section 2. AIRPORT SECURITY AREA ACCESS AND IDENTIFICATION MEDIA SYSTEM of Operating Instruction No. 5, Wichita Mid-Continent Airport Aircraft Operations Area Procedures, current version, or as may be amended from time to time, and pay any related costs associated

with this privilege. Said I.D. Media will be valid as set forth in Section 2. Of Operating Instruction No. 5, and must be returned to the Airport Public Safety Division with twenty-four (24) hours after expiration or suspension, and/or termination of this Agreement. Said I.D. Media will be valid for no longer than the term of this Agreement.

Lessee covenants that it will at all times comply with all applicable provisions of 49 CFR Parts 1500, 1544, 1546, 1548, and 1550 as promulgated, and that it will always maintain the security of the Airport, Premises, and/or any AOA access which Lessee maintains. Lessee hereby agrees that it shall also be responsible for conducting and verifying any and all required background checks and for I.D. Media for any and all of its employees, subcontractors, suppliers, agents, and/or representatives. Lessee also hereby agrees that it shall be responsible for any and all of the actions of its employees, subcontractors, suppliers, agents, and/or representatives and shall provide any and all necessary escorts, as outlined in Operating Instruction No. 5. Lessee hereby agrees that it will immediately implement any and all security changes that are directed either directly or indirectly by the Transportation Security Administration (TSA), Federal Aviation Administration (FAA), or the Lessor.

Should Lessee, its employees, subcontractors, suppliers, agents, and/or representatives cause any security violations, and should the Lessor be cited for a civil fine or penalty for such security violation, Lessee agrees to reimburse the Lessor for any monetary civil fine or penalty, which may be imposed on the Lessor by the TSA; however, nothing herein shall prevent the Lessee from contesting the legality, validity or application of such fine or penalty to the full extent Lessee may be lawfully entitled to. Lessee will have I.D. Media/access privileges immediately suspended and/or revoked by the Lessor for failure to adhere to Section 2. Of Operating Instruction No. 5, or for failure to return all I.D. Media within the time frames specified herein. Such actions may also result in the termination of this Agreement, at the sole discretion of the Lessor, if such failure by Lessee is not cured by Lessee within thirty (30) days after receiving notice from Lessor of such failure.

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

36. **FAA REQUIREMENTS.** Lessor and Lessee further agree that the requirements of the Federal Aviation Administration set out below are approved by both parties, and if applicable, Lessee agrees to comply with all FAA requirements with respect to its operations, use of the Airport and this lease.

(a) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee 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.

(b) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree 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 Lessee 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.

(c) The Lessee 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 Lessee 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 Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee 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.\

(d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(e) Lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) Lessor reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of Lessee in this regard.

(g) Lessor reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

(h) Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft.

(i) During time of war or national emergency Lessor shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

(j) It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

(k) There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on or about the airport.

(l) This lease shall become subordinate to provisions of any existing or future agreement between the Lessor and the United States of America or any agency thereof relative to the operation, development or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

37. **MODIFICATIONS FOR GRANTING FAA FUNDS.** In the event that the Federal Aviation Administration requires modifications or changes to this Agreement as a condition precedent to granting of funds for the improvement of the Airport, Lessee agrees to consent to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required to enable the Lessor to obtain said Federal Aviation Administration funds, provided that in no event shall such changes materially impair the rights of Lessee hereunder or materially increase its obligations.

38. **ASSIGNMENT/SUBLEASE.** Lessee shall not assign this lease or any portion thereof, or sublet the Premises or any portion thereof, without the written consent of Lessor. Any proposed assignment or

subletting shall first be submitted to the Lessor for its review and approval, and the Lessor may reject any such assignment or subletting for any reason.

All terms and provisions of this Agreement, including specifically, but not limited to the provisions relating to indemnification and insurance, shall be followed by any approved assignee or subtenant, and Lessee shall nevertheless remain liable for the performance of all the terms, conditions, and covenants of this Agreement. Subletting shall not relieve or release Lessee from any obligation herein contained which shall or may accrue or become a cause of action in favor of the Lessor.

Any such assignment or subletting or attempt thereat without the written consent of Lessor shall be void, and shall, at the option of the Lessor, terminate this Agreement.

39. **THIRD PARTY RIGHTS.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this 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 damages pursuant to the terms or provisions of this Agreement.

40. **SURRENDER OF POSSESSION.** Lessee shall yield and deliver to Lessor possession of the Premises leased herein at the expiration or cancellation of this Agreement in good condition in accordance with its express obligations hereunder, except for reasonable wear and tear, fire and other casualty. Lessee shall remove during the term hereof or at the expiration of such term all fixtures, equipment and other property installed or placed by it at its expense on or about the Premises herein leased, subject to Lessee's repairing any damage thereto caused by such removal and subject to any valid lien which Lessor may have thereon for unpaid rents or fees. In the event Lessee does not remove all of said property within thirty (30) days after the termination of this lease, the same shall be considered abandoned and Lessor may dispose of said property without any further responsibility or liability to Lessee.

    If, at the termination date of this Agreement, the improvements situated on the Premises are no longer operational or necessary, Lessee shall, at its expense, be required to remove the improvements and to restore the Premises to as good condition ad existed at the commencement date of this Agreement, if requested by Lessor. If Lessee fails to remove the improvements within six months of the termination date of this Agreement, Lessor may remove the improvements and assess Lessee for Lessor’s costs, plus 12%, for such removal, cleanup or restoration.

41. **NOTICES.** Notices to Lessor provided for herein shall be sufficient if sent by registered or certified mail, postage prepaid, addressed to:

    The Wichita Airport Authority
    Wichita Mid-Continent Airport
    2173 Air Cargo Road
    P. O. Box 9130
    Wichita, Kansas 67277-0130

Notices to Lessee provided for herein shall be sufficient if sent by registered or certified mail, postage prepaid, addressed to:

Wichita Water Utilities
City of Wichita
455 North Main
Wichita, KS 67202

or to such other respective addresses as the parties may designate in writing from time to time.

42. **HEADINGS.** The article and paragraph headings are inserted only as a matter of convenience and for reference, and in no way define limit or describe the scope or intent of any provision of this agreement.

43. **INVALID PROVISIONS.** It is further expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the Lessor or the Lessee in their respective rights and obligations contained in the valid covenants, conditions or provisions in this agreement.

44. **KANSAS LAW TO GOVERN.** This lease and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas.

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 _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President
LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

WICHITA WATER UTILITIES OF THE CITY OF WICHITA

By _____

By _____
David Warren, Director of Utilities
"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

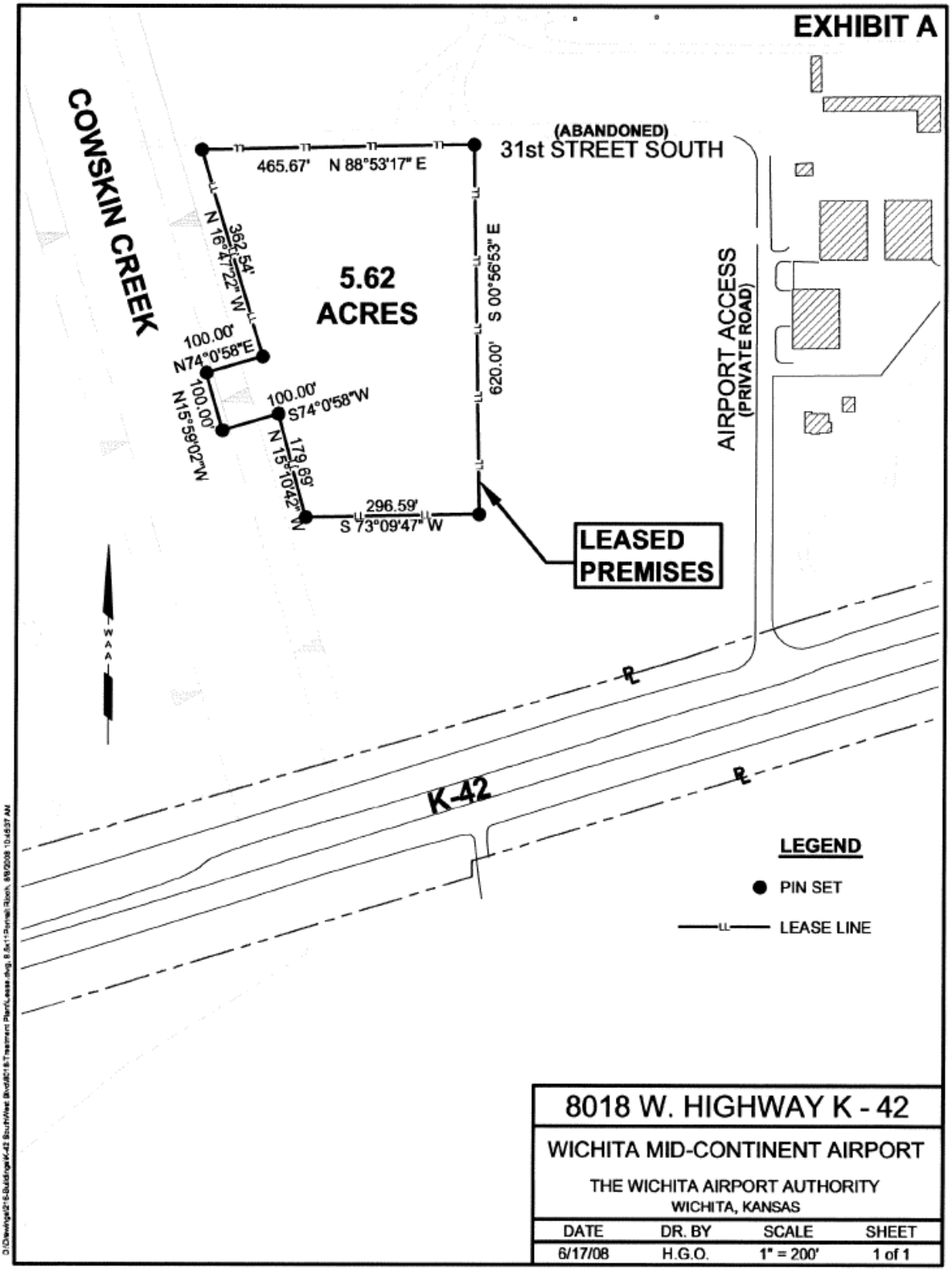


EXHIBIT A
COWSKIN CREEK
(ABANDONED)
31st STREET SOUTH
465.67' N 88°53'17" E
N 16°47'22" W
362.54'
5.62
ACRES
S 00°56'53" E
620.00'
100.00'
N74°0'58"E
100.00'
N15°59'02"W
100.00'
S74°0'58"W
N 15°10'42" W
179.69'
296.59'
S 73°09'47" W
AIRPORT ACCESS
(PRIVATE ROAD)
LEASED
PREMISES
K-42
LEGEND
PIN SET
LEASE LINE
8018 W. HIGHWAY K - 42
WICHITA MID-CONTINENT AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
SHEET
6/17/08
H.G.O.
1" = 200'
1 of 1

EXHIBIT B

Force main pipe and duct bank location maps to be attached upon agreement of the Wichita Water Utilities Department of the City of Wichita and the Wichita Airport Authority.

Agenda Item No. IX-02.

City of Wichita
City Council Meeting
October 21, 2008

TO: Wichita Airport Authority

SUBJECT: Colonel James Jabara Airport
Joint Reseal Change Order #1

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve Change Order No. 1 with Airfield Improvements and Repair.

Background: On May 20, 2008, the Wichita Airport Authority approved a Contract with Airfield Improvements and Repair, LLC to reseal runway joints at Colonel James Jabara Airport.

Analysis: The quantity of work originally contracted for was based on the estimate prepared prior to the bid of the work that could be done within the available budget. The construction has been completed, and more pavement joints were resealed than originally planned due to favorable bid prices. A change order has been prepared to modify the contracted work and adjust quantities in order to fully utilize the available budget.

The airfield at Jabara was closed to nighttime operations for approximately 45 days this summer due to an airfield electrical project which is receiving federal funding. In order to leverage the benefits from already having a closed runway at night and to prevent an additional future closure, the recommendation was to accomplish the joint sealing during this time. The contractor was on-site and willing to do the work for the contracted unit pricing.

Change Order No. 1 added 16,000 linear feet and 22 calendar days to the project for a cost of $45,544.08. Separating the work into two separate projects would have necessitated two separate runway closing periods and additional disruption to the airport tenants.

Financial Considerations: The original Contract was $105,385.88. Change Order No. 1 increased the Contract by $43,544.08 to $148,929.96. This change order represents an increase of 41.3% of the original contract.

The Adopted 2008 Colonel James Jabara Airport operating budget includes $150,000 for contracted joint sealing on airside pavements. This amount is budgeted every other year. Joint sealing is a necessary pavement maintenance activity that must be accomplished on an on-going basis to prevent premature pavement failure.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through maintaining sufficient runway pavement to serve the aviation community.

Legal Considerations: Ordinance No. 198 requires Council authorization for all Change Orders in excess of $25,000. It also allows the Council to approve Change Orders for up to 25% of the original price on engineering projects, and up to 10% of the original price for building contracts, but the Council may, by resolution, approve an exemption to those restrictions when it is deemed to be in the best interest of the City to do so. City policy further restricts engineering projects to projects that have all line-item bids, and this project falls into that category. The proposed resolution would allow the change order to be approved. The Law Department has approved Change Order No. 1 as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority adopt a resolution granting an exception to the Change Order policy for this project, approve Change Order No. 1 with Airfield Maintenance and Repair, LLC and authorize the necessary signatures.

Attachments: Change Order No. 1 with Airfield Maintenance and Repair, LLC, Resolution.

DRAFT

Resolution No. A08-004

A RESOLUTION OF THE GOVERNING BODY OF THE WICHITA AIRPORT AUTHORITY PERMITTING AN EXCEPTION TO THE CHANGE ORDER POLICY AS PROVIDED BY CITY OF WICHITA CHARTER ORDINANCE NO. 198

WHEREAS, by Charter Ordinance No. 198, the Wichita Airport Authority is authorized to establish a change order policy for public improvement projects that shall not allow change orders that individually or cumulatively exceed $25,000 or twenty-five percent (25%) of the original contract amount for public improvement projects involving buildings and/or facilities, except that the Authority may by resolution permit exceptions to this policy restriction when deemed to be in the best interest of the Authority to do so; and

WHEREAS, on May 20,2008, the Wichita Airport Authority approved a contract with Airfield Improvements and Repair, LLC joint re-sealing to the Colonel James Jabara runway in the amount of $105,685.88; and

WHEREAS, proposed Change Order No. 1 will now increase the aggregate total amount of change orders to exceed $25,000 and twenty-five percent (25%) of the initial contract amount; and

WHEREAS, the proposed change order will allow the Authority to make additions and modifications to Colonel James Jabara Joint Reseal project that are deemed in the best interests of the Wichita Airport Authority, will help assure completion of the Project, will help assure necessary pavement maintenance activity to be accomplished to prevent premature pavement failure for the future of the City, and with a permitted exception will be consistent with the change order polices of the City of Wichita;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE WICHITA AIRPORT AUTHORITY:

Section 1. The proposed Change Order No. 1 to the Colonel James Jabara Joint Reseal contract will cumulatively exceed $25,000 and twenty-five percent (25%) of the original contract with Airfield Improvement and Repair, LLC, and the Wichita Airport Authority hereby deems the work covered by Change Order No. 1 to be in the best interests of the Wichita Airport Authority in helping assure completion of Colonel James Jabara Joint Reseal Project and in providing pavement maintenance to reduce premature runway pavement failure for the City.

Section 2. An exception to the change order policy as authorized by Charter Ordinance No. 198 is hereby permitted, and the Wichita Airport Authority may approve Change Order No. 1 in the additional amount of $43,544.08 to the May 20, 2008, contract with Airfield Improvement and Repair, LLC.

PASSED AND APPROVED by the Wichita Airport Authority of Wichita, Kansas, this date, October 21, 2008.

_____
Carl Brewer, Owner
Wichita Airport Authority

ATTEST:

_____
Karen Sublett, City Clerk

_____
Victor White, Director of Airports

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

CHANGE ORDER

Date: 2 September 2008 No. 1-Final

OWNER'S Project No. NA FAA Project No. NA

Project: Runway 18-36 & Associated Taxiways Joint Reseal

Contractor: Airfield Improvements , LLC Contract Date: 5 June 2008

Nature of changes:

1. Adjustment of final contract quantities.
2. Adjustment of final contract time due to increase in quantities.

Attachments:

Wichita Airport Authority letter dated August 5, 2008.
Airfield Improvement & Repair, L.C response letter dated August 6, 2008.
Wichita Airport Authority response letter dated August 7, 2008.
Airfield Improvement & Repair, L.C response letter dated August 7, 2008.
Wichita Airport Authority response letter dated August 10, 2008.

These changes result in the following adjustment of Contract price and Contract time:

Contract price prior to this Change Order	$	105,385.88
Net (increase) ~~(decrease)~~ resulting from this Change Order	$	43,544.08
Current Contract price including this Change Order	$	148,929.96

Contract time prior to this Change Order	45 (Days ~~or Date~~)
Net (increase) ~~(decrease)~~ resulting from this Change Order	22 (Days)
Current Contract time including this Change Order	67 (Days ~~or Date~~)

The changes are accepted.

Date: 9-6-08

CONTRACTOR

Birlc

The changes are approved.

Date: 9-10-08

ENGINEER

You are directed to make the changes noted:

Dated: _____

OWNER

CITY OF
WICHITA

Wichita Airport Authority

FAXED
AUG 10 2008
1:00 p.m.

August 10, 2008

Bill Pulizos
Airfield Improvements & Repair
6349 Plymouth Ave.
St. Louis, Missouri 63183

Re: Colonel James Jabara Airport
Runway Joint Re-seal

Dear Mr. Pulizos:

We will accept the request for an additional ten (10) calendar days to prefer the additional 9,000 l. f. (approximate) joint re-sealing as my August 7, 2008 letter addressed.

The change in contract time will be included within the change order that adjusts for the final quantities.

Due to upcoming events at the Airport and the other construction project we are not clear as to the specific date to allow your crew back on site. We will work on this let you know.

Wichita Airport Authority

John Oswald

John Oswald, P. E.

cc: Don Dearmont

2173 Air Cargo Road • P.O. Box 9130 • Wichita, Kansas 67277-0130

T 316.946.4700 F 316.946.4793

www.flywichita.org

AIRFIELD IMPROVEMENT AND REPAIR, L.C.
6439 Plymouth Ave. Suite 110
Saint Louis, MO. 63133
Phone 314-355-1500 Fax 314-862-1212
E-Mail mrbill@airlc.com

Wichita Airport Authority
2173 Air Cargo Road
Wichita Kansas 67277-0130
Attn; John Oswald, P E

August 7, 2008

Dear Mr. Oswald

RE: additional Joint Sealing/time

I have reviewed your letter dated August 7, 2008 to investigate an additional 7000 LF +/- (approximate) at the contract unit price of $2.74 per LF.

I am very interested in your request. We would like to have an additional 10 (ten) days to perform this work. My schedule is as follows sometime after September 27, 2008 or early October 2008 at your convenience.

I will be performing the joint sealing on phase one of the (Cornejo & Sons terminal apron improvements) in Wichita at Mid-Continent Airport. This work is scheduled to start on September 10, 2008 and be completed by September 27, 2008. Phase one will take approx. 14 days. We will be available either before or after that period.

Hopefully these times will work. Please advise me on what your plans are and which dates is convenience for you.

If you have any questions. Please call 314-610-0500 cell

Sincerely

Bill Pulizos airlc

CITY OF
WICHITA

Wichita Airport Authority

August 7, 2008

Bill Pulizos
Airfield Improvement & Repair LC
6439 Plymouth Ave.
St. Louis, MO 63183

Re: Colonel James Jabara Airport
Runway Joint Re-seal

Dear Mr. Pulizos:

This letter is to formally acknowledge we wish to proceed with the addition of approximately 9,000 l. f. of joint re-sealing as addressed in my August 5, 2008 letter. We will be issuing a change order to address both the increase in quantities as well ad 12 calendar days to the contract time.

Additionally we wish to investigate the additional 7,000 l. f. (approximate) of joint re-sealing at the contract unit price of $2.74/l. f. The general area of work is the runway and connecting taxiways just north of the current work area recognizing the specific area will be worked out with Airport staff. However before we commit to this additional work we need to understand the additional contract time requested.

This request is in addition to the 9,000 l. f. that we have formally agreed to.

Understanding an upcoming event at the Airport will require the airfield to be construction free starting the morning of August 21, 2008 I foresee this additional work occurring in September, however the exact date to resume construction will be determined later.

Please provide the change in calendar days you believe are needed for this additional work.

Wichita Airport Authority

John Oswald

John Oswald, P. E.
Airport Engineer and Planning Manager

cc: Don Dearmont

2173 Air Cargo Road • P.O. Box 9130 • Wichita, Kansas 67277-0130

T 316.946.4700 F 316.946.4793

www.flywichita.org

AIRFIELD IMPROVEMENT AND REPAIR, L.C.
6439 Plymouth Ave. Suite 110
Saint Louis, MO. 63133
Phone 314-355-1500 Fax 314-862-1212
E-Mail mrbill@airlc.com

Wichita Airport Authority
2173 Air Cargo Road
Wichita Kansas 67277-0130
Attn; John Oswald, P E

August 6, 2008

Dear Mr. Oswald

RE: additional Joint Sealing/time

I have reviewed your letter dated August 5, 2008 and we except your offer to add and additional 9000 LF +/- (approximate) at the contract unit price of $2.74 per LF. We would like to have an additional 12 (twelve) days to perform this work.

I divided the original 38,462 lf by 9,000 lf = 4.2 . We were allowed 45day for the original footage. I divided the 45 days by 4.2 = 10.71 days and I added one day for mobilization and demobilization for a total of 12 additional days.

When the project is complete we will measure all footages and bill @ $2.74 per lineal foot.

If you have any questions. Please call 314-610-0500 cell

Sincerely

Bill Pulizos airlc

CITY OF
WICHITA

Wichita Airport Authority

FAXED
AUG - 5 2008
4:30 p.m.

August 5, 2008

Bill Pulizos
Airfield Improvement & Repair LC
6439 Plymouth Ave.
St. Louis, MO 63183

Re: Colonel James Jabara Airport
Runway Joint Re-seal

Dear Mr. Pulizos:

We wish to add an additional 9,000 l. f. (approximate) of joint re-sealing at the contract unit price of $2.74/l. f. The general area of work is the runway and connecting taxiways just north of the current work area recognizing the specific area will be worked out with Airport staff. However before we commit to this additional work we need to understand the additional time you will need.

It is our intent to allow work on the runway up to 6 a.m. August 21, 2008 then have you vacate the site until you are back in Wichita in September.

Please provide the change in calendar days you believe are needed for this additional work.

Wichita Airport Authority

John Oswald

John Oswald, P. E.
Airport Engineer and Planning Manager

cc: Don Dearmont

2173 Air Cargo Road • P.O. Box 9130 • Wichita, Kansas 67277-0130

T 316.946.4700 **F** 316.946.4793

www.flywichita.org

City of Wichita
City Council Meeting
October 21, 2008

TO: Wichita Airport Authority

SUBJECT: Wichita Mid-Continent Airport
2100 Block Airport Road Improvements
Campus Sidewalk Study and Landscape Study

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Separate the one project into three projects and approve the budget transfers.

Background: On August 12, 2008 the Wichita Airport Authority approved the 2100 Block Airport Road Improvements contract which had three components. A contract has been approved with TranSystems for all of the projects. The approved Capital Improvement Program (CIP) includes these three projects.

Analysis: The 2100 Block Airport Road Improvements project will consist of rehabilitating pavement, improving landscaping and parking lot construction for the 2100 block of Airport Road. This work is in preparation for a new tenant.

The second project consists of planning sidewalk improvements for the Mid-Continent Airport campus that will tie in with the existing sidewalk system.

Project three develops a landscape plan for the Mid-Continent Airport campus. The improvements will greatly enhance the appearance of the campus, and will provide a safer operating environment for pedestrians and motorists. The Wichita Airport Advisory Board has reviewed a presentation from landscape architecture students at K-State University in order to see potential schemes for enhancing the Airport campus.

Financial Considerations: A professional services contract with TranSystems has been negotiated after they were selected by the Staff Screening Selection Committee for study, design and bid phase services in the amount of $52,000. This contract will cover planning for all three projects and be split accordingly: $37,000 for 2100 Block Airport Road Improvements, $4,500 to Sidewalk Improvements and $10,500 to Landscaping. The 2100 Block Airport Road Improvements is in the design phase. The other two projects are in the study phase and will then move into design when funds become available. The total project budget of $448,000 will be funded with General Obligation Bonds funded entirely with Airport Revenue and will be split: $300,000 to the 2100 Block Airport Road Improvements, $100,000 to Sidewalk Improvements and $48,000 to Landscaping.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through improvements which will enhance the usefulness, safety and marketability of Airport-owned facilities.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the separate projects and budgets.

Attachments: None.

Agenda Item No. IX-04.

City of Wichita
City Council Meeting
October 21, 2008

TO: Wichita Airport Authority

SUBJECT: Temporary Communications Facilities License Agreement – Cox Business

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Communications Facilities License Agreement.

Background: Cox has limited facilities installed on Mid-Continent Airport which serve several customers in the central core of the campus along with airport staff locations. Hawker Beechcraft and Ballard are both located on the east side of the core area along Airport Road in an area where Cox does not have facilities. These two tenants have requested service from Cox under five year service agreements and therefore Cox has requested access along Airport Road.

Analysis: Due to the congestion of utilities along Airport Road it is not prudent to allow Cox to install separate facilities in that area. A project is in the development stage to convert an abandoned water line along Airport Road into a communications duct bank, however it will not be available for use in the time frame that allows it to meet the service requests of the tenants. The Airport has an electrical duct bank in the area that has conduit available for temporary use by Cox. A five year license agreement has been negotiated that allows Cox access to the electrical duct bank to serve Hawker Beechcraft and Ballard but requires the relocation of their facilities when the abandoned water line is converted to a communication duct bank. All facilities installed by Cox will remain their property with the exception of any conduit placed to traverse from the electrical duct bank to the service address point of entry. Cox has agreed that the Airport does not warrant the condition or safety of the conduit and assumes all risk of damage, injury or loss in connection with the use.

Financial Impact: There is no financial impact to the Wichita Airport Authority. The cost of installing all facilities and their future relocation is the responsibility of Cox.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements that facilitate the growth and development of tenant activities.

Legal Considerations: The Law Department has approved the License Agreement as to legal form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Agreement and authorize the necessary signatures.

Attachments: The License Agreement.

COMMUNICATIONS FACILITIES LICENSE AGREEMENT
(Commercial)

This Communications Facilities License Agreement is entered into this **8th day of October, 2008** by and between **Cox Communications Kansas, LLC d/b/a Cox Business ("Cox");** and **The Wichita Airport Authority ("Owner")**. Owner holds title to, or is the authorized agent of the title holder of, certain real property located on Mid-Continent Airport ("Property"), and Owner and Cox desire to enter into this Agreement for Cox to provide its voice, video and data services to the Property on a temporary basis under the terms and conditions herein.

1. Grant of Access. Owner hereby grants to Cox permission to install and maintain its communications distribution facilities (the "Facilities") on the Property for the purpose of providing services including voice, video and data services, (the "Services") to specified Owner's tenants and/or other persons occupying the Property ("Tenants") at the following locations: Hawker Beechcraft (1980 Airport Road) and Ballard Aviation (6601 Pueblo Road). Owner further grants to Cox the right to enter the Property to install, connect, disconnect, transfer, service, remove or repair the Facilities and to install the Facilities, including fiber optic communications cables, into conduit owned and maintained by Owner for the duration of the Term (as hereinafter defined) of this Agreement. During the Initial Term (as hereinafter defined), Owner hereby agrees to provide Cox with access to and use of approximately ____ feet of conduit (the "Owner's Conduit") located in the Owner's existing electrical duct bank running along the East side of Airport Road as described on **Exhibit A**, which is attached hereto and made a part hereof, for the purposes of Cox's intended use under this Agreement. During the Subsequent Term (as hereinafter defined), Owner hereby agrees to provide Cox with access to and use of a similar length of conduit in the Owner's yet to be constructed communications duct bank running along Airport Road, for the purposes of Cox's intended use under this Agreement. At such time as the Subsequent Term commences, Exhibit A shall be superseded by Revised Exhibit A, which shall reflect the location of the new communications duct bank. Cox shall not occupy Owner's Conduit other than as identified in **Exhibit A or Revised Exhibit A** and will not install additional facilities, nor allow others to install facilities, without the approval of the Owner, Cox's employees, agents, and/or contractors shall be permitted escorted access to the Owner's Conduit at all reasonable times upon four-eight (48) hours prior notice to Owner. The parties will arrange a mutually agreeable time when an Owner representative will be available to accompany Cox to the Owner's Conduit. In the case of an emergency, Cox's employees, agents and/or contractors may access the Facilities accompanied by an Owner representative on four (4) hours prior notice to Owner. If Cox is required to relocate the any portion of the Facilities installed in the Owner's Conduit at any time during the term of this Agreement, Owner shall provide Cox with thirty (30) days advance written notice and shall schedule any relocation of the Facilities at a mutually convenient time, and provided further that Owner shall be responsible for removing, reinstalling, repairing or replacing its conduit and Cox shall be responsible for removing, reinstalling, repairing or replacing the Facilities located within the Owner's Conduit. In the event of an emergency as determined by the Owner, Owner shall provide Cox with as much notice as possible so that Cox may remove all or such portion of the Facilities in a timely manner. If Cox is unable to remove the Facilities from the Owner's Conduit within the required emergency time frame, Owner shall remove same and shall invoice Cox for the reasonable cost and expense, plus a 20% administrative fee, of removing all or such portion of the Facilities to allow Owner to timely address the emergency situation. Upon termination of Cox's provision of Services to the Property, Cox shall enter upon the Property and remove the Facilities and associated fiber optic communications cables from the Owner's Conduit identified in this Agreement. Cox shall remove its Facilities, including any portions of the Facilities installed in the Owner's Conduit, within thirty (30) days of the expiration or earlier termination of this Agreement. Cox's right to enter upon the Property for the purpose of removing its Facilities shall survive termination of this Agreement.

2. Ownership of Facilities. Except for Internal Wiring and conduits, the Facilities are and shall remain the sole and exclusive property of Cox and shall not become fixtures of the Property, and all right, title and interest in any conduit installed by Cox under this agreement and the Owner's Conduit shall at all times remain sole and exclusively with Owner. Internal Wiring is defined as that wiring, ports and outlets located within a commercial unit receiving Services back to the demarcation point. The demarcation point in the case of telephone Services is the building's minimum point of entry, and for all other telecommunication Services is that point roughly twelve (12") inches outside of the Tenant's individual commercial unit.

3. Obligations of Cox. Cox hereby agrees as follows:

(i) To provide engineered, scaled drawings for Owner's review and approval. Said drawings will be attached as Exhibit B to this agreement, and will be replaced with Revised Exhibit B upon commencement of the Subsequent Term.

(ii) To install the Facilities at its expense including dirt trenching, backfill, compacting and boring, cable, conduit, electronics, splitters, and any other materials and labor reasonably necessary to install the Facilities in accordance with Exhibit "B" attached hereto. Cox shall keep the Property free of liens resulting from the installation of the Cox Facilities;

(iii) That Owner shall have no responsibility for the Services provided by Cox to Owner's tenants or for the proper functioning of the Facilities;

(iv) To repair any damage to Owner's landscaping, personal property or underground facilities located on the Property (including any necessary replacements), if such damage results directly from Cox's installation and maintenance of the Facilities, and to restore the Property to as near its condition prior to installation of the Facilities as may be practicable to Owner's reasonable satisfaction; and

(v) To obtain all necessary governmental authorizations for the construction and operation of the Facilities on the Property and to perform such construction in accordance with the plans attached hereto as **Exhibit B and Revised Exhibit B**.

(vi) To provide a proposed construction schedule to the Owner.

4. Obligations of Owner. Owner hereby agrees as follows:

(i) That Owner will not use or permit others to use the Facilities or any equipment that interferes with the Facilities' operation;

(ii) That Owner will not move, disturb, alter or change the Facilities or permit any third party to do so without Cox's prior written consent;

(iii) That this Agreement and Cox's rights granted herein shall be binding upon Owner's successors and assigns and that Owner shall notify any successor Property owner of Cox's rights under this Agreement;

(iv) That Owner has full authority to execute this Agreement and to grant the rights herein granted and that there are no prior or existing agreements, nor will there be any agreements during the Term, that would be breached by the execution by Owner of this Agreement or by Cox's provision of the Services;

5. Indemnification.

(i) Owner agrees to indemnify, defend and hold Cox harmless from and against all claims, suits, proceedings, liabilities, losses, costs, damages, and expenses (including reasonable attorneys' fees) for personal injury or property damages arising out of or in connection with (a) injuries or damage to Cox's employees, agents or the Facilities arising out of or in connection with the negligent acts or omissions of Owner, its agents or employees, or (c) Owner's breach of this Agreement.

(ii) Cox agrees to indemnify, defend and hold Owner harmless from and against all claims, suits, proceedings, liabilities, losses, costs, damages, and expenses (including reasonable attorneys' fees) for personal injury or property damages arising out of or in connection with (a) Cox's negligence in the installation, maintenance or use of the Facilities or the provision of Services, (b) injuries or damage to Owner's employees, agents or Property arising out of or in connection with the negligent acts or omissions of Cox, its agents or employees, or (c) Cox's breach of this Agreement.

(iii) Cox acknowledges and agrees that Owner does not warrant the condition or safety of the Owner's Conduit or the premises surrounding the same, Cox hereby assumes all risks of damage, injury or loss of any nature whatsoever caused by or in connection with the use of the Owner's Conduit.

6. Term. This Agreement shall begin on the effective date and terminate on October 31, 2013. Said Term will be from the effective date to April 30, 2010 ("Initial Term") and from May 1, 2010 to October 31, 2013 ("Subsequent Term"). The transition date between the Initial Term and the Subsequent Term may be adjusted upon mutual agreement of both parties, but in no case shall the final termination date be extended beyond October 31, 2013. Cox may terminate this Agreement in the event Cox is unable to continue the distribution of any Services because of any law, rule, regulation or judgment of any court, or any similar reason beyond the reasonable control of Cox, or if the applicable franchise or licenses are assigned, terminated, surrendered or revoked for any reason.

7. Default. If either party fails to perform any material condition or agreement to be performed or observed by it hereunder and such default is not cured within thirty (30) days after written notice from the other party, the non-defaulting party shall have the right to immediately terminate this Agreement.

8. Insurance. Cox shall maintain (a) comprehensive general liability insurance with a policy limit of at least $2,000,000 to protect Owner against bodily injury or property damage resulting from the installation, operation or maintenance of the Facilities on the Property and (b) Workers' Compensation insurance in statutory amounts. Owner shall be an "additional insured" under such general liability insurance coverage. Cox shall provide a certificate of insurance for the foregoing policies. All policies written pursuant to this Section 8 shall be with insurers (i) licensed to do business in the state in which the Property is located and (ii) carrying an A.M. Best rating of at least A-VIII. All policies, including any renewals thereof, shall specify that such policy cannot be canceled without at least thirty (30) days written notice to the other party.

9. Miscellaneous. This Agreement is the entire understanding between the parties and supercedes any prior agreements or understandings whether oral or written. This Agreement may not be amended except by a written instrument executed by both parties. Cox may assign this Agreement or any part to any affiliate or any entity merging with or acquiring substantially all of the assets of Cox or any communications carrier providing services to tenants. Notices required to be given shall be sent by United States Certified Mail or nationally recognized courier to the address set forth below each parties signature. This Agreement shall be governed by the laws of the state where the Property is located.

THE WICHITA AIRPORT AUTHORITY:

Name: _____

Signature: _____

Title: _____

Date: _____

Address: 2173 Air Cargo Road
Wichita, KS 67209

COX COMMUNICATONS KANSAS, LLC:

Name: Mark L. Tucker

Signature: Mark L. Tucker

Title: Director of Sales Operations

Date: 10/8/08

Address: 901 George Washington Blvd.,
Wichita, KS 67211

APPROVED AS TO FORM: _____ Date: _____
Gary E. Rebenstorf, Director of Law

Exhibit A

Owner's Conduit

[See Attached.]

Exhibit B

The Plans

[See Attached.]

City of Wichita
City Council Meeting
October 21, 2008

TO: Wichita Airport Authority

SUBJECT: Enterprise Leasing Company-Southwest d/b/a Enterprise Rent-A-Car Supplemental Agreement No. 1

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreement.

Background: In 1993, Enterprise Leasing Company-Southwest d/b/a Enterprise Rent-A-Car entered into an agreement with the WAA to operate as an off-airport rental car operator. In 2003, this agreement was superseded by an agreement which provided in-terminal leased space and allowed operation as on on-airport provider. As a result of increases in their airport transactions, Enterprise made the business decision to construct a service center on Mid-Continent Airport to make their operations more economical and to better serve their airport customers. On November 20, 2007, the Wichita Airport Authority approved an agreement with Enterprise for use of three acres of land on which to construct a vehicle service center north of the Hertz Service Center in the midfield area of Wichita Mid-Continent Airport.

Analysis: According to the terms of the agreement, land rent was to commence upon beneficial occupancy or December 1, 2008, whichever occurred first. Due to unforeseen circumstances which resulted in a delayed start of the project, Enterprise has requested that land rent commence March 1, 2009. Airport staff is agreeable to modifying the date in that construction completion is not anticipated until after that date.

Financial Considerations: Land rent during the first year, commencing March 1, 2009 will be $39,840, and will increase 5% each year.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which improve customer services and allow the Airport to continue its operation on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement; and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 1.

SUPPLEMENTAL AGREEMENT NO. 1

By and Between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas
And
ENTERPRISE LEASING COMPANY – SOUTHWEST
D/B/A ENTERPRISE RENT-A-CAR

THIS SUPPLEMENTAL AGREEMENT NO. 1, made and entered into this October 21, 2008, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, ("Lessor"), and ENTERPRISE LEASING COMPANY – SOUTHWEST D/B/A ENTERPRISE RENT-A-CAR ("Lessee").

WITNESSETH:

WHEREAS, the Lessor and Lessee entered into an Agreement dated November 20, 2007, for the purpose of constructing a service center on the leased premises; and

WHEREAS, the Lessee is now desirous of amending the Agreement for the purpose of modifying the rent commencement date.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree to the following amendment:

1. TERM. Section 4, Term, shall be superseded by the following language:
   The term of this Agreement shall commence December 1, 2007 and shall end 20 years from March 1, 2009 on February 28, 2029, unless sooner terminated according to terms included in this Agreement. A Certificate of Occupancy shall be furnished to Lessor upon completion.
2. RENTAL. Section 6, Paragraph One, Rental, of the original agreement shall be modified as follows:

   Basic land rental for 1755 Midfield Road, containing 130,680 sq.ft., shall be effective as of March 1, 2009, in accordance with the schedule below:

Year	Rate Per Sq. Ft. Annual	Monthly	
03/01/09-04/30/09	$.2927	$6,375.00*	$3,187.50
05/01/09-04/30/10	$.3073	$40,157.96	$3,346.50
05/01/10-04/30/11	$.3227	$42,170.44	$3,514.20
05/01/11-04/30/12	$.3388	$44,274.38	$3,689.53
05/01/12-04/30/13	$.3557	$46,482.88	$3,873.57
05/01/13-04/30/14	$.3735	$48,808.98	$4,067.42
05/01/14-04/30/15	$.3922	$51,252.70	$4,271.06
05/01/15-04/30/16	$.4118	$53,814.02	$4,484.50
05/01/16-04/30/17	$.4324	$56,506.03	$4,708.84
05/01/17-04/30/18	$.4540	$59,328.72	$4,944.06
05/01/18-04/30/19	$.4767	$62,295.16	$5,191.26
05/01/19-04/30/20	$.5005	$65,405.34	$5,450.45

05/01/20-04/30/21	$.5255	$68,672.34	$5,722.70
05/01/21-04/30/22	$.5518	$72,109.22	$6,009.10
05/01/22-04/30/23	$.5794	$75,715.99	$6,309.67
05/01/23-04/30/24	$.6084	$79,505.71	$6,625.48
05/01/24-04/30/25	$.6388	$83,478.38	$6,956.53
05/01/25-04/30/26	$.6707	$87,647.08	$7,303.92
05/01/26-04/30/27	$.7042	$92,024.86	$7,668.74
05/01/27-04/30/28	$.7394	$96,624.79	$8,052.07
05/01/28-02/28/29	$.7764	$84,550.00*	$8,455.00

*Partial Year

3. OTHER TERMS. All the terms and conditions of the original agreement, except as amended herein, shall remain and be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. I the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

ENTERPRISE LEASING COMPANY-SOUTHWEST
D/B/A ENTERPRISE RENT-A-CAR

By _____

Title _____

By _____

Title _____

"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL OCTOBER 21, 2008

a. 21st Street North Improvements, K-96 to 159th Street East (KDOT) (87N-0423-01/472-84636/706973/766177/766178/766179/766183/635690/207439/490195/490196/490197/490197/490201/768739) See Special Provisions. (District II) - $11,545,723.00

b. 2008 Contract Maintenance CIP Street Rehabilitation Concrete Repairs: Lincoln & Grove (472-84725/706890/620799/133116/208445/668617/NA) Traffic is to be maintained using flagpersons & barricades. (District I) - $313,500.00

c. Water Distribution System to serve Wheatridge Addition (north of Kellogg, west of 119th Street West) (448-90392/735428/470101) Traffic is to be maintained using flagpersons & barricades. (District V) - $130,000.00

Agenda Item No. XII-05.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Petition for Storm Water Sewer in Foliage Center Addition (north of 13th, west of Webb) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Approve the new Petition.

Background: On February 26, 2008, the City Council approved a petition for a storm water sewer in Foliage Center Addition. The scope of the project is much greater than was anticipated at the time the developers' consultant engineer prepared the Petition. The developers have submitted a new Petition with an increased budget. The signatures on the Petition represent 100% of the improvement district.

Analysis: The project will construct a drainage system in a new commercial development located north of 13th, west of Webb.

Financial Considerations: The existing Petition totals $72,000. The new Petition totals $185,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing drainage improvements required 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 owners of a majority of property in the improvement district.

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

Attachments: Map, CIP Sheet, Petition and Resolution.

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-493

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER SEWER NO. 643 (NORTH OF 13TH, WEST OF WEBB) 468-84498 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 SEWER NO. 643 (NORTH OF 13TH, WEST OF WEBB) 468-84498 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 08-118 adopted on February 26, 2008 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve Storm Water Sewer No. 643 (north of 13th, west of Webb) 468-84498.

SECTION 3. That the cost of said improvements provided for in Section 1 hereof is estimated to be One Hundred Eighty-Five Thousand Dollars ($185,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after February 1, 2008, exclusive of the costs of temporary financing.

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

FOLIAGE CENTER ADDITION
Lot 1, Block 1

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

> The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 1, Block 1, FOLIAGE CENTER ADDITION shall pay 100% of the total cost payable by the improvement district.

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

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

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

SECTION 8. 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 authorized by K.S.A. 12-6a01 et seq., as amended.

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 21st day of October, 2008.

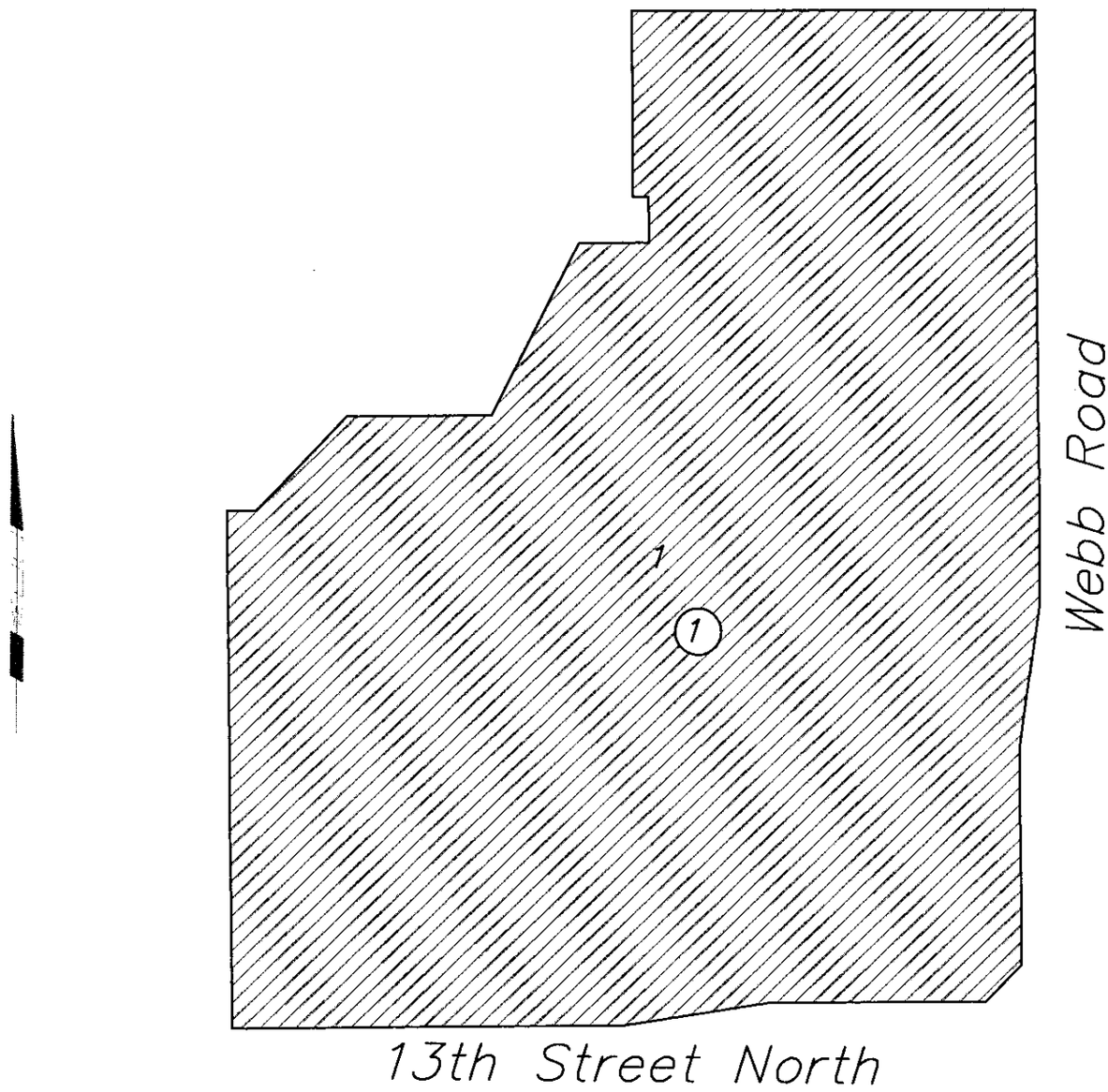
_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

FOLIAGE CENTER 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 [ ]
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	10/1/2008	Storm Water Sewer for Foliage Center Addition

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

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage		$185,000		$185,000
Sanitary Sewer				
Sidewalk				
Water				
Other				
Totals		$185,000		$185,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

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

Remarks:

100% Petition

* Storm Water Utility

SWS 643

468-84498

13. Recommendation: Approve the petition and Adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
James Anson	[signature]	Catherine A Hill Date 10-8-08	Date

5

STORM WATER 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:

FOLIAGE CENTER ADDITION
Lot 1, Block 1;

468-84498

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

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

SWS 643

(b) That the estimated and probable cost of the foregoing improvements is One Hundred Eighty Five Thousand Dollars ($185,000.00), 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 and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after February 1, 2008.

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

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

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

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

Lot 1, Block 1 Foliage Center Addition shall each pay 100% of the total cost payable by the improvement district.

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

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature 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 occurs 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 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
FOLIAGE CENTER ADDITION Lot 1, Block 1; Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas.	**BEECH LAKE INVESTMENT, LLC** **A Kansas Limited Liability Company** By: _____ Johnny Stevens, Manager By: _____ Steve Clark, Manager	

AFFIDAVIT

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

Gene Rath
Name

411 N. WEBB
Address

684-9600
Telephone Number

Sworn to and subscribed before me this 30th day of September, 2008.

Deputy City Clerk

Agenda Item No. XII-08a

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Community Events (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events Procedure, the event promoter Don Wadsworth, Wichita Rowing Association is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Frostbite Regatta November 2, 2008 6:00 am – 6:00 pm, Riverside Park

- Nims Street Bridge, Murdock Street to Ralph Wulz Riverside Tennis Center driveway.
  Please see attached map.

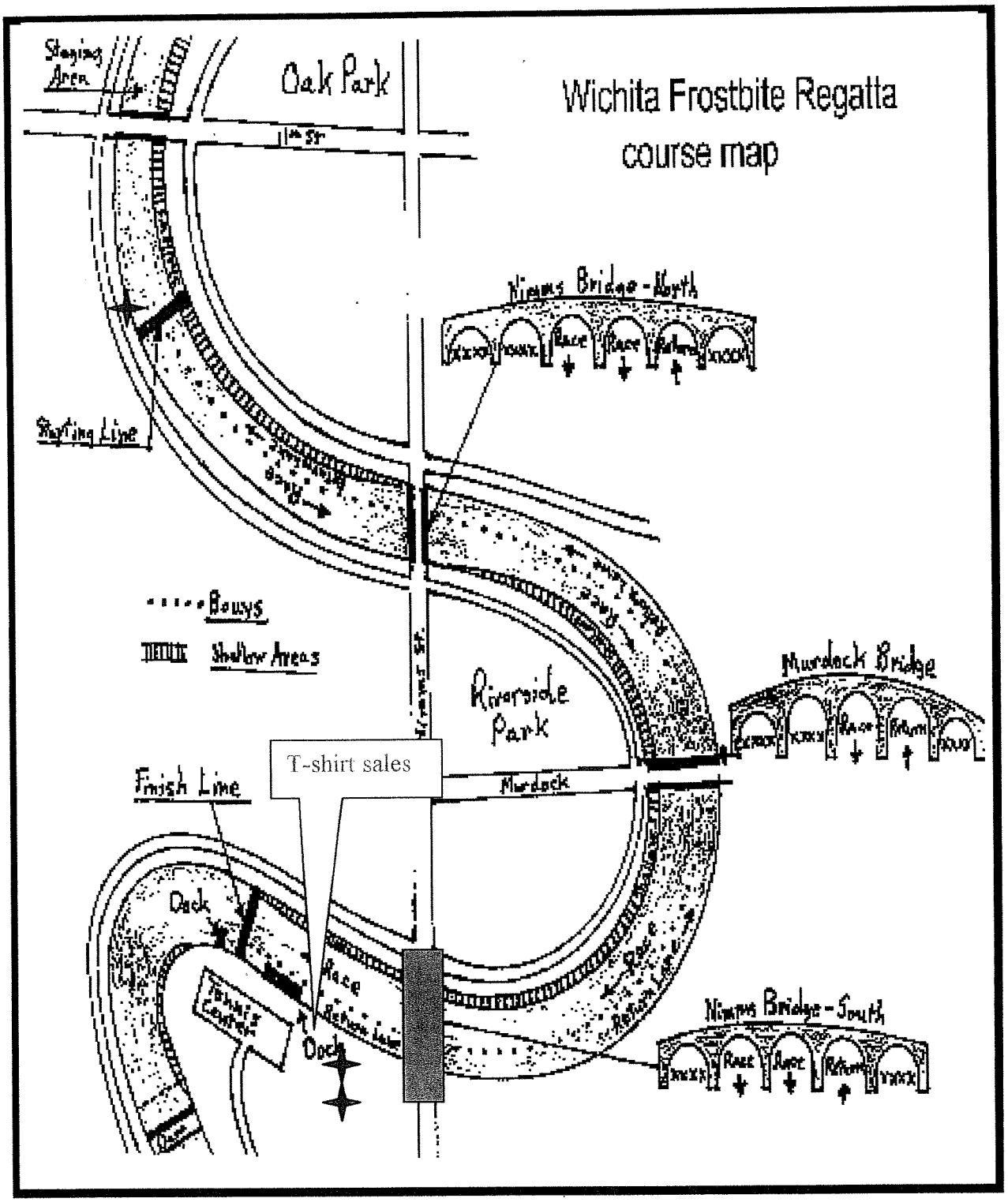
Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed intermittently throughout the course and immediately upon completion of the event.

Financial Consideration: Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

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



Requested Road Closing – Nims Street Bridge

Portable Toilet Facilities

Agenda Item No. XII-08b

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Community Events (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events procedure the event promoter Mike Kramp, Central Branch YMCA is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

2008 Frosty 5K Fun Run January 1, 2009 10:00 am – 3:00 pm

- 3rd Street, Market Street to Waco Avenue
- Waco Avenue, 3rd Street to 1st Street
- Lewis Street Bridge, Wichita Street to McLean Blvd. not including intersections.

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

Financial Consideration: Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

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

Agenda Item No. XII-09.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Right-of-Way Agreement (Union Pacific Railroad) (District I).

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: In response to a consent order issued by the Kansas Department of Health & Environment, the Union Pacific Railroad (UPRR) is requesting permission for installation of groundwater pumping wells and associated piping related to remediation activities at the 29th and Grove Site. The proposed wells and piping are part of a hydraulic containment system for groundwater plume control and will be installed within the City of Wichita right-of-way along the north side of Murdock between Interstate I-135 and Ash Street. The piping and conduit will be installed using horizontal boring technology and will connect all six of the proposed pumping wells to a treatment building located on KDOT right-of-way at approximately Murdock and I-135. KDOT has approved a form allowing UPRR to use their right-of-way. Discharge from the building will go to a manhole that UPRR will install and then to a City sewer manhole. The UPRR has completed the necessary permits required by the City's Sewer Department. See the attached proposed system layout.

The City requested that the treatment building be aesthetically pleasing, be coated with graffiti resistant paint and be enclosed by a 6-foot security fence. Preliminary plans have been approved by Public Works staff. The life of the project is estimated to be five years. The UPRR has agreed to maintain the site by mowing, weed eating, picking up debris and removing graffiti when necessary.

The pumping wells will be flush mount 6" in diameter and will be set in 38" diameter vaults. Piping from the pumping wells will run east to west for a total distance in the right-of-way of 1,230 feet. Monitoring and piezometer wells shown on the proposed system layout will not be included in this agreement but will require permits from the City Engineer's Office.

Analysis: A right-of-way agreement has been developed to allow for the use of a specific route for the piping. The City Engineer's Office has reviewed and approved the route and construction details for the portion of the project that would be in the public right-of-way.

Financial Considerations: The proposed Right-of-Way Agreement provides for compensation to the City for use of the right-of-way of $2.50 per foot per year for the life of the project which is estimated at five years. The annual compensation for the 1,230 feet of right-of-way used is estimated at $3,075 per year.

Goal Impact: This project directly supports the "Improved environmental heath and community safety" indicator of the Safe and Secure Community Goal. The project will result in the remediation of groundwater that was polluted by past industrial practices.

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

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

Agreements: Map and Agreement.

RIGHT-OF-WAY AGREEMENT
(Union Pacific Railroad)

THIS AGREEMENT, entered into this ____ day of _____, 2008, by and between Union Pacific Railroad ("Company") and the CITY OF WICHITA, KANSAS, a municipal corporation, (“City”).

WITNESSETH:

WHEREAS, The City of Wichita is the owner of certain public Right-of-Way; and

WHEREAS, Company desires to use said public Right-of-Way of the City of Wichita for the purpose of construction, maintenance, and operation of a portion of a remedial treatment system (“System”); and

WHEREAS, the parties desire to enter into an Agreement that allows Company to use the Right-of-Way for its legal purposes, while maintaining the City of Wichita’s right to manage and control the Right-of-Way and receive adequate compensation and reimbursement of the costs and expenses of allowing such use; and

WHEREAS, the City of Wichita finds such use to be in the public interest and is willing to enter into an agreement to allow use of the public Right-of-Way for such purpose;

WHEREAS, the City’s standards included in this Agreement are designed to:

A. Adequately compensate the City for occupancy of the Right-of-Way for use in providing private remediation services;

B. Fully protect the public and the City from any harm caused by private commercial use of Right-of-Way, including, but not limited to, reducing the risk of loss of service and the risk of personal or property injury from errant excavation;

C. Protect the regulatory authority of the City in a manner consistent with federal and state law, and;

WHEREAS, Company desires to use the Right-of-Way and requests an expeditious procedure for such use and knowingly waives any challenges it may have to the procedures for the grant of use of the Right-of-Way; provided, that neither party waives any rights it may now or in the future have at law or equity for actions in breach of this Agreement or enforcement of its provisions. The City agrees to allow such use of the Right-of-Way through the expeditious procedures of this Agreement.

NOW THEREFORE, in consideration of the conditions set forth below, Company and the City agree as follows:

SECTION 1. DEFINITIONS

Defined Terms. For purposes of this Agreement, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A. "City" means the City of Wichita, Kansas.

B. "Company" means Union Pacific Railroad and, where appropriate in the context of the Agreement, its contractors and subcontractors performing work related to the construction, maintenance, and operation of the System.

C. "Facilities" means any portion of the System located in, along, over, upon, under, or through the Right-of-Way.

D. "Fee" means the compensation paid to the City by Company for the use of the Right-of-Way pursuant to this Agreement.

E. "Groundwater Remediation System" or "System" means the remedial treatment system including conduit to be installed, operated, inspected and maintained by Company along the Right-of Way that is the subject of this Agreement.

F. "Linear Foot" – means the length in feet of the Right-of-Way along which is located the subsurface pipe or conduit Facilities of the Groundwater Remediation System.

G. "Public Project" - shall mean any project planned or undertaken by the City or any other governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, including without limitation streets, alleys, sidewalks, sewer system, water system, drainage system, Right-of-Way improvement, or any other purpose of a public nature.

H. "Public Project for Private Development" - shall mean a Public Project, or that portion thereof, arising solely from a request or requirement of a third party primarily for the benefit and use of a third party.

I. "Right-of-Way" - shall mean only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below, or above the present and future streets, alleys, avenues, roads, highways, or boulevards dedicated or acquired as rights-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities, or private easements in platted subdivisions or tracts. The term does not include property owned or held by the City but not typically considered right-of-way, including, but not limited to, City parks and reserves and City buildings.

SECTION 2. AUTHORITY TO USE RIGHT-OF-WAY

2.1 **Agreements and Franchises Non-Exclusive**. This Agreement shall be nonexclusive. The City specifically reserves the right to grant, at any time, agreements, franchises, or other rights to use the Right-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable Federal and State law.

2.2 **Grant**. This Agreement shall convey the right, privilege and authority to construct, operate, and maintain Facilities in, through and along the City's Right-of-Way, as shown in Attachment A, for the purposes, and pursuant to the terms and conditions, herein set forth. As a condition of any such grant, Company is required to obtain, and is responsible for, any necessary permit, agreement, approval, or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Kansas Department of Transportation (KDOT), or the Kansas Department of Health and Environment ("KDHE"), subject to Company's right to challenge in good faith such requirements as established by the KDOT, KDHE or other City ordinance.

2.3 **Nature of Grant**. The grant under this Agreement shall not convey title, equitable or legal, in the Right-of-Way, and gives only the right to occupy Right-of-Way, for the purposes and for the period stated in this Agreement. The Agreement gives no right of access or use to facilities of a third party.

2.4 **Term**. This Agreement shall be effective upon the date of execution by both parties for a term to be the lesser of twenty (20) years or for a duration determined by the requirements of the KDOT, KDHE, the United States Environmental Protection Agency ("EPA"), or other governmental entity. This Agreement shall be renewable at the option of Company and subject to Section 2.5 upon written request for additional terms of up to twenty (20) years each; the same to extend until such time as all remediation and other

response actions being performed and to be performed by Company at the Site are satisfactorily completed.

2.5 **Amendment.** Upon written request of either the City or Company, the Agreement may be reviewed at any time after the effective date and either the City or Company may propose amendments to any provision of the Agreement by giving thirty (30) days written notice to the other of the amendment(s) desired. The City and Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

Upon written request of either the City or Company, the Agreement shall be reopened and renegotiated at any time upon any change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the City or Company, including but not limited to the scope of the grant to the Agreement or the compensation to be received by the City.

2.6 **Use of Right-of-Way; Police Powers; Company's Use Subordinate**. Facilities shall be placed with adequate clearance from existing public or private utilities in the Right-of-Way so as not to impact or be impacted by such public or private utilities or improvements. Company shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, including all KDOT and KDHE approved work plans for the Site, and all other City codes and ordinances in effect as of the date of this Agreement or hereinafter adopted to the extent not in contravention of state or federal law. The Agreement does not in any way impact the continuing authority of the City through the proper exercise of its Home Rule powers to adopt and enforce ordinances necessary to provide for the health, safety and welfare of the public. In entering this Agreement, the City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Facilities on any particular segment of the Right-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Company. The use of the Right-of-Way authorized by this Agreement shall in all matters be subordinate to the City’s use and rights therein. Company shall coordinate the placement of its Facilities in a manner that minimizes adverse impact on public and private improvements, as reasonably determined by the City Engineer.

2.7 **No Interference**. Company shall construct and maintain its Facilities so as not to interfere with other users of the Right-of-Way. All construction and maintenance by Company or its subcontractors shall be performed in accordance with industry standards.

2.8 **Exclusion of Certain Locations/Facilities**. Prior to its installation of any Facilities in the Right-of-Way, and after it provides the City with its proposed plans for the Facilities, the City may in its reasonable discretion designate certain locations or facilities in the Right-of-Way to be excluded from use by Company for its Facilities, including, but not limited to any facility or location that in the reasonable judgment of the City Engineer is incompatible with the proposed Facilities, or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other

facilities that have been designated or planned for other use, or are not otherwise available for use by Company due to engineering, technological, proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. The City shall provide a written explanation for any denial for a particular location and shall work with Company to identify other suitable routes.

2.9 **Location, Type and Design of Facilities Subject to Approval**.

A. The design, location, and nature of all Facilities shall be subject to the reasonable review and approval of the City Engineer. This is a means to properly manage and control all Right-of-Way usage in the City, and to protect the public health, safety, and welfare. The review and approval is to ensure efficient coordination relating to Right-of-Way use relating to public and private utilities and to evaluate the configuration and size of Facilities that may be located in the Right-of-Way or other public or private property.

B. Except as provided herein, all Facilities constructed by Company shall be placed underground unless otherwise agreed to by the City.

1. Where there are obstructions in the Right-of-Way which make the cost of underground construction unreasonable, or for other engineering, cost or feasibility reasons, Company may request waiver of this requirement, in which event the City will not unreasonably withhold its consent.

2. Above-ground pedestals, vaults, or other above-ground Facilities, may be installed only if approved by the City where alternative underground facilities are not feasible, are inconsistent with prudent engineering or other scientific practices or standards, or where underground requirements are otherwise waived pursuant to this Section, and shall generally be located behind any sidewalk where feasible.

C. Except as may otherwise be provided by other applicable ordinances of the City, where reasonable and appropriate and where adequate public Right-of-Way exists, Company shall place above-ground Facilities underground in conjunction with City capital improvement projects, and/or at specific locations requested by the City, provided that such placement is practical, efficient, and economically feasible. The City must be informed of, and will evaluate the size of facilities, the appearance of facilities, and whether or not any facility or structure will be unsafe or hazardous, or have an appearance that will be aesthetically adverse to property owners, or may cause a traffic safety problem; and, on the basis of its review, the City Engineer may work with Company to resolve any adverse impact, to the satisfaction of the City Engineer.

2.10 **Right-of-Way Management Code**. The City reserves its rights to adopt a Right-of-Way management and construction standards ordinance of general applicability

pursuant to its public health, safety and welfare authority which shall apply to this Agreement except where inconsistent with a material term of the Agreement.

2.11 **Underground Facility Locating Service**. Company shall cooperate with and participate fully in providing reputable underground facility locating services to insure that damage and/or interference with other underground facilities occupants is minimized. This shall include, but not be limited to, participation with the Kansas One Call.

2.12 **Permit Requirements**. While this Agreement establishes the general rules and scope of authority for Company to construct and maintain its System within the Right-of-Way, Company is still required to obtain individual permitting approval from the City Engineer prior to engaging in actual construction of its specific Facilities within the Right-of-Way. At least fifteen (15) days before the beginning of any installation, removal or relocation of its Facilities, Company shall submit detailed plans of the proposed action to the City Engineer. The City Engineer shall, within fifteen (15) days of receipt of such plans, either approve the plans or inform Company of the reasons for disapproval. Company shall designate a responsible contact person with whom representatives of the City Engineer can communicate with on all matters relating to facilities installation and maintenance. Prior to any excavation within the Right-of-Way, Company shall obtain a permit, pay all applicable fees, and perform such work in accordance with applicable provisions of the City ROW Management Code, and any ordinances or regulations that may be adopted by the City regarding excavation work.

2.13 **As Built Drawings**. Company shall keep and maintain accurate records and as-built drawings, in both paper and electronic format, of all Facilities constructed, reconstructed, or relocated in the Right-of-Way after the date hereof. Such Facilities shall be horizontally and vertically located at least every 100 feet and at any other alignment change. All points of Facilities shall be horizontally located from street centerline, or section or quarter section lines or corners. Vertical locations on all points of Facilities shall consist of elevations in either City datum or United States Geological Survey datum. Company shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the nature and horizontal and vertical location of its Facilities located within Right-of-Way when requested by the City or its authorized agents for a Public Project. Such location and identification shall be at the sole expense of Company without expense to the City, its employees, agents, or authorized contractors

2.14 **Agent**. Company shall designate and maintain an agent, familiar with the Facilities, who is responsible for timely satisfaction of the information needs of the City and other users of the Right-of-Way.

2.15 **Responsibility for Costs**. Company shall be responsible for its own costs incurred removing or relocation its facilities when required by the City, due to City requirements relating to maintenance and use of the Right-of-Way for City purposes.

SECTION 3. FEES AND COMPENSATION

3.1 **Right-of-Way Fee**. Company shall pay to the City as compensation for the use of the Right-of-Way pursuant to this Agreement, an annual fee calculated by the City as follows: Two Dollars and fifty cents ($2.50) per linear foot of the Right-of-Way occupied by Company's Facilities adjacent to properties not owned by Company at the execution of this Agreement. Once construction is substantially completed, this annual payment shall remain constant during the term of this Agreement, and shall not vary, regardless of any changes in ownership of the properties burdened by this grant or minor changes in the configuration of the Facilities.

3.2 **Timing of Payment of Fees**. Unless otherwise agreed by the parties, Fees under this Section shall be due and payable for each calendar year or part thereof in a lump sum on or before November 1 of that calendar year.

3.3 **Interest on Late Payments and Under Payments**. If the Fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.

SECTION 4. TRANSFER OF OWNERSHIP

4.1 Company shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation, or otherwise, this Agreement or any of the rights or privileges granted by such Agreement, without the prior written consent of the City. Such consent shall not be unreasonably withheld, delayed or denied. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership.

4.2 Any assignment or transfer shall not require consent of the City when the Agreement is assigned, sold or transferred between wholly-owned subsidiaries of a parent corporation, provided that Company provides advance written notice to the City. In all such instances, the assignee or new owner shall be responsible for all Agreement requirements and obligations.

SECTION 5. GENERAL CONDITIONS

5.1 **Compliance With Laws**. The City and Company shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, regulations and policies relating to construction and use of public property.

5.2 **Advertising, Signs or Extraneous Markings**. Company shall not place, or cause to be placed, any sort of signs, advertisements or other extraneous markings, whether relating to Company or any other person or entity on the public Right-of-Way, except

such necessary minimal markings as approved by the City as are reasonably necessary to identify the Facilities for service, repair, maintenance or emergency purposes, or as may be otherwise required to be affixed by applicable law or regulation.

5.3 **Forfeiture of Permit and Privilege**. In case of failure on the part of Company, its successors and assigns, to comply with any of the material provisions of this Agreement, or if Company, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the material terms of this Agreement, Company, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights under the Agreement shall cease, terminate and become null and void; provided, however, that said forfeiture shall not take effect until the City shall carry out the following proceedings: Before the City proceeds to forfeit the rights granted under this Agreement, it shall first serve a written notice upon Company, setting forth in detail the neglect, material breach, or failure complained of, and Company shall have thirty (30) days thereafter in which to cure the default by complying with the conditions of this Agreement. If at the end of such thirty (30) day period, the City determines that the conditions have not been complied with, the City shall take action, by an affirmative vote of the City Council present at the meeting and voting, to terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Company may, upon thirty (30) days' notice to City, appeal to District Court.

5.4 **Removal of Facilities**. Upon expiration of this Agreement, whether by lapse of time, by agreement between Company and the City, or by forfeiture thereof, Company shall remove, at its sole cost, from public property any and all of its Facilities that are the subject of this Agreement including but not limited to the driveway approach to the treatment building within a reasonable time after such expiration, and it shall be the duty of Company promptly upon such removal to restore the Right-of-Way from which the Facilities are removed to as good condition as the same were before the removal was effected and as required by the City. Notwithstanding the foregoing, upon request of Company, the City may allow underground Facilities to be left in place when it is not practical or desirable to require removal.

5.5 **Relocation of Facilities**.

A. Company shall, within a reasonable time, relocate or adjust any Facilities located in Right-of-Way if reasonably necessary and requested by the City for a Public Project. Such relocation or adjustment for a particular Public Project shall be performed by Company without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City pertaining to such; provided, that if Company demonstrates to the satisfaction of the City that the Facility was originally established in a private easement that thereafter became part of the Right-of-Way, the relocation or adjustment shall be without expense to Company.

B. Company shall not be responsible for the expenses of relocation to accommodate any new Public Project for Private Development. The expenses

attributable to such a project shall be the responsibility of the third party upon the request and appropriate documentation of Company. Before such expenses may be billed to the third party, Company shall be required to coordinate with the third party and the City on the design and construction to ensure that the work required is necessary and done in a cost effective manner. Upon the request of Company or the third party, the allocation of expenses attributable to project shall be made in the reasonable determination of the City. Eligible third parties may request to have the City specially assess those expenses billed by Company under this section. The City will use its best efforts, but is not required, to continue to provide a location in the Right-of-Way for Facilities as part of a Public Project, provided that Company has cooperated promptly and fully with the City in the design of its Facilities as part of the Public Project.

C. Company shall be given not less than thirty (30) days written notice from the permit holder detailing the time and location of the moving operations, and not less than forty-eight (48) hours advance notice from the permit holder advising of the actual operation. The City shall not be liable for any such expense or notice requirement for the moving of houses or structures by the City or its contractors.

SECTION 6. CONFIDENTIAL INFORMATION

By entering into this Agreement, Company acknowledges and agrees that this Agreement, and certain information required to be filed with the City pursuant to this Agreement, are subject to inspection and copying by the public pursuant to the provisions of the Kansas Open Records Act, K.S.A. 45-215 et seq. When requested by Company, the City will apply such confidentially procedures as are available under the Act.

SECTION 7. LIABILITY AND INDEMNIFICATION

7.1 It shall be the responsibility of Company to take adequate measures to protect and defend its Facilities in the Right-of-Way from harm or damage. If Company fails to accurately or timely locate Facilities when requested, it has no claim for cost or damages against the City and its authorized contractors unless such party is responsible for the harm or damage by its negligence or intentional conduct. Company shall be responsible to the City and its agents, representatives and authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of Company to perform any of its obligations under this Agreement except to the extent the damaged party is responsible for the harm or damage by its negligence or intentional conduct. Provided, however, the City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Company's System.

7.1.1 Company shall hold harmless and save and defend the City, its officers, employees, agents, and authorized contractors, harmless from and against all claims, damages, expense, liability, and costs including attorney fees, to the extent occasioned in any manner by the failure of Company to perform any of its obligations under this Agreement, except to the extent the City, its officers, employees, agents, and authorized contractors are responsible for the harm or damage as a result of its negligence or intentional conduct. In the event a claim shall be made or an action shall be instituted against the City growing out of any such failure by Company to perform its obligations under this Agreement then, upon notice by the City to Company, Company shall assume liability for the defense of such actions at the cost of Company, subject to the option of the City to appear and defend, at its own cost, any such case.

SECTION 8. INSURANCE

8.1 During the term of this Agreement, unless specified otherwise, Company shall obtain and maintain at its sole expense, with financially reputable insurers that are licensed to do business in the state of Kansas, naming the City as Certificate Holder, not less than the following insurance:

A. Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed with an employer's liability limit of not less than Five Hundred Thousand Dollars ($500,000) per accident.

B. Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than One Million Dollars ($1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability, naming the City as Certificate Holder.

8.2 Company shall, as material condition of this Agreement, prior of the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance, satisfactory in form and content, reflecting full compliance with the requirements set forth in paragraphs 8.1.A "Workers' Compensation" and "Employer's Liability" and 8.1.B "Commercial General Liability." The certificate will also provide a thirty (30) calendar days advance written notice in the event of cancellation or material change.

8.3 Nothing contained in this Agreement shall limit Company's liability to the City to the limits of insurance certified or carried.

SECTION 9. INVALIDITY AND REMEDIES

9.1 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

9.2 The right and remedies of the Parties under this Agreement shall be cumulative and in addition to any other rights and remedies provided by law or equity. A waiver of a breach of any provision thereof shall not constitute a waiver of any other breach. The laws of the State of Kansas shall govern this Agreement and any rights granted hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated above.

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

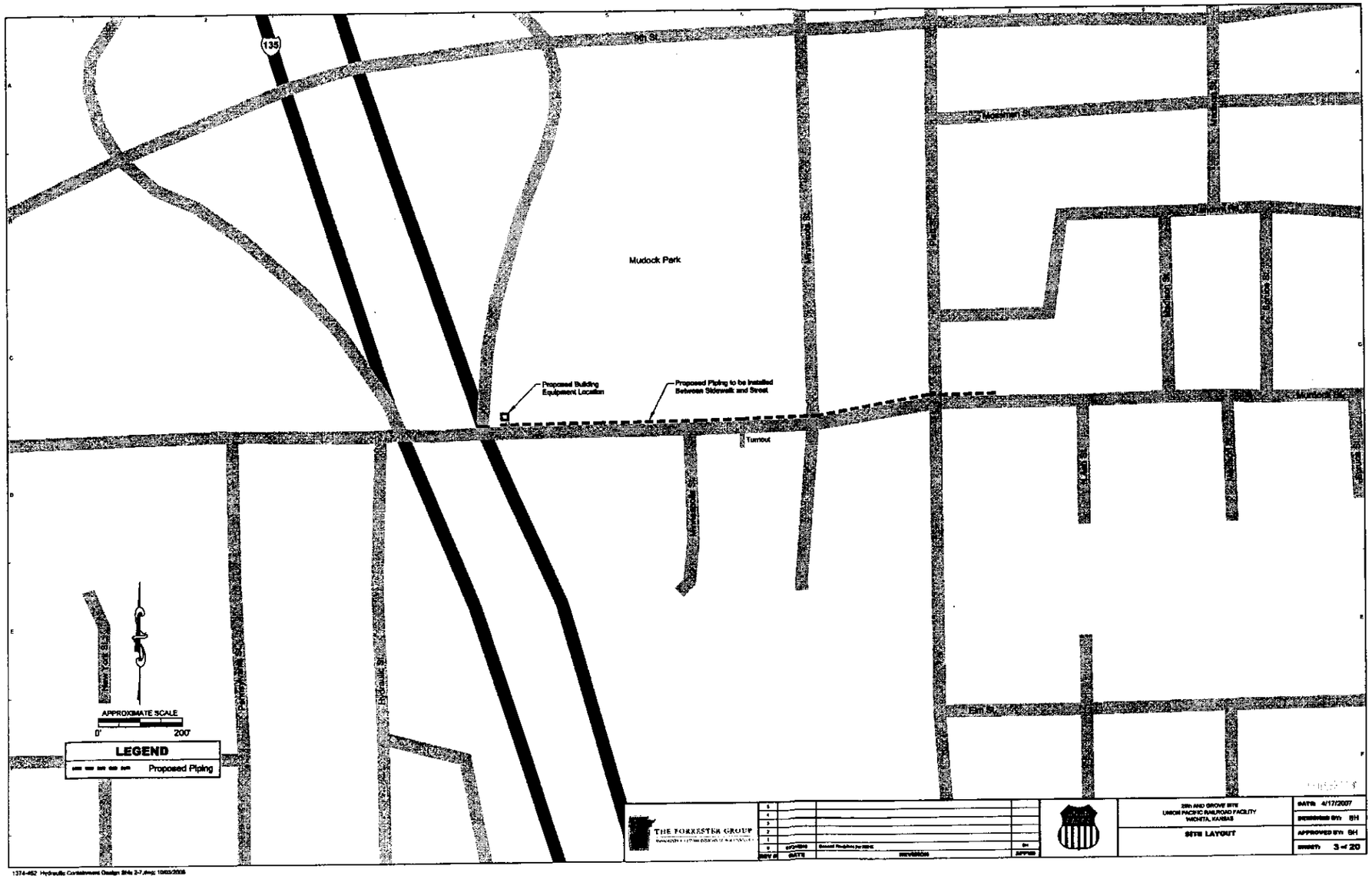
Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Union Pacific Railroad

By: _____

Title: _____



1374-452 Hydraulic Containment Design Site 2-7.dwg; 10/03/2006

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Change Order: 13th/Broadway Intersection Improvement (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On April 8, 2008, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve the intersection of 13th and Broadway. After the work began, additional work items were identified that need to be addressed with a change order. They include: installation of count down pedestrian walk signals, relocation of the traffic signal electrical services and lowering a storm water inlet top.

Analysis: The Change Order has been prepared for the additional work. The change order also adjusts planned quantities to final. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is $14,854 with $2,971 paid by City General Obligation bonds and $11,883 paid by Federal grants. The original contract amount is $1,068,067. This Change Order represents 1.39% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic capacity and safety at a major intersection.

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

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

Attachments: Change Order.

PUBLIC WORKS-ENGINEERING

January 17, 2008

CHANGE ORDER

To: Cornejo & Sons, Inc.

Project: 13th North & Broadway Intersection Reconstruction

Change Order No.: 1
Purchase Order No.: 701653
CHARGE TO OCA No.: 706925

Project No.: 87N-0245-01 / 472-84178
OCA No.: 706925/620489/636085
PPN: 205391/667607/779165

Please perform the following extra work at a cost not to exceed $14,854.33

Adjust measured bid items and add other work items to close the project. Added the countdown pedestrian signals and various other improvements (see attached).

CIP Budget Amount: $2,285,000.00 (706925)	**Original Contract Amt.: $1,068,066.50**
Consultant: R&B	**Current CO Amt.: $14,854.33**
Total Exp. & Encum. To Date: $1,754,628.63	**Amt. of Previous CO's: $0.00**
CO Amount: $14,854.33	**Total of All CO's: $14,854.33**
Unencum. Bal. After CO: $515,517.04	**% of Orig. Contract / 25% Max.: 1.39%**
	Adjusted Contract Amt.: $1,082,920.83

Recommended By:

Larry Schaller, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer

Approved:

Contractor Date

Approved:

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

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____
City Clerk

Agenda Item No. XII-12

CITY OF WICHITA
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Acquisition of 226 East 21st Street North and Partial Acquisition of 2201 North Broadway for the Intersection Improvement Project at 21st and Broadway (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On September 11, 2007, the City Council approved the roadway intersection improvement of 21st and Broadway. The project will provide left turn lanes at all four approaches to the intersection, existing pavement will be replaced and the traffic signal system will be upgraded. The project requires the acquisition of a retail building located at 226 East 21st Street and 765 square feet from along the front of 2201 North Broadway. The two properties are owned by the same entity.

Analysis: The owner rejected the original appraised offer of $315,000 however; the owner agreed to convey the necessary right-of-way for a sum of $345,000. This amount includes the owner's eligible relocation benefits. The tenant of 226 East 21st is also eligible for relocation benefits. City staff recommends accepting the counter value as it is reasonable and prudent.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $396,000 is requested. This includes $345,000 for acquisition, $25,000 for eligible relocation benefits paid to the tenant, $25,000 for demolition and $1,000 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure by improving the traffic flow through a major transportation corridor.

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 Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract maps, aerial and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 2nd day of Oct, 2008 by and between Nuot Nguyen and Ly Ngoc Thi Nguyen, 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 warranty deed for the following described real property, situated in Wichita, Sedgwick County, Kansas, to wit:

Beginning at the southeast corner of Lot 14, Steel and Swentzell's Highland 2nd Addition to the City of Wichita, Sedgwick County, Kansas; thence S89°12'00"W, 103.79 feet along the south line of said Addition to the southwest corner of Lot 11, said Addition; thenceN00°54'24"W, 131.99 feet along the west line of said Lot 11; thence N89°10'07'E, 77.46 feet along the north line of Lots 11, 12, 13 and 14, said Addition to a point on the west right of way of Broadway as condemned in Condemnation Ordinance #5626; thence 130.15' along said right of way and along a curve to the left having a radius of 2963.72 feet, a central angle of 2°30'58", and a chord of 130.13 feet, bearing S12°35'08"E; thence S00°45'16"E, 4.64 feet along the east line of said Lot 14 to the Point of Beginning.

and

Commencing at the southwest corner of Lot 35, Block 1, Highland Addition to Wichita, Kansas; thence N89°10'07"E, 147.57 feet along the south line of said Lot 35 to the Point of Beginning; thence N06°06'15"W, 50.22 feet to a point lying on the north line of Lot 33, said Addition; thence N89°09'29"E, 13.43 feet along said north line to the existing west right of way of Broadway as condemned in Condemnation Ordinance #5626, said right of way being a 1°56' curve to the left and having a radius of 2963.72 feet; thence along said curve and said right of way 50.73 feet through a central angle of 00°58'51", with a chord of 50.73 feet, bearing S10°29'00"E to a point on the south line of said Lot 35; thence S89°10'07"W, 17.32 feet along said south line to the 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 Three Hundred Forty-Five Thousand Dollars and Zero Cents ($345,000.00) in the manner following, to-wit: cash at closing.

3. Buyer hereby agrees to obtain 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 the City of Wichita, KS 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. Taxes shall be pro-rated for the calendar year through the date 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 and in the same condition as they now are except as discussed elsewhere in this contract.

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 Friday, October 24, 2008.

8. Seller agrees, as part of this contract, to relocate any and all items of personal property located on the site which are owned by Seller. All benefits that Seller, or any entity related to Seller, may be eligible for pursuant to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended are incorporated in the purchase price above.

Seller agrees that any personal property not removed by the Seller no later than the date of closing shall be considered abandoned and property of the Buyer. The Buyer, its agents or assigns, may remove the personal property in any manner deeded appropriate by the Buyer without any recourse or claim from the Seller or any other person.

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

10. 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.

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 testing 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 Paragraphs A and B 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:

Nuot Nguyen

Ly Ngoc Thi Nguyen

BUYER:

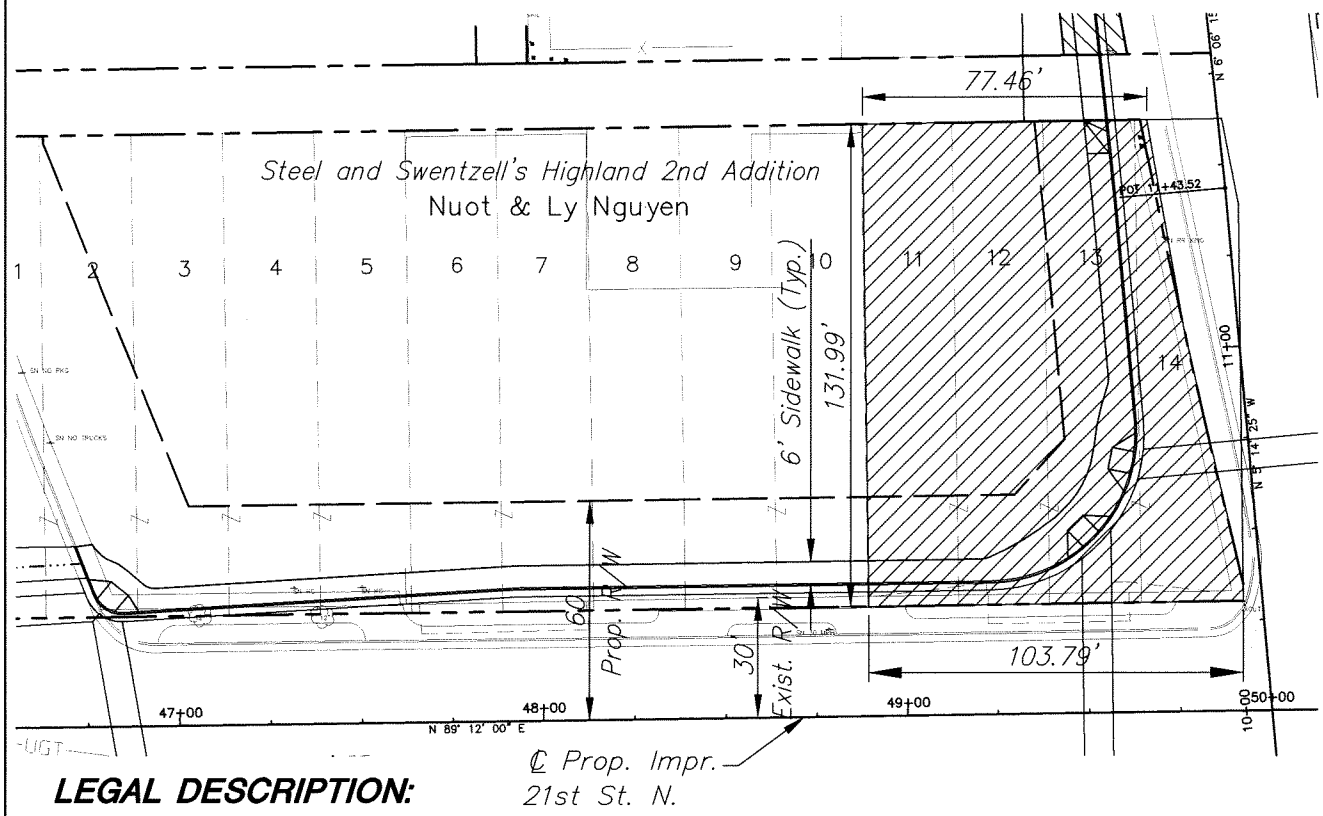
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law



LEGAL DESCRIPTION:

Right of Way:

Beginning at the southeast corner of Lot 14, Steel and Swentzell's Highland 2nd Addition to the City of Wichita, Sedgwick County, Kansas; thence S89°12'00"W, 103.79 feet along the south line of said Addition to the southwest corner of Lot 11, said Addition; thence N00°54'24"W, 131.99 feet along the west line of said Lot 11; thence N89°10'07"E, 77.46 feet along the north line of Lots 11, 12, 13 and 14, said Addition to a point on the west right of way of Broadway as condemned in Condemnation Ordinance #5626; thence 130.15' along said right of way and along a curve to the left having a radius of 2963.72 feet, a central angle of 2°30'58", and a chord of 130.13 feet, bearing S12°35'08"E; thence S00°45'16"E, 4.64 feet along the east line of said Lot 14 to the Point of Beginning.

Said parcel of land contains 11,964 square feet, more or less.

SCALE: 1"=50'

0 50 100 150

N

LEGEND:

Right of Way Take = 11,964 Sq. Ft.

Owner:

Nuot and Ly Nguyen
226 E. 21st St. N.
Wichita, KS 67203

Property Identification:

A 2820, A 2821, A 2821-01

J:\Civil\06025\dwg\Tractmaps\06025-tract1.dwg 02/16/2007 01:40:50 PM CST

MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

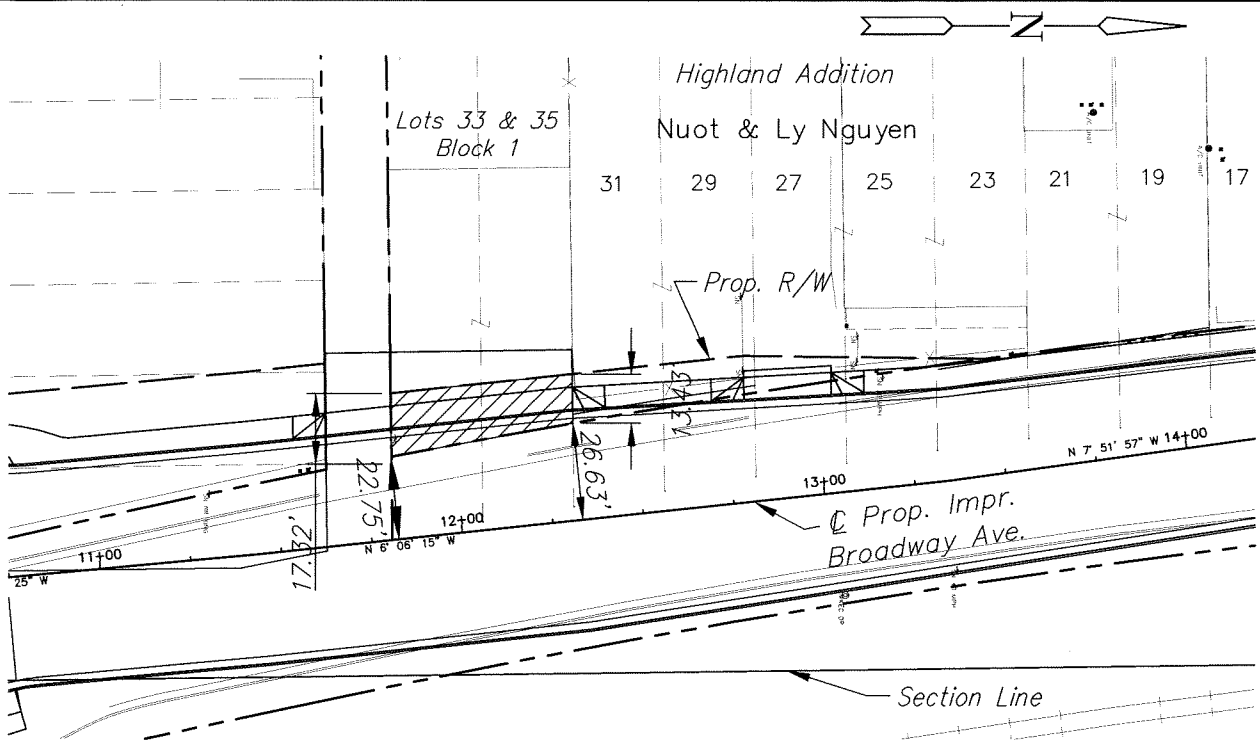
21ST STREET N. & BROADWAY AVENUE INTERSECTION IMPROVEMENTS
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

DESIGN BY:	JSB DRAWN BY:	JCM CHECKED BY:
MAR. 2007 DATE	JOB NO.	1 / 1 SHEET/OF

9-27-07

TRACT 4



LEGAL DESCRIPTION:

Right of Way:

Commencing at the southwest corner of Lot 35, Block 1, Highland Addition to Wichita, Kansas; thence N89°10'07"E, 147.57 feet along the south line of said Lot 35 to the Point of Beginning; thence N06°06'15"W, 50.22 feet to a point lying on the north line of Lot 33, said Addition; thence N89°09'29"E, 13.43 feet along said north line to the existing west right of way of Broadway as condemned in Condemnation Ordinance #5626, said right of way being a 1°56' curve to the left and having a radius of 2963.72 feet; thence along said curve and said right of way 50.73 feet through a central angle of 00°58'51", with a chord of 50.73 feet, bearing S10°29'00"E to a point on the south line of said Lot 35; thence S89°10'07"W, 17.32 feet along said south line to the Point of Beginning.

Said parcel of land contains 765 square feet, more or less.

SCALE: 1"=50'

0 50 100 150

LEGEND:

Right of Way Take = 765 Sq. Ft.

Owner:

Nuot & Ly Nguyen
2201 N. Broadway
Wichita, KS 67203

Property Identification:

A 2830

J:\Civil\06025\dwg\Tractmaps\06025-tract1.dwg 02/16/2007 01:40:50 PM CST

MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

21ST STREET N. & BROADWAY AVENUE INTERSECTION IMPROVEMENTS
PROJECT NAME

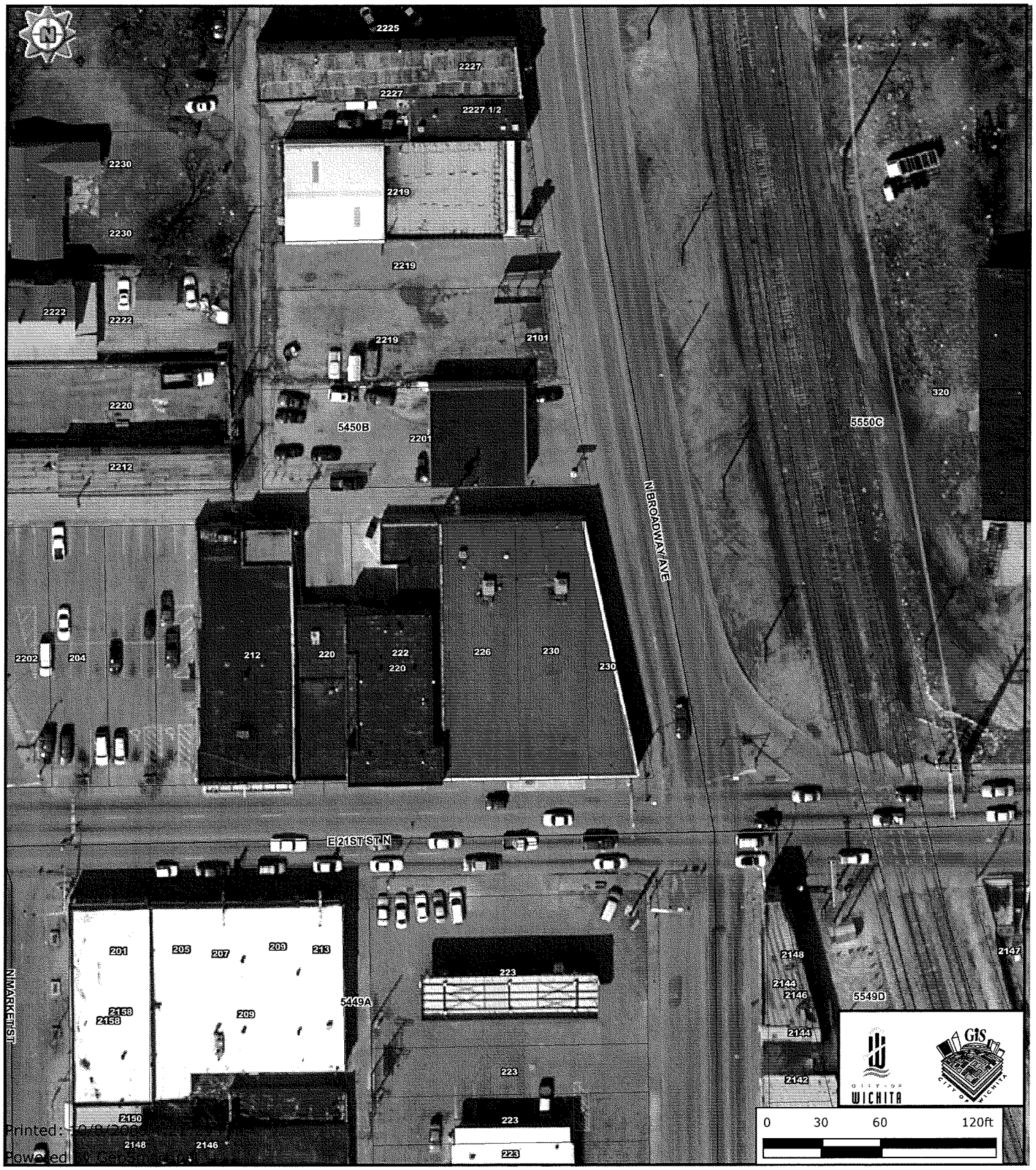
RIGHT OF WAY TRACT MAP
SHEET TITLE

DESIGN BY:	JBS/TLT DRAWN BY:	JCM CHECKED BY:
APRIL 2007 DATE	JOB NO.	1 / 1 SHEET/OF

9-27-07

TRACT 12

21st and North Broadway



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-14

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
District I

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendations: Adopt the attached resolutions to schedule required City Council public hearings to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes.

Background: On October 6, 2008, the Board of Code Standards and Appeals conducted a hearing on the two (2) properties listed below. The buildings on both properties are considered dangerous and unsafe structures per State statutes and local ordinances, and are being presented in order to schedule a condemnation hearing before the City Council. The Board of Code Standards and Appeals has recommended that the City Council proceed with condemnation, demolition and removal of the dangerous buildings on both properties.

Analysis: Minimum Housing Code violation notices have been issued on these structures; however, compliance has not been achieved. Pre-condemnation and formal condemnation letters have also been issued, and the time granted for repair or removal has expired. No actions have been taken by the property owners and/or other interested parties to complete required building repairs or to remove the dangerous buildings.

Property Address	Council District
a. 1327 North Ohio	I
b. 2001 East 21st North	I

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: The structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause them to be deemed as dangerous and unsafe buildings for condemnation consideration, as required by State

Statutes.

Recommendations/Actions: Adopt the attached resolutions to schedule a public hearing before the City Council on December 2, 2008 at 9:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

Attachments: Letters to Council, Summaries, and Resolutions.

GROUP # 6

NOTICE OF DEMOLITION ACTION

This is to certify that the property located at **1327 N. Ohio** and legally described as: Lots 29 and 31, on Ohio Avenue, H.O. Burleigh's Third Addition to the City of Wichita, Kansas, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **December 2, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

_____
Kurt A. Schroeder, Superintendent, Office of Central Inspection
City of Wichita

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED, That on this _____day of _____, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

_____
Notary Public

My Appointment Expires:
_____

TO: The Mayor and City Council
Wichita, Kansas

RE: Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

(a) Description of Structure: A one story frame dwelling about 26x36 feet in size. Vacant for at least 6 months, this structure has a shifting and cracking block foundation, with missing blocks; missing asphalt siding; sagging and badly worn asphalt roof, with holes and missing shingles; deterioarting front porch; rotted wood trim and framing members; and the 12x18 foot accessory structure has collapsed.

(b) Street Address: 1327 N. Ohio

(c) Owners:
Kenneth W. Rogers & Donald E. Rogers
2129 N. Minnesota
Wichtia, KS 67214

(d) Resident Agent: None

(e) Occupant: None

(f) Lienholders of Record:
Don Brace, County Clerk
Sedgwick County Courthouse
525 N. Main
Wichita, KS 67203

Chris McElgunn, Attorney
301 N. Main #1600
Wichita, KS 67202

State of Kansas Income Tax Lien
Attn: Stephen L. Six
301 W. 10th
Topeka, KS 66612

(g) Mortgage Holder(s): None

(h) Interested Parties: None

DATE: October 7, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1327 N. Ohio

LEGAL DESCRIPTION: Lots 29 and 31, on Ohio Avenue, H.O. Burleigh's Third Addition to the City of Wichita, Kansas, Sedgwick County, Kansas.

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 26x36 feet in size. Vacant for at least 6 months, this structure has a shifting and cracking block foundation, with missing blocks; missing asphalt siding; sagging and badly worn composition roof, with holes and missing shingles; deterioarting front porch; rotted wood trim and framing members; and the 12x18 foot accessory structure has collapsed.

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

OCA: 230200

Published in the Wichita Eagle on October 24 and October 31, 2008

Resolution No. 08-494

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 29 AND 31, ON OHIO AVENUE, H.O. BURLEIGH'S THIRD ADDITION TO THE CITY OF WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS. KNOWN AS **1327 N. OHIO** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **21st day of October 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.
That a hearing will be held on the **2nd day of December 2008**, before the governing body of the city at **9:30 A.M.,** or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 29 and 31, on Ohio Avenue, H.O. Burleigh's Third Addition to the City of Wichita, Kansas, Sedgwick County, Kansas., known as: 1327 N. Ohio, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is A one story frame dwelling about 26x36 feet in size. Vacant for at least 6 months, this structure has a shifting and cracking block foundation, with missing blocks; missing asphalt siding; sagging and badly worn asphalt roof, with holes and missing shingles; deterioarting front porch; rotted wood trim and framing members; and the 12x18 foot accessory structure has collapsed.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **21st day of October 2008**.

_____
Carl Brewer, Mayor

(SEAL)

ATTEST:_____
Karen Sublett, City Clerk

GROUP # 6

NOTICE OF DEMOLITION ACTION

This is to certify that the property located at **2001 E. 21st N.** and legally described as: Parcel 1: Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parview Addition of Wichita, Kansas, Sedgwick County, Kansas. Parcel 2: Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **December 2, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

_____
Kurt A. Schroeder, Superintendent, Office of Central Inspection
City of Wichita

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED, That on this _____day of _____, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

_____
Notary Public

My Appointment Expires:
_____

TO: The Mayor and City Council
Wichita, Kansas

RE: Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

(a) Description of Structure: A one story commercial building about 45x20x10 feet in size. Vacant for at least 3 years, this structure has deteriorating brick veneer siding; exposed and rusted metal studs; and the interior has been vandalized.

(b) Street Address: 2001 E. 21st N.

(c) Owners:
Ciena Capital LLC
c/o J. Joseph Weber, Attorney
727 N. Waco #585
Wichita, KS 67203

(d) Resident Agent: None
(e) Occupant: None

(f) Lienholders of Record:
Don Brace, County Clerk
Sedgwick County Courthouse
525 N. Main
Wichita, KS 67203

Chris McElgunn, Attorney
301 N. Main #1600
Wichita, KS 67202

State of Kansas Tax Lien
Attn: Stephen L. Six
301 W. 10th
Topeka, KS 66612

United States of America Federal Tax Lien
Attn: Eric Melgren
401 N. Market #306
Wichita, KS 67202

(g) Mortgage Holder(s):
Business Loan Center, Inc.
1633 Broadway 39th Floor
New York, NY 10019

(h) Interested Parties:
U.S. Department of Justice
Attorney General of the United States
10th and Constitution, NW
Washington, D.C. 20530

Lyon Financial Services, Inc.
c/o Brock Rowatt, Attorney
10660 Barkley
Overland Park, KS 66212

DATE: October 7, 2008

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 2001 E. 21st N.

LEGAL DESCRIPTION: Parcel 1: Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parview Addition of Wichita, Kansas, Sedgwick County, Kansas. Parcel 2: Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.

DESCRIPTION OF STRUCTURE: A one story commercial building about 45x20 feet in size. Vacant for at least 3 years, this structure has deteriorating brick veneer siding; exposed and rusted metal studs; and the interior has been vandalized.

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

A. Those which show thirty-three percent or more of damage or deterioration of the supporting members or fifty percent or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.

B. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

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

OCA: 230200

Published in the Wichita Eagle on October 24 and October 31, 2008

Resolution No. 08-495

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: PARCEL 1: LOT 1, EXCEPT THE NORTH 10 FEET THEREOF, AND ALL OF LOTS 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 AND 23, ON GUY, NOW PIATT AVENUE, IN PARVIEW ADDITION OF WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS. PARCEL 2: LOT 2, EXCEPT THE NORTH 10 FEET THEREOF, AND ALL OF LOTS 4, 6, 8, 10 AND 12, ON SEDGWICK, NOW MINNESOTA AVENUE, IN PARKVIEW ADDITION TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS. KNOWN AS **2001 E. 21ST N.** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **21st day of October 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.
That a hearing will be held on the **2nd day of December 2008**, before the governing body of the city at **9:30 A.M.,** or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Parcel 1: Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parview Addition of Wichita, Kansas, Sedgwick County, Kansas. Parcel 2: Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas., known as: 2001 E. 21st N., may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is A one story commercial building about 45x20x10 feet in size. Vacant for at least 3 years, this structure has deteriorating brick veneer siding; exposed and rusted metal studs; and the interior has been vandalized.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **21st day of October 2008**.

_____
Carl Brewer, Mayor

(SEAL)

ATTEST:_____
Karen Sublett, City Clerk

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
SEPTEMBER 2008

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Boots and Shoes - Police	9/30/2009	SSI Equipment and Supply	Police	10/2/2007 - 9/30/2008	1 - 1 year option
Business Cards - Printing	9/30/2009	The Print Source, Inc.	Various	10/1/2007 - 9/30/2008	1 - 1 year option
Computer Controlled Access System Maintenance Services	9/30/2008	Siemens Building Technologies Inc.	Airport	10/1/2006 - 9/30/2008	3 - 1 year options
Employee Assistance Program (EAP) Services	9/30/2009	Deer Oaks Mental Health Associates	Human Resources	10/1/2007 - 9/30/2008	3 - 1 year options
Firefighter Protective Clothing - Coats, Pants, Gloves and Helmets (Group 1, 2 & 4)	9/30/2008	Total Fire Group	Fire	10/16/2007 - 9/30/2008	2 - 1 year options
Firefighter Protective Clothing - Hoods (Group 3)	9/30/2009	Municipal Emergency Services - DBA Mes-Kan	Fire	10/16/2007 - 9/30/2008	1 - 1 year option
Mats, Mops, Towels, Shop Aprons and Fender Covers Rental	9/30/2009	Aramark Uniform Services Inc.	Various	10/01/2007 - 9/30/2008	1 - 1 year option
Physicals, Hazardous Team Materials Physicals	9/30/2009	Via Christi Rehabilitation Center, Inc. DBA Via Christi Occupational and Immediate Care	Fire, Police, Airport, Human Resources	10/1/2007 - 9/30/2008	1 - 1 year option
Scrap Tire Removal & Disposal	9/30/2009	Southwest Salvage	Public Works	10/1/2007 - 9/30/2008	1 - 1 year option
Waste - Solidification and Disposal of Non-Hazardous Liquid	9/30/2009	Reddi Industries, Inc.	Water Utilities	10/1/2007 - 9/30/2008	1 - 1 year option

PROFESSIONAL CONTRACTS UNDER $25,000
PURCHASE ORDERS FOR SEPTEMBER 2008

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
MKEC Engineering Consultants Inc.	PO801056	Engineering Constulting	2,500.00
Professional Engineering	PO801057	Engineering Consulting	5,800.00
Law/Kingdon Inc.	PO801087	Air Conditioning, Heating and Ventilating Engineering	2,500.00
Ruggles & Bohm PA	PO801088	Engineering Consulting	8,720.00
Rice Foster Associates PA	DP802049	Landscaping Consulting	7,128.33

ANNUAL MAINTENANCE CONTRACTS OVER $25,000
DIRECT PURCHASE ORDERS FOR SEPTEMBER 2008

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
MSN Communications	DP801732	Annual CISCO Smartnet Maintenance	$122,618.97
Crimecog Technologies, Inc.	DP801905	Software Maintenance/Support	$106,478.35
Software House International (SHI)	PO801110	Applications Software (For Minicomputer Systems)	$45,885.00

DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk

FROM: Gary E. Rebenstorf, Director of Law

SUBJECT: Report on Claims for September, 2008

DATE: October 1, 2008

The following claims were approved by the Law Department during the month of September, 2008:

Associated Swim Shop	$285.00
Chaucer Estates	$1,250.00
Kenneth Fisher	$80.00
Souvenance Joseph	$179.99
Olivia and Jeff Mills	$375.00
Deb Chappelle	$14.83
Tonya Snyder	$60.00

*Interim City Manager Approval
**Settled for lesser amount than claimed

cc: Scott Moore, Interim City Manager
Kelly Carpenter, Director of Finance

Agenda Item No. XII-17.

CITY OF WICHITA
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Payment of Judgment

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of $106,773.66 as satisfaction of a court order on Case No. 01-1226-JTM.

Background: The original action dates back to 2001, with resolution of all substantive claims in 2004. Since that time the parties have litigated the propriety of the plaintiffs' attorney fee claim.

Analysis: The decision to continue this litigation through appeal is tempered by the applicable federal statute which grants to plaintiffs the right to collect attorney fees incurred in litigation seeking resolution of the attorney fee issue. Additionally, post-judgment interest will accrue on amounts unpaid. The most economical course of action is to pay the award as currently ordered by the district court.

Goal Impact: The payment of this judgment incurred as a result of police response to a public safety concern supports the dedication of the City to the Safe and Secure goal. It resolves an outstanding financial liability, and therefore promotes budgetary certainty.

Financial Considerations: Funding for this settlement is from the tort claims fund.

Legal Considerations: The Law Department recommends against further appeal and in favor of acquiescence in this judgment for economic reasons.

Recommendations/Actions: Direct payment of $106,773.66 to the federal district court for application to the judgment awarded in case no. 01-1226-JTM, and further authorize the necessary budget adjustments.

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
MAPD	ADVANCED PLANS	10/6/2008	Design and construction of the International Marketplace District streetscape improvements in the vicinity of Market/Broadway and 21st Street.

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC	Date
	PROJ. # OCA #	2008 - 2010		

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
2008	2010	

12. Project Cost Estimate

ITEM	GO	SA	OTHER	TOTAL
CONSTRUCTION				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Other Consulting	500,000.00			500,000.00
Totals				
Total CIP Amount Budgeted	500,000.00			500,000.00
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

These improvements are consistent with implementation actions identifed in the *Nomar International Marketplace District Plan, 2007.* These improvements are intended to create a unique identity as part of the NOMAR International Marketplace District. Improvements include street lighting, gateways, landscaping and hardscaping treatments.

13. Recommendation: APPROVE THE ORDINANCE

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Item No. XII-18.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Resolution: Design and construction of the International Marketplace District (NOMAR) streetscape improvements (in the vicinity of Market /Broadway and 21st Street) (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Approve the Resolution.

Background: These improvements are identified as implementation action items in the *21st Street North Corridor Revitalization Plan* adopted by City Council in 2005. The *Nomar International Marketplace District Plan* 2007 completed by the Greteman Group provides further conceptual identification of the key streetscape improvements elements necessary to create a unique and fresh identity to the International Marketplace District area, and complement the establishment of the NOMAR public market at Market and 21st Street. These key streetscape improvements need to be integrated with the current 21st Street and Broadway intersection realignment project, and would include the following elements:

- Street lighting enhancements (pedestrian level light fixtures and banners)
- Benches and trash receptacles
- Street trees, planters and bollards
- Vertical district gateway element at the northwest corner of the intersection of 21st Street and Broadway.
- Special landscape treatments, including focused landscape materials and hardscape materials (e.g. crosswalk paver stone treatments) adjacent to the district gateway and at area intersections.
- Expanded sidewalk widths with decorative paver ribbons
- Corner pavers with artistic medallion

Analysis: A Resolution has been prepared to provide permanent project financing.

Financial Considerations: Funding for this project (not to exceed $500,000) is identified in Year 2008 of the 2007-2016 Capital Improvement Program. The funding source is general obligation bonds under the authority of City of Wichita Charter Ordinance No. 156.

Goal Impact: The project will address the Core Area and Neighborhoods goal by implementing action items contained in the *21st Street North Corridor Revitalization Plan* intended to promote the revitalization of this segment of the 21st Street North corridor.

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

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

Attachment: CIP sheet and Resolution

OCA 150004 BID#37529-009 CID#76383

FIRST PUBLISHED IN THE WICHITA EAGLE ON October 24, 2008

RESOLUTION NO. 08-496

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR DESIGN AND CONSTRUCTION OF INTERNATIONAL MARKETPLACE DISTRICT STREETSCAPE IMPROVEMENTS IN THE VICINITY OF 21ST STREET NORTH BETWEEN MARKET STREET AND BROADWAY.

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

SECTION 1: That the City of Wichita finds it necessary to incur expenditures for labor, materials and equipment to make certain related improvements as follows:

The design and construction of streetscape improvements along 21st Street North, between Market and Broadway, to serve the International Marketplace District, with project elements to include area lighting enhancements, benches and trash receptacles, trees, planters and bollards, expanded sidewalk widths with decorative paver ribbons and corner pavers with artistic medallions, a vertical district gateway element at the northwest corner of the intersection of 21st Street North and Broadway, and special landscape treatments adjacent to the district gateway and at area intersections.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $500,000.00, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

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
MAPD	ADVANCED PLANS	10/6/2008	Design and construction of the outdoor public market element of the NOMAR Public Market on city property along 21st Street between Market and Broadway.

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC	Date
	PROJ. # OCA #	2009 - 2010		

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
2009	2010	

12. Project Cost Estimate

ITEM	GO	SA	OTHER	TOTAL
CONSTRUCTION				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Other Consulting	500,000.00		261,888	761,888.00
Totals				
Total CIP Amount Budgeted	500,000.00		261,888	761,888.00
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

These improvements are consistent with implementation actions identifed in the *21st Street North Corridor Revitalization Plan,* including the creation of an indoor/outdoor public market facility. Outdoor public market elements will include pedestrian street lights, public restrooms, indoor pavilion, hard surfaced plaza area, electrical services, tent awning anchor hooks.

13. Recommendation: APPROVE THE ORDINANCE

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Report No. XII-19.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Resolution: Design and construction of an outdoor public market element of a Mercado (NOMAR) Public Market facility on city property along 21st Street North, between Market and Broadway (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Approve the Resolution.

Background: These improvements are identified as an implementation action item in the *21st Street North Corridor Revitalization Plan* adopted by City Council in 2005. In early 2007, the City hired Economics Research Associates and Law/Kingdon to prepare a feasibility study, design concept and preliminary pro forma/business plan for a Mercado (NOMAR) public market facility in the vicinity of Market and 21st Street. This study completed in September 2007, confirmed that an indoor/outdoor public market facility located at the northeast corner of Market and 21st Street is a viable concept that could be self-supporting within four years of operation.

The West 21st Street CDC has indicated to the City that an initial, outdoor public market element is preferred as a first phase of development, preparatory to the future construction of the indoor public market facility component. Project elements associated with the development of an outdoor public market would include:

- Area lighting enhancements (including on-site pedestrian level light fixtures)
- Benches and trash receptacles
- Public restrooms and indoor pavilion
- Hard surfaced plaza area
- Electrical services
- Tent awning anchor hooks

Analysis: A Resolution has been prepared to provide permanent project financing.

Financial Considerations: Funding for this project (not to exceed $500,000) is identified in Year 2009 of the 2007-2016 Capital Improvement Program. The funding source is general obligation bonds under the authority of City of Wichita Charter Ordinance No. 156. Additional EDI grant funding in the amount of $261,888 has also been designated for this project, for total funding of $761,888.

Goal Impact: The project will address the Core Area and Neighborhoods goal by implementing action items contained in the *21st Street North Corridor Revitalization Plan* intended to promote the revitalization of this segment of the 21st Street North corridor.

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

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

Attachment: CIP sheet and Resolution

OCA 150004 BID#37529-009 CID#76383

First Published In The Wichita Eagle on October 24, 20087

RESOLUTION NO. 08-497

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR DESIGN AND CONSTRUCTION OF OUTDOOR PUBLIC MARKET ELEMENT OF A MERCADO ON CITY PROPERTY ALONG 21ST STREET NORTH, BETWEEN MARKET AND BROADWAY.

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

SECTION 1: That the City of Wichita finds it necessary to incur expenditures for labor, materials and equipment to make certain related improvements as follows:

The design and construction of outdoor public market element of a Mercado on City property along 21st Street North, between Market and Broadway, with project elements to include area lighting enhancements, benches and trash receptacles, public restrooms, indoor pavilion, hard-surfaced plaza area, electrical services and tent awning anchor hooks.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $761,888.00, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **American Guild of Organists, a not-for-profit corporation,** hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Four hundred fifty dollars ($450.00)** payable in one installment and due the first business day of the month of May 2009 upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 1, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the PROVIDER to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance.** To the extent permitted by the laws of Kansas, **PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

American Guild of Organists

_____
Gary Huffman, Treasurer
American Guild of Organists

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **American Guild of Organists,** PROVIDER, that it is the intent of this contract for the PROVIDER to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the PROVIDER understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the PROVIDER understands and agrees to perform services as specified in the PROVIDER's proposal, hereinafter called PROPOSAL, as submitted to the CITY by PROVIDER, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the PROVIDER's PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the PROVIDER under this contract include the following:

Goal 1
Support developing organists monetarily and musically.

Goal 2
Develop plans for hosting the Region VI Area Convention of 2009.

Goal 3
Support the programming of organists and other musicians in our community.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, or call 316-462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita , Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202 for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to Provider are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual provider reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

D. Exempted from these requirements are:

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

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

SUPPLEMENTAL ANNUAL AGREEMENT FOR THE OPERATION AND MANAGEMENT OF THE WICHITA ART MUSEUM—*Base Funding*

This supplemental agreement is entered this **21st**day of October 2008 between the City of Wichita, KS, a municipal corporation, (hereinafter referred to the "CITY" and Wichita Art Museum, Inc., (hereinafter referred to as "Provider").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and in giving direction on how to reach that goal, and

WHEREAS, Provider, has the facilities, expertise and ability to provide services and programs to that end, and has an ongoing relationship with the CITY to accomplish that purpose to the benefit of the community's general welfare, expressed in agreements between the parties dated January 6 1998 and April 14 1998, and

WHEREAS, this supplemental agreement dated this 21st day of October2008 supplements, but does not modify, the terms reached in those prior written agreements,

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of Provider are to begin January 1, 2009 through December 31, 2009 subject to the termination provisions found at Section XIII of the Jan 6, 1998 agreement between the parties, this annual funding agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed no later than December 31, 2009.

II. ***Services to be Performed***. Provider shall perform the services historically performed under the January 6, 1998 agreement, and the supplemental agreement of Aril 14, 1998. The services described in the attached Scope of Services (Attachment A), which is made a part of this supplemental agreement by reference, are understood by the parties to be the specific delineation by the City Council of its expectations for performance by Provider anticipated by Section VII of the January 6, 1998 agreement, whether those enumerated services are merely descriptive of or are in addition to those services historically performed by Provider. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by Provider pursuant to this supplemental agreement shall be compensated in a total amount not to exceed $1,279,960 (base annual allocation). The parties anticipate that additional funding

from interest earnings may be available to Provider in an amount up to $2,500.00. The parties agree that the CITY will pay to Provider directly, based on monthly invoices submitted prorating the base annual allocation, a net amount after deduction and direct payment of salary, wages and benefits of City employees on Provider's staff, and other direct costs paid for Provider's benefit during the invoice period. Both parties understand City employee payroll is withdrawn from the base annual allocation as needed – usually every two weeks, rather than monthly. Therefore, the final invoice payment will be used to reconcile the direct and indirect payments to this base annual allocation.

IV. ***Acceptance Procedure.*** Provider shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of this supplemental agreement, it shall notify Provider in writing thereof, within twenty (20) days, and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

V. ***Termination.*** The termination rights of the parties under this supplemental agreement are the same and are defined in Section XIII of the January 6, 1998 agreement between the parties.

VI. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this *supplemental* agreement.

VII. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this supplemental agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this supplemental agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this supplemental agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this supplemental agreement shall be taken and construed as cumulative, that is, as being in addition to every other remedy provided by operation of law.

VIII. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this supplemental agreement for notification and communication as may be required:

(a) Representing the City:

Scott Moore, Interim City Manager
455 N. Main, City Hall, 13th fl.
Wichita, Kansas 67202
316-268-4351

(b) Representing the Provider:
Charles K. Steiner, Director
The Wichita Art Museum
1400 W. Museum Blvd.
Wichita, KS 67203

IX. ***Third Party Rights.*** It is specifically agreed that it is not intended by any of the provisions of this supplemental agreement or any of the prior agreements in force between the parties to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to these agreements to maintain a suit for damages pursuant to their terms or provisions.

X. ***Compliance with Laws.*** Provider shall comply with all laws, statutes and ordinances that may pertain to the providing of services under the collective agreements in force.

XI. ***Authorization***. By signing this agreement, the Provider's representative represents that he or she is duly authorized by Provider to execute this supplemental agreement, and that Provider has agreed to be bound by all of its terms.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Wichita Art Museum, Inc.

By _____
Director, *Charles K. Steiner*

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and Wichita Art Museum, Inc. PROVIDER, that it is the intent of this contract for the PROVIDER to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the PROVIDER understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the PROVIDER understands and agrees to perform services as specified in the PROVIDER's proposal, hereinafter called PROPOSAL, as submitted to the CITY by PROVIDER, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments. Reasonable modification of goals throughout the year, as mutually agreed upon by both parties, will take precedence over others stated in this document or original proposal.

THIRD, it is understood and agreed that all provisions of the PROVIDER's PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the PROVIDER under this contract include the following:

Goal 1: Continue operation of The Wichita Art Museum, Inc. Facility, staff, and adherence to their mission, goals, and strategic plan.

Goal 2: Maintain Museum's record of introducing the general public to the history of American art. *Measurement*: Present one exhibition comprised of selections form the Museum's permanent collection complemented by at least one major loan exhibition (from els.)

Goal 3: Launch a fundraising campaign in order to supplement the cost of operations in 2009 for the Wichita Art Museum. *Measurement*: Actually raising funds to supplement the cost of operations for the Wichita Art Museum

- **Organizations are required by the terms of the Contract to give recoginition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use where possible, on all

printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, DIVISION OF ARTS & CULTURAL SERVICES, at 316/462-2787 Ext 797.

- Prepare a written provider report detailing findings obtained through Provider monitoring and self-evaluations. This report will be provided to the City's Division of Arts & Cultural Services Office on a calendar year basis. However, if evidence is uncovered of program malfeasance, criminal action or violation of any agreement regarding this agreement this evidence will be presented to the City Manager's Office immediately. Semi-annual reports will also include assessments of whether providers are on target to successfully complete their project outcomes and funding recommendations for non-performing agencies.

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the Finance Office, City of Wichita, 455 North Main, 12th Floor, Wichita, KS 67202 for payment.

- Budget expenditures to ensure that the sums available to Provider are not over expended and those agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Report

- Prepare a cumulative final semi-annual provider report, which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. A version of this report will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the complete calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. One copy of each of those reports will be provided to The Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202
.
- Be available to address the City Council on findings and recommendations, upon request.

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

CONTRACT

for

ADMINISTRATION OF ADDITIONAL GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Art Museum, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services, and in addition to the current base annual allocation from the City of Wichita of $1,279,960.00, (hereafter as known as "base annual allocation") which is not subject to the terms of this particular document, **CITY** agrees to pay to **PROVIDER** the sum of **Two hundred forty thousand dollars ($240,000)**, payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed. (Both parties understand City employee payroll is withdrawn from the above referenced base annual allocation as needed—usually every two weeks rather than monthly.)

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews with adequate prior notice to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports, in the **PROVIDER**'s format, describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. The parties understand that **PROVIDER** has on its staff 26 (twenty-six) official employees of the City of Wichita whose remuneration/benefits are paid by the City of Wichita.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Art Museum, Inc.

_____

Charles Steiner, Director
Wichita Art Museum, Inc.

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Art Museum, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments. Reasonable modification of goals throughout the year, as mutually agreed upon by both parties, will take precedence over others stated in this document or original proposal.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Strengthen the collection through the acquisition of germane and desirable works of art and, when appropriate and feasible, deaccession of the inappropriate objects.

Goal 2
Promote a compelling identity for the Museum and use it to increase attendance.

Goal 3
Stabilize the Museum financially both in terms of income and expense and positioning it for prudent growth.

Goal 4
Finalize plans to celebrate the Museum's 75th Anniversary in 2010 ultimately with the objective of raising the Museum's profile internationally, nationally, and locally.

Goal 5

Draft a new Strategic Plan to begin 2009 – 2010.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as approriate, the City of Wichita logo (where possible) and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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/Affirmati**ve Acti**on **Program** Re**quirements:**

A. **During the performan**ce of this contract, the contractor, subcontractor, vendor or supplier of the City, or a**ny of its** age**ncies, shall comply wi**th all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders **1**1246, 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.

AGREEMENT FOR BASELINE FUNDING OF ARTISTIC DEVELOPMENT

This agreement is entered this **21st day of October 2008** between the City of Wichita, KS, a municipal corporation, (hereinafter referred to the "CITY" and The Arts Council, a not-for-profit organization, (hereinafter referred to as "Provider").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and

WHEREAS, Provider, has the facilities, expertise and ability to provide services and programs to that end, and has presented a favorable proposal to accomplish that purpose to the benefit of the community's general welfare;

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of Provider are to begin January 1, 2009 through December 31, 2009 and shall be undertaken and completed in such sequence as to assure their expeditious, satisfactory completion in light of the purposes of this agreement. This agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed later than one year from the date of execution.

II. ***Services to be performed***. Provider shall perform the services described in the attached Scope of Services (Attachment A), which is made a part of this agreement by reference. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by Provider pursuant to this agreement shall be compensated in a total amount not to exceed **Six thousand five hundred forty dollars ($6,540)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by PROVIDER. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

IV. ***Independent Contractor Status.*** Provider's status for conduct of tasks described herein shall be as an independent contractor, and not as an agent or employee of the CITY. Any and all employees or agents of Provider while engaged in the performance of any work or service required by Provider under this agreement shall be considered employees of Provider only and not of the CITY. Any and all claims that may arise under the Kansas Workers' Compensation Act on behalf of said employees while so engaged, and any and all claims made by a third party as

a consequence of any act or omission on the part of Provider's employees or agents while so engaged in any of the work or service anticipated herein shall be the sole obligation and responsibility of Provider.

V. ***Acceptance Procedure.*** Provider shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of the agreement, it shall notify Provider in writing thereof, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

VI. ***Nondiscrimination in Employment.*** During the performance of this agreement, Provider agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, ancestry or national origin. The CITY's anti-discrimination requirements, attached as Attachment B, are made a part of this agreement by reference.

VII. ***Termination by the CITY.*** If, for any cause, Provider shall fail to fulfill its obligations under this agreement in a timely and proper manner as required by this agreement, or if Provider shall violate any of the covenants, agreements, or stipulations of this agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to Provider of such termination, effective thirty (30) days following receipt of same, provided, however, that Provider shall be provided a reasonable time within which to remedy such deficiencies. Provider shall be entitled to receive just and equitable compensation for any satisfactory services completed prior to the effective date of such termination.

VIII. ***Termination by Provider.*** Provider may terminate this agreement at any time for failure of the City to comply with any material terms or conditions of this agreement, effective thirty (30) days following receipt, provided, however, that the City shall be provided a reasonable time within which to remedy such deficiencies.

IX. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this agreement.

X. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this agreement shall be taken and construed as

cumulative, that is, as being in addition to every other remedy provided by operation of law.

XI. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this Agreement for notification and communication as may be required:

(a) Representing the City:

John D'Angelo, Manager
Division of Arts & Cultural Services
334 N. Mead
Wichita, Kansas 67202
316-462-2787

(b) Representing the Provider:

Sharon Mallory, Chairman of the Board
The Arts Council
334 N. Mead
Wichita KS 67202
316-462-2787

XII. ***Insurance and Indemnification.***
Provider shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of Provider, its officers, agents, servants, or employees, occurring in the performance of its services under this agreement. Provider will carry insurance of the type and in the amounts, if any, as required in the Scope of Services. Use of such coverage to policy limits shall not extinguish any remaining liability to the CITY to the extent that the claim against the CITY remains unresolved.

XIII. ***Prohibition against Assignment and delegation.*** Notwithstanding any other provision of this agreement, Provider warrants that none of Provider's duties under this agreement may be delegated to or sub-contracted to any persons other than those described in Attachment A without the express written permission of the CITY.

XIV. ***Third Party Rights.*** It is specifically agreed between the parties that it is not intended by any of the provisions of this agreement to create in 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 damages pursuant to the terms or provisions of this Agreement.

XV. ***Compliance with Laws.*** Provider shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this agreement.

XVI. ***Authorization***. By signing this agreement, the Provider's representative represents that he or she is duly authorized by Provider to execute this agreement, and that Provider has agreed to be bound by all of its terms.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Arts Council

By _____
Sharon Mallory, Chairwoman of the Board
Arts Council

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by the City of Wichita, Kansas and The Arts Council that it is the intent of this contract for the the **Arts Council** to provide certain documentation to the City of Wichita for operational arts funding.

FIRST, The Arts Council understands and agrees that the City will evaluate outcome-based performance under this contract.

SECOND, The Arts Council understands and agrees to provide documentation as specified in The Arts Council and the City's mutual agreement. Any specifications or provisions in said mutual agreement that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of The Arts Council and the City's mutual agreement are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The Scope of Services of The Arts Council under this contract includes the following:

Goal 1
Continued operation of The Arts Council and adherence to their mission, goals, and strategic plan.

Goal 2
Raise the level of awareness of the arts and arts education by increasing student attendance by 3% for free programming classes.

Goal 3
Develop long-term funding for the arts by increasing the current granting amount by 10%.

Goal 4
Serve as the voice for the artistic and cultural communities and create 4 new opportunities for communication between arts and cultural organizations.

The Arts Council is required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/462-2787 ext 797,

SEMI-ANNUAL AND FINAL REPORTS: Prepare two cumulative reports, which include: accomplishments and adherence to and satisfaction of the original contract purposes based upon outcomes, measurements and issues/needs identified in the process of pursuing the Scope of Services. The two reports will be due to the CITY, Division of Arts and Cultural Services by the weekday on or closest to **June 30, 2009** with the final report due to the CITY by the weekday on or closest to **January 31, 2010.** Final reports will be provided to the Wichita Mayor/City Council Office and to the City Manager's Office.

FINANCIAL MANAGEMENT

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. Budget expenditures to ensure that the sums available to The Arts Council are not over expended and that agencies will have funding to carry out operational activities over their entire contract period. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Be available to address the City Council on findings and recommendations, upon request.

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;

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Arts Partners, Inc.**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Thirty three thousand ($33,000),** payable in four installments and due the first business day of the months January, February, March, April 2009 upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** quarterly reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Arts Partners, Inc.

_____
Katie S. Lynn, Executive Director
Arts Partners, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Arts Partners, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Expand Early Childhood Programming by 2.

Goal 2
Develop at least one new funding source.

- **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** . Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Asian Association,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Three thousand dollars ($3,000)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The service of the **PROVIDER** is to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Asian Association

_____
Mohan Kambampati, Treasurer
Wichita Asian Association

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Asian Association, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase programming in 2009 by 2 compared to 2008.

Goal 2
Outreach non-Asian community and educate them to Asian culture and art enabling them to know more about Asian culture and art by collaborating with at least one other arts organization.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as approriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services at 316-462-2787.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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/Affirmati**ve Action Program Requirements:**

A. **During th**e performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall com**ply with all the provisions of t**he 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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Ballet Wichita,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Fifteen thousand dollars ($15,000)**, payable in two installments and due upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to

such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Ballet Wichita

_____
Barbara Chamberlin, Director
Ballet Wichita

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Ballet Wichita, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
By December 2009, expand the membership in Ballet Wichita's youth-based support group by 15 percent.

Goal 2
Relocate to a fully operational studio and office suite by August of 2009. . Fully operational is defined to mean: climate controlled, industry standard lighting, sound, floor space, and equivalent.

Goal 3
Increase the number of dance students participating in Ballet Wichita's 2009 intensive summer workshop by 10 percent.

Goal 4
By June 2009, increase revenue from individual memberships by 10 percent over 2008.

- **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in**

Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Cultural Services**, 334 N. Mead, Wichita, KS 67202.

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Botanica, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Eighty five thousand ($85,000)**, payable in two, equal, installments and due the first business day of January and June upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual reports** describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Botanica, Inc.

_____
Marty Miller, Executive Director
Botanica, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Botanica, Inc.** **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Ensure Botanica's viability and growth to successfully meet the needs of all its constituents.

Goal 2
Pay salaries and benefits to retain and attract professional staff up to four individuals.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October** 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Chamber Music at the Barn**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Twenty thousand dollars ($20,000),** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Chamber Music at the Barn

_____
Bob Scott, Director
Chamber Music at the Barn

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Chamber Music at the Barn**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Continue to increase younger audience attendance at the Summer Festival concerts with contemporary chamber music.

Goal 2
Strengthen marketing efforts and outreach of all educational components.

Goal 3
Encourage enrollment in the beginning string programs at Camp Allegro and NASAW.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**

- Be available to address the City Council on findings and recommendations, upon request.

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 Nondiscrimination 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 there under.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Friends University,** a private educational institution located in Kansas, contracting on behalf of its Fine Arts Division, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Fourteen thousand dollars ($14,000),** payable in two installments and due upon presentation in the months of January and June 2009 of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** semi-annual **reports** describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Friends University

_____

Dr. Biff Green, President
Friends University

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the **City of Wichita, Kansas,** hereinafter called **CITY**, and **Friends University, PROVIDER,** that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Hire a commercial marketing firm to develop and produce print and web resources to assist in the development of an approach to marketing the Fine Arts program.

Goal 2
Hire a design consultant to produce a calendar of events promotional piece, program cover, and framework for all fine arts offerings at Friends University.

Goal 3
Explore and develop new web-based information sources to distribute fine arts information (university web-site, local and regional information clearinghouses, etc) leading to an overall 5% increase in attendance at fine arts events.

Goal 4

Augment the new comprehensive Fine Arts distribution list. This new system allows stratification by specific audience and genre, and includes email, phone and postal options.

- **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, 316-462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare **two cumulative semi-annual PROVIDER reports**, which include: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The two reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** One copy of each of these reports will be provided to the City, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal

Employment Opportunity/Affirmative Action Program Requirements:

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

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

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

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

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

D. Exempted from these requirements are:

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

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

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and Griot's **Storytelling Institute,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **One thousand dollars ($1,000)** payable in two, equal, installments and due the first business day of January and June 2009 upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Griots Storytelling Institute

_____
Jean Pouncil-Burton, Executive Director
Griot's Storytelling Institute

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Griots Storytelling Institute** , **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Develop and maintain a website by December 2009.

Goal 2
Provide our 6th annual cultural arts summer camp that will enrich and inspire 75 students.

Goal 3
Increase organizational collaborations with other organizations by 1.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Heart of America's Men's Chorus Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Five thousand dollars ($5,000)** payable in two equal installments and due the first business day of January and June 2009 upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Heart of America's Men's Chorus, Inc.

_____
Jeff Mosch, Business Manager
Heart of America's Men's Chorus, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Heart of America's Men's Chorus Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase overall patron attendance in 2009 over 2008 by at least 10%

Goal 2
Invite at least one other performing arts group to perform with HOAMC during the 2008-2009 seasons.

Goal 3
Apply for at least 3 additional grants in 2009 for either general operating or special program support.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita-Sedgwick County Historical Museum**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Forty three thousand dollars ($43,000)** payable in quarterly installments and due the first business day of January, April, July and October upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita-Sedgwick County Historical Museum

_____

Eric Cale, Director
Wichita-Sedgwick County Historical Museum Association

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita-Sedgwick County Historical Museum**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Complete the accreditation review by the American Association of Museums per AAM schedule in 2008.

Goal 2
Develop a strategic plan for 2009 under the leadership of new director.

Goal 3
Maintain previous year's level of programming for visitors by maintaining the number of visitors and events as 2008.

§ **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"Wichita-Sedgwick County Historical Museum activities are made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

AGREEMENT FOR BASELINE FUNDING OF ARTISTIC DEVELOPMENT

This agreement is entered this 21st day of October 2008 between the City of Wichita, KS, a municipal corporation, (hereinafter referred to the "CITY" and The Wichita-Sedgwick County Historical Museum (hereinafter referred to as "**PROVIDER**").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and

WHEREAS, **PROVIDER**, has the facilities, expertise and ability to provide services and programs to that end, and has presented a favorable proposal to accomplish that purpose to the benefit of the community's general welfare;

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of **PROVIDER** are to begin January 1, 2009 through December 31, 2009 and shall be undertaken and completed in such sequence as to assure their expeditious, satisfactory completion in light of the purposes of this agreement. This agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed later than one year from the date of execution.

II. ***Services to be Performed***. **PROVIDER** shall perform the services described in the attached Scope of Services (Attachment A), which is made a part of this agreement by reference. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by **PROVIDER** pursuant to this agreement shall be compensated in a total amount not to exceed **Ninety three thousand dollars ($93,000)** payable in quarterly installments and due the first business day of January, April, July and October upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

IV. ***Independent Contractor Status.*** **PROVIDER**'s status for conduct of tasks described herein shall be as an independent contractor, and not as an agent or employee of the CITY. Any and all employees or agents of **PROVIDER** while engaged in the performance of any work or service required by **PROVIDER** under this agreement shall be considered employees of **PROVIDER** only and not of the CITY. Any and all claims that may arise under the Kansas Workers' Compensation Act on behalf of said employees while so engaged, and any and all

claims made by a third party as a consequence of any act or omission on the part of **PROVIDER**'s employees or agents while so engaged in any of the work or service anticipated herein shall be the sole obligation and responsibility of **PROVIDER**.

V. ***Acceptance Procedure.*** **PROVIDER** shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of the agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

VI. ***Nondiscrimination in Employment.*** During the performance of this agreement, **PROVIDER** agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, ancestry or national origin. The CITY's anti-discrimination requirements, attached as Attachment B, are made a part of this agreement by reference.

VII. ***Termination by the CITY.*** If, for any cause, **PROVIDER** shall fail to fulfill its obligations under this agreement in a timely and proper manner as required by this agreement, or if **PROVIDER** shall violate any of the covenants, agreements, or stipulations of this agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to **PROVIDER** of such termination, effective thirty (30) days following receipt of same, provided, however, that **PROVIDER** shall be provided a reasonable time within which to remedy such deficiencies. **PROVIDER** shall be entitled to receive just and equitable compensation for any satisfactory services completed prior to the effective date of such termination.

VIII. ***Termination by PROVIDER.*** **PROVIDER** may terminate this agreement at any time for failure of the City to comply with any material terms or conditions of this agreement, effective thirty (30) days following receipt, provided, however, that the City shall be provided a reasonable time within which to remedy such deficiencies.

IX. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this agreement.

X. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this agreement shall be taken and construed as

cumulative, that is, as being in addition to every other remedy provided by operation of law.

XI. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this Agreement for notification and communication as may be required:

(a) Representing the City:

John D'Angelo, Manager
Division of Arts & Cultural Services
334 N. Mead
Wichita, Kansas 67202
316-462-2787

(b) Representing the **PROVIDER**:
Eric Cale, Director
Wichita-Sedgwick County Historical Museum
204 S. Main
Wichita, KS

XII. ***Insurance and Indemnification.***
PROVIDER shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this agreement. **PROVIDER** will carry insurance of the type and in the amounts, if any, as required in the Scope of Services. Use of such coverage to policy limits shall not extinguish any remaining liability to the CITY to the extent that the claim against the CITY remains unresolved.

XIII. ***Prohibition against Assignment and delegation.*** Notwithstanding any other provision of this agreement, **PROVIDER** warrants that none of **PROVIDER**'s duties under this agreement may be delegated to or sub-contracted to any persons other than those described in Attachment A without the express written permission of the CITY.

XIV. ***Third Party Rights.*** It is specifically agreed between the parties that it is not intended by any of the provisions of this agreement to create in 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 damages pursuant to the terms or provisions of this Agreement.

XV. ***Compliance with Laws.*** **PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this agreement.

XVI. ***Authorization***. By signing this agreement, the **PROVIDER**'s representative represents that he or she is duly authorized by **PROVIDER** to execute this agreement, and that **PROVIDER** has agreed to be bound by all of its terms.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Wichita-Sedgwick County Historical Museum

By _____
Eric Cale, Director
Wichita-Sedgwick County Historical Museum Association

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by the City of Wichita, Kansas and **Wichita-Sedgwick County Historical Museum** that it is the intent of this contract for the Wichita-Sedgwick County Historical Museum to provide certain documentation to the City of Wichita for operational arts funding.

FIRST, The Wichita-Sedgwick County Historical Museum understands and agrees that the City will evaluate outcome-based performance under this contract.

SECOND, The Wichita-Sedgwick County Historical Museum understands and agrees to provide documentation as specified in The Wichita-Sedgwick County Historical Museum and the City's mutual agreement. Any specifications or provisions in said mututal agreement that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of The Wichita-Sedgwick County Historical Museum and the City's mutual agreement are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The Scope of Services of The Wichita-Sedgwick County Historical Museum under this contract includes the following:

Goal 1
Continue operation of the Wichita-Sedgwick County Historical Museum facility, staff, and adherence to their mission, goals and strategic plan.

Goal 2
Maintain accreditation of the Wichita-Sedgwick County Historical Museum**.**

Goal 3
Design, construct, and install at least four temporary exhibits utilizing the museum's permanent collection or loan collections in 2009.

The Wichita-Sedgwick County Historical Museum is to prepare two written reports detailing findings through monitoring and self-evaluations. The reports will be provided to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.** However, if evidence is uncovered of program malfeasance, criminal action of violation of any agreement regarding this agreement, this evidence will be presented to the City's Division of Arts & Cultural Services immediately. Semi-annual reports will also include assessments of whether **PROVIDER**s are on target to successfully complete their outcomes and funding recommendations for non-performing agencies.

The Wichita-Sedgwick County Historical Museum is required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, or call 316-462-2787 Ext 797.

- **SEMI-ANNUAL AND FINAL REPORTS:** Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- **FINANCIAL MANAGEMENT**: Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

Budget expenditures to ensure that the sums available to the Wichita-Sedgwick County Historical Museum are not over expended and that agencies will have funding to carry out operational activities over their entire contract period.

Be available to address the City Council on findings and recommendations, upon request.

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 there under.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st** day of **October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Kansas Aviation Museum, Inc.** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Twenty eight thousand dollars ($28,000)** payable in four, equal, quarterly installments and due January, March, June and October 2009 upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Kansas Aviation Museum

_____
Lon Smith, Director
Kansas Aviation Museum, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Kansas Aviation Museum, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Develop at least 3 education modules that conform to Kansas Board of Education curriculum standards to be utilized when students visit in an effort to portray Kansas Aviation history.

Goal 2
Utilize these modules and deliver to at least 5,000 students who visit the museum in 2009.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

AGREEMENT FOR BASELINE FUNDING OF ARTISTIC DEVELOPMENT

This agreement is entered this 21st **day of October 2008** between the City of Wichita, KS, a municipal corporation, (hereinafter referred to the "CITY" and The Mid-America All-Indian Center, Inc. (Hereinafter referred to as "**PROVIDER**").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and

WHEREAS, **PROVIDER**, has the facilities, expertise and ability to provide services and programs to that end, and has presented a favorable proposal to accomplish that purpose to the benefit of the community's general welfare;

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of **PROVIDER** are to begin January 1, 2009 through December 31, 2009 and shall be undertaken and completed in such sequence as to assure their expeditious, satisfactory completion in light of the purposes of this agreement. This agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed later than one year from the date of execution.

II. ***Services to be Performed***. **PROVIDER** shall perform the services described in the attached Scope of Services (Attachment A), which is made a part of this agreement by reference. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by **PROVIDER** pursuant to this agreement shall be compensated in a total amount not to exceed **Fifty seven thousand nine hundred dollars** (**$57,900)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

IV. ***Independent Contractor Status.*** **PROVIDER**'s status for conduct of tasks described herein shall be as an independent contractor, and not as an agent or employee of the CITY. Any and all employees or agents of **PROVIDER** while engaged in the performance of any work or service required by **PROVIDER** under this agreement shall be considered employees of **PROVIDER** only and not of the CITY. Any and all claims that may arise under the Kansas Workers' Compensation Act on behalf of said employees while so engaged, and any and all

claims made by a third party as a consequence of any act or omission on the part of **PROVIDER**'s employees or agents while so engaged in any of the work or service anticipated herein shall be the sole obligation and responsibility of **PROVIDER**.

V. ***Acceptance Procedure.*** **PROVIDER** shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of the agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

VI. ***Nondiscrimination in Employment.*** During the performance of this agreement, **PROVIDER** agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, ancestry or national origin. The CITY's anti-discrimination requirements, attached as Attachment B, are made a part of this agreement by reference.

VII. ***Termination by the CITY.*** If, for any cause, **PROVIDER** shall fail to fulfill its obligations under this agreement in a timely and proper manner as required by this agreement, or if **PROVIDER** shall violate any of the covenants, agreements, or stipulations of this agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to **PROVIDER** of such termination, effective thirty (30) days following receipt of same, provided, however, that **PROVIDER** shall be provided a reasonable time within which to remedy such deficiencies. **PROVIDER** shall be entitled to receive just and equitable compensation for any satisfactory services completed prior to the effective date of such termination.

VIII. ***Termination by PROVIDER.*** **PROVIDER** may terminate this agreement at any time for failure of the City to comply with any material terms or conditions of this agreement, effective thirty (30) days following receipt, provided, however, that the City shall be provided a reasonable time within which to remedy such deficiencies.

IX. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this agreement.

X. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this agreement shall be taken and construed as

cumulative, that is, as being in addition to every other remedy provided by operation of law.

XI. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this Agreement for notification and communication as may be required:

(a) Representing the City:

John D'Angelo
City Arts Building
334 N. Meade
Wichita, Kansas 67202
316-462-2787

(b) Representing the **PROVIDER**:

Paula Langworthy, Chairwoman of the Board
The Mid-America All-Indian Center, Inc.
650 N. Seneca
Wichita, KS

XII. ***Insurance and Indemnification.***
PROVIDER shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this agreement. **PROVIDER** will carry insurance of the type and in the amounts, if any, as required in the Scope of Services. Use of such coverage to policy limits shall not extinguish any remaining liability to the CITY to the extent that the claim against the CITY remains unresolved.

XIII. ***Prohibition against Assignment and delegation.*** Notwithstanding any other provision of this agreement, **PROVIDER** warrants that none of **PROVIDER**'s duties under this agreement may be delegated to or sub-contracted to any persons other than those described in Attachment A without the express written permission of the CITY.

XIV. ***Third Party Rights.*** It is specifically agreed between the parties that it is not intended by any of the provisions of this agreement to create in 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 damages pursuant to the terms or provisions of this Agreement.

XV. ***Compliance with Laws.*** **PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this agreement.

XVI. ***Authorization***. By signing this agreement, the **PROVIDER**'s representative represents that he or she is duly authorized by **PROVIDER** to execute this agreement, and that **PROVIDER** has agreed to be bound by all of its terms.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Mid-America All-Indian Center, Inc.

By _____
Paula Langworthy, Chairwoman
Mid-America All-Indian Center, Inc.

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Mid-America All-Indian Center, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments. Reasonable modification of goals throughout the year, as mutually agreed upon by both parties, will take precedence over others stated in this document or original proposal.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1: Acquire two regional artists exhibits annually that help educate the Wichita community pertaining to American Indian Culture.

Goal 2: Create an annual cultural event to strengthen the relationship between the American Indian and Wichita communities.

Goal 3: Create and implement an educational interactive children's program, to increase the appreciation of the American Indian culture and heritage.

Goal 4: Increase museum attendance by 3% through marketing and advertising.

Goal 5: Create a Community Night program to increase community interest.

Goal 6: Provide educational and health seminars to the American Indian community.

- **Organizations are required by the terms of the Contract to give recoginition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use where possible, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, DIVISION OF ARTS & CULTURAL SERVICES, at 316/462-2787 Ext 797.

- **Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the** City of Wichita, **Division of Arts & Cultural Services, 334 North Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and those agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Report

- Prepare a cumulative final semi-annual **PROVIDER** report, which includes: accomplishments and adherence to and satisfaction of THE ORIGINAL CONTRACT PURPOSES, AND recommendations on future fun**d**ing, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. A version of this report will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the complete calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. One copy of each of those reports will be provided to The **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**
.
- Be available to address the City Council on findings and recommendations, upon request.

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 Nondiscrimination 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 there under.

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 Nondiscrimination -- 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, sub purchase order or sub agreement so that such provisions will be binding upon each subcontractor, sub vendor or sub supplier.

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

D. Exempted from these requirements are:

1. Those contractors, subcontractors, 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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this 21st **day of October, 2008** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Mid-America All-Indian Center, Inc.** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Sixty thousand dollars ($60,000)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Mid-America All-Indian Center, Inc.

_____
Paula Langworthy, Chairman of the Board
Mid-America All-Indian Center, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Mid-America All-Indian Center, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Hire a full-time Educational Coordinator in 2009.

Goal 2
Identify needs to accomplish AAM accreditation and begin process in 2009.

Goal 3
Complete vault inventory and reconciliation by June 2009.

Goal 4
Increase membership by 10% over 2008.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Music Theatre for Young People** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Four thousand dollars ($4,000)** payable in four, quarterly, installments due the first business day of the months January, April, July, and October upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Music Theatre for Young People

_____
Karen Gale, Executive Director
Music Theatre for Young People

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Music Theatre for Young People, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Record public appearances and press releases sent and published in local media.

Goal 1
Continue to offer 4 quality musicals with young people ages 6 or 7 to 18 as the performers.

Goal 2
To provide more performance opportunities for underserved populations by developing at least 2 additional contacts who can help identify underserved populations and recruit/interest them in participation in MTYP activities.

Goal 3
To increase utilization of our new building by adding at least 5 classes offered at the facility and build studio enrollment to a minimum of 100 students.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services or call 316-462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare two cumulative semi-annual **PROVIDER** reports, which include: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The two cumulative semi-annual reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year final report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** One copy of each of those reports will be provided to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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 Nondiscrimination Equal Employment Opportunity/Affirmative A**ction** Program Requi**re**ments:

A. Dur**ing the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall c**omply with all t**h**e provisions of th**e 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 wit**h Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated there under.

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 Nondiscrimination -- 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, sub purchase order or sub agreement so that such provisions will be binding upon each subcontractor, sub vendor or sub supplier.

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

part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, 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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Music Theater of Wichita**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **seventy-five thousand dollars ($75,000.00)**, payable in two installments and due the first business day of the months of February and June 2009, upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Music Theatre of Wichita

_____
Wayne Bryan, Producing Artistic Director
Music Theatre of Wichita

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Music Theater of Wichita, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Expand educational programming to increase the number of youth participants by 15% above 2007-08 levels.

Goal 2

Expand educational programming to participate in at least one national educational program, in order to improve the breadth of educational experiences for our young people.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Opera Kansas Inc.**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Five thousand dollars ($5,000)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Opera Kansas, Inc.

_____
Authorized Signature
Opera Kansas, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Opera Kansas, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Develop a new audience by partnering with Boys and Girls club.

Goal 2
Develop a new audience by (a) maintaining the number of Wichita school groups served at 15 for 2009; (b) adding a new educational component offered to young vocal artists in2009.

> **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Orpheum Performing Arts Centre, Inc.** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Fifty thousand eight hundred ninety one dollars ($50,891)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Orpheum Performing Arts Centre, Ltd.

_____
Mary Eves, President
Orpheum Performing Arts Centre, Ltd.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Orpheum Performing Arts Centre, Inc.**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase the number of events by six percent (from 83 to 88).

Goal 2
Increase attendance by 10% over 2008.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropiate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

AGREEMENT FOR BASELINE FUNDING OF ARTISTIC DEVELOPMENT

This agreement is entered this 21st day of October 2008 between the City of Wichita, KS, a municipal corporation, (hereinafter referred to the "CITY" and The Kansas African American Museum (hereinafter referred to as "Provider").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and

WHEREAS, Provider, has the facilities, expertise and ability to provide services and programs to that end, and has presented a favorable proposal to accomplish that purpose to the benefit of the community's general welfare;

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of Provider are to begin January 1, 2009 through December 31, 2009 and shall be undertaken and completed in such sequence as to assure their expeditious, satisfactory completion in light of the purposes of this agreement. This agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed later than one year from the date of execution.

II. ***Services to be Performed***. Provider shall perform the services described in the attached Scope of Services (Attachment A), which is made a part of this agreement by reference. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by Provider pursuant to this agreement shall be compensated in a total amount not to exceed **Two thousand three hundred thirty dollars ($2,330)** payable in one equal installment and due the first business day of February upon presentation of a detailed invoice by PROVIDER. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

IV. ***Independent Contractor Status.*** Provider's status for conduct of tasks described herein shall be as an independent contractor, and not as an agent or employee of the CITY. Any and all employees or agents of Provider while engaged in the performance of any work or service required by Provider under this agreement shall be considered employees of Provider only and not of the CITY. Any and all claims that may arise under the Kansas Workers' Compensation Act on behalf of said employees while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of Provider's employees or

agents while so engaged in any of the work or service anticipated herein shall be the sole obligation and responsibility of Provider.

V. ***Acceptance Procedure.*** Provider shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of the agreement, it shall notify Provider in writing thereof, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

VI. ***Nondiscrimination in Employment.*** During the performance of this agreement, Provider agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, ancestry or national origin. The CITY's anti-discrimination requirements, attached as Attachment B, are made a part of this agreement by reference.

VII. ***Termination by the CITY.*** If, for any cause, Provider shall fail to fulfill its obligations under this agreement in a timely and proper manner as required by this agreement, or if Provider shall violate any of the covenants, agreements, or stipulations of this agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to Provider of such termination, effective thirty (30) days following receipt of same, provided, however, that Provider shall be provided a reasonable time within which to remedy such deficiencies. Provider shall be entitled to receive just and equitable compensation for any satisfactory services completed prior to the effective date of such termination.

VIII. ***Termination by Provider.*** Provider may terminate this agreement at any time for failure of the City to comply with any material terms or conditions of this agreement, effective thirty (30) days following receipt, provided, however, that the City shall be provided a reasonable time within which to remedy such deficiencies.

IX. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this agreement.

X. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this agreement shall be taken and construed as cumulative, that is, as being in addition to every other remedy provided by operation of law.

XI. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this Agreement for notification and communication as may be required:

(a) Representing the City:

John D'Angelo
City Arts Building
334 N. Meade
Wichita, Kansas 67202
316-462-2787

(b) Representing the Provider:
Lisa Dodson, Interim Director
The Kansas African American Museum
601 N. Water
Wichita, KS

XII. ***Insurance and Indemnification.***
Provider shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of Provider, its officers, agents, servants, or employees, occurring in the performance of its services under this agreement. Provider will carry insurance of the type and in the amounts, if any, as required in the Scope of Services. Use of such coverage to policy limits shall not extinguish any remaining liability to the CITY to the extent that the claim against the CITY remains unresolved.

XIII. ***Prohibition against Assignment and delegation.*** Notwithstanding any other provision of this agreement, Provider warrants that none of Provider's duties under this agreement may be delegated to or sub-contracted to any persons other than those described in Attachment A without the express written permission of the CITY.

XIV. ***Third Party Rights.*** It is specifically agreed between the parties that it is not intended by any of the provisions of this agreement to create in 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 damages pursuant to the terms or provisions of this Agreement.

XV. ***Compliance with Laws.*** Provider shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this agreement.

XVI. ***Authorization***. By signing this agreement, the Provider's representative represents that he or she is duly authorized by Provider to execute this agreement, and that Provider has agreed to be bound by all of its terms.

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

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

The Kansas African American Museum

By _____
Lisa Dodson, Interim Director
The Kansas African-American Museum

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by the City of Wichita, Kansas and **The Kansas African American Museum** that it is the intent of this contract for the Kansas African American Museum to provide certain documentation to the City of Wichita for operational arts funding.

FIRST, the Kansas African American Museum understands and agrees that the City will evaluate outcome-based performance under this contract.

SECOND, the Kansas African American Museum understands and agrees to provide documentation as specified in the The Kansas African American Museum and the City's mutual agreement. Any specifications or provisions in said mutual agreement that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the Kansas African American Museum and the City's mutual agreement are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The Scope of Services of the Kansas African American Museum under this contract includes the following:

Goal 1
Continue operation of The Kansas African American Museum facility, staff, and adherence to their mission, goals, and strategic plan.

Goal 2
Continue promotion and marketing of The Kansas African American Museum, such as increase corporate awareness within the business community of The Kansas African American Museum by developing a mailing list of corporate arts patrons, creating a bi-annual newsletter, sending invitations to events and activities to corporations, and distributing other pertinent information to the business community.

Provider is to prepare two written reports detailing findings obtained through monitoring and self-evaluations. The reports will be provided to the City's Division of Arts & Cultural Services Office. However, if evidence is uncovered of program malfeasance, criminal action of violation of any agreement regarding this agreement this evidence will be presented to the City Manager's Office immediately. Semi-annual reports will also include assessments of whether providers are on target to successfully complete their outcomes and funding recommendations for non-performing agencies.

The Kansas African American Museum is required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316-462-2787 Ext 797.

FINANCIAL MANAGEMENT

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to The Kansas African American Museum are not over expended and that agencies will have funding to carry out operational activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative reports, which include: accomplishments and adherence to and satisfaction of the original contract purposes based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The two reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the final report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Final reports will be provided to the City of Wichita's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202**.

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Kansas African American Museum (TKAAM),** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Twenty five thousand dollars ($25,000)** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

The Kansas African-American Museum

_____
Lisa Dodson, Interim Director
The Kansas African-American Museum

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Kansas African American Museum (TKAAM) PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1 - Establish and maintain a culturally and professionally diverse Board of Directors by December 2008.

Goal 2
Develop and manage a permanent collection representative of African, African-American and regional art and history.

Goal 3
Educate constituents with quality programming.

Goal 4
Increase public awareness of the museum and its programs.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports

Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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/Affirmat**ive Action Program Requirements:**

A. **During the p**erformance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comp**ly with all the** p**rovisions of the C**ivil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 6**0** 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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita State University**, a state educational institution of Kansas, contracting on behalf of its **The Wichita State University Foundation c/o The Edwin A. Ulrich Museum of Art**, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Twenty thousand dollars ($20,000), to be allocated to the Edwin A. Ulrich Museum of Art,** payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by PROVIDER. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and

records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the PROVIDER are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance.** To the extent permitted by the laws of Kansas, **PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita State University Foundation
Edwin A. Ulrich Museum of Art

_____
Elizabeth King, President & CEO

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita State University Foundation**, contracting on behalf of the **Edwin A. Ulrich Museum of Art**, PROVIDER, that it is the intent of this contract for the PROVIDER to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the PROVIDER understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the PROVIDER understands and agrees to perform services as specified in the PROVIDER's proposal, hereinafter called PROPOSAL, as submitted to the CITY by PROVIDER, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the PROVIDER's PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the PROVIDER under this contract include the following:

Goal 1
Increase the quantity and quality of educational programs.

Goal 2
Increase overall attendance in museum educational programs.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: "**This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, 316-462-2787 Ext 797.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to Provider are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports

- Prepare two cumulative semi-annual provider reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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 hereunder.

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this day of **21st October, 2008** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Association for Motion Picture Arts/ Tallgrass Film Festival,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Ten thousand dollars ($10,000)**, payable in two, equal, installments and due the first business day of January and June upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days

from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Association for the Motion Picture Arts/Tallgrass Film Festival

_____

Emily Bonavia, Treasurer
Wichita Association for the Motion Picture Arts Tallgrass Film Festival

_____
Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____
Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Association for Motion Picture Arts / Tallgrass Film Festival PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase sponsors while applying for granting.

Goal 2
Increase attendance at the 2009 festival by 25% over the 2008 attendance. Increase year-round awareness of WAMPA and the Tallgrass Film Festival locally and nationally.

Goal 3
Expand partnerships with current partner organizations and increase the number of diversity of partner organizations.

Goal 4
Add an increasing number of educational seminars, panels and discussions as part of the festival and WAMPA special events.

§ **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 Ext 797**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agency will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and Wichita Black Arts Festival Association, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Three thousand dollars ($3,000)**, payable in two, equal, installments and due the first business day of January and June upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** semi-annual reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days

from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Black Arts Festival Association

_____
Elaine Guillory, Treasurer
Wichita Black Arts Festival Association

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Black Arts Festival Association, PROVIDER,** that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase overall attendance at festival by 10%

Goal 2
Increase racial diversity of festival attendees in 2009 to 20% non African-American.

Goal 3
Increase attendance from outside Wichita to 10%

Goal 4
Increase diversity of art forms included in festival to include at least three additional art forms.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division of Arts & Cultural Services, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Chamber Chorale, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Two thousand dollars ($2,000)**, payable $1,500 on or after March 1, 2009 and the balance on or after December 1, 2009 after filing of the final report upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling

this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Chamber Chorale, Inc.

_____
Joe Emery, President
Wichita Chamber Chorale, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Chamber Chorale, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase audience participation by 3% by expanding the marketing efforts through local area media and other arts publications.

Goal 2
Increase performing Children's Classic programs through an additional two elementary and two middle school performances that will introduce great choral works to these students.

Goal 3
Continue our partnership with Wichita State University with the Heartland Choral Festival of high school students.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services Office, at 316-462-2787 Ext 797**.**

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **City of Wichita Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare a two cumulative semi-annual **PROVIDER** reports, which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The two cumulative semi-annual reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009**, with the completed calendar year final report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2010**. One copy of the semi-annual and final reports will be provided to **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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 there under.

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;

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.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Children's Theater & Dance Center,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Forty thousand dollars ($40,000)**, payable in twelve, equal, monthly installments and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Children's Theatre & Dance Center

_____
Monica Flynn, Director
Wichita Children's Theatre & Dance Center

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Children's Theater & Dance Center, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase class attendance and accommodate more students through adding at least two new classes in 2009.

Goal 2
Increase ticket sales 1% through increased marketing efforts.

> **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropirate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **City of Wichita Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the **City's Division of Art & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st day of October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Film and Music Festivals Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Three thousand dollars ($3,000)**, payable in two, equal, installments and due the first business day of January and June upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days

from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other.

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance.** **PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws.** **PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination.** **PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Film & Music Festival, Inc.

_____
Randy Ringgenberg, Vice President
Wichita Film & Music Festival, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Film and Music Festivals Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase overall attendance at our events by at least 10% over last year's attendance figures.

Goal 2
Increase membership by at least 10%. .

Goal 3
Continue existing partnerships with organizations and add new ones.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/462-2787 Ext 797**.**

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **City of Wichita City Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agency will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202. .**

- Be available to address the City Council on findings and recommendations, upon request.

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 there under.

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.

CONTRACT

for

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this day of **21st October, 2008**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Wichita Grand Opera**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Thirty thousand dollars ($30,000),** payable in four, equal, monthly installments on January, Feburary, March, and April and due the first business day of the month upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Grand Opera

_____
Parvan Bakardiev, President & CEO
Wichita Grand Opera

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Wichita Grand Opera**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Provide a spectacular international season of opera performances.

Goal 2
Provide 5 opera seminars and workshops for artists and the public at-large.

Goal 3
Provide Operation Opera to USD259 and other school districts in Sedgwick County.

Goal 4
Provide employment for 55 musicians and 80 singers throughout the season.

Goal 5
Provide employment and performance opportunities for WGO's resident and young artists throughout the season.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/462-2787 Ext 797**.**

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **City of Wichita, Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY by the weekday on or closest to **June 30, 2009,** with the complete calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st** day of **October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Public Library Foundation, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Twenty two thousand five hundred dollars ($22,500)**, payable in two, equal, installments due the first business day of January and July upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** quarterly reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each quarterly report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed quarterly report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The service of the **PROVIDER** is to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Public Library Foundation, Inc.

_____

Wichita Public Library Foundation, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Public Library Foundation, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goals

Goal 1
Increase the value of service Wichita residents receive from their public library.

Goal 2
Make effective use of technology to assist with service delivery.

Goal 3
Complete activities in support of the master plan for Library facilities.

Goal 4
Increase community awareness of programs, resources and services provided by the Library.

Goal 5
Increase citizen satisfaction with Library services.

- **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.** The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY by the weekday on or closest to **June 30, 2009,** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **21st** day of **October, 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Wichita Symphony Orchestra**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Ninety five thousand dollars ($95,000),** payable in two monthly installments. **PROVIDER** shall submit its invoices for such installments on February 23, 2009 and May 25, 2009 and payment for such invoices shall be due by March 30, 2009 and June 29, 2009, respectively. The Scope of Services sets forth the performance objectives by which **PROVIDER**'s performance shall be measured.

3. **Acceptance Procedure. PROVIDER** shall render the Services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** quarterly reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each quarterly report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed quarterly report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The Services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Wichita Symphony Orchestra

_____

Mitchell Berman, Executive Director
Wichita Symphony Orchestra

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Wichita Symphony Orchestra**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase the number of single tickets sold for Classics Concerts by 5% over the number sold for the 2007-2008 season.

Goal 2
Attract at least 100 concertgoers who attend the January 2009 Blue Jeans performance to purchase tickets to one of the season's remaining Classics performance.

- **Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita.** Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"Wichita Symphony activities is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/462-2787 ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.** The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Quarterly and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY by the weekday on or closest to **June 30, 2009**, with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2010**. Send one copy of each report to the **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this day of **21st October 2008,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Sedgwick County Zoological Society**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **Forty five thousand dollars ($45,000)** payable in four equal installments and due the first business day of the months January, April, July and October 2009, upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward

fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2009 through December 31, 2009.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** 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 **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

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

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

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

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

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

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

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

Sedgwick County Zoological Society, Inc.

_____
Steve Onken, Development Director
Sedgwick County Zoological Society, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Sedgwick County Zoological Society Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City'sRequest for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they ae not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Open the new tiger exhibit Memorial Day weekend 2009.

Goal 2
Expand Title 1 school discount availability by increasing support to $10,000 in 2009.

Goal 3
Maximize development of "Dream Night" special event to provide terminally ill, handicapped and disadvantaged youth and their families and opportunity to visit the Zoo with VIP treatment. The zoo will partner with at least 2 other agencies to provide this community service.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division (CityArts), at 316/462-2787 Ext 797.

Financial Management

- Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the **City of Wichita, Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2009 contract, irrespective of any work done or goals accomplished according to the terms of the FY2009 contract, until the final FY2008 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 20008 final report shall bar the organization from contracting with the City for FY2010.

- Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

- Prepare two cumulative semi-annual **PROVIDER** reports, including one final report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **June 30, 2009** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 1, 2010.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 334 N. Mead, Wichita, KS 67202.**

- Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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

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

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

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

part by the contracting agency;

D. Exempted from these requirements are:

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

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

Agenda Report No. XII-20.

City of Wichita Arts Council
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Performance Contracts for Arts and Cultural Funding (All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent Agenda

Recommendation: It is recommended that City Council approve 33 Performance Contracts for Tier I, Tier II, and Tier III arts and cultural organizations.

Background: In 2005, the City Council approved the formation of the Cultural Funding Committee consisting of 11 members. Members of City Council appointed 7 members. The Arts Council appointed 4 members. The committee consists of representatives from government, education, business, philanthropy, arts organizations and the public at large. The committee was assigned the responsibility to make recommendations to members of City Council on allocation of additional funding through operational grants for arts and cultural organizations. This year, the committee made recommendations in the amount of $1,227,841 with $100,000 earmarked for debt services at Old Cowtown Museum for the upcoming FY2009 funding year.

The City must protect its current investments in the Tier I organizations that have become an integral part of our community's culture. Through historical agreements, the City has made substantial investments in these and other facilities to purchase, promote, and maintain them. Funding was allocated by a tiered system:

- Tier I – Existing organizations currently receiving baseline City funds. These organizations are Wichita Art Museum, Botanica, Historic Wichita Sedgwick County (Old Cowtown Museum), Mid-America All-Indian Center, The Arts Council, The Kansas African American Museum, and the Wichita-Sedgwick County Historical Museum. These organizations, with Boards of Directors, are non-profit agencies that have private/public partnerships with the City of Wichita.

- Tier II – Established and emerging organizations with annual operating budgets of $500,000 or more.

- Tier III – Established or emerging organizations with annual operating budgets less than $500,000.

The Cultural Funding Committee reviewed applications from 40 arts and cultural organizations during the approved review process from April 14 – April 23, 2008. Twenty nine of the 40 applicants were recommended for the allocation of additional funding. The organizations were then approved by the City Council as part of the FY2009 budget approval process in August.

Analysis: Approval of Performance Contracts will provide the City of Wichita with a fair and equitable contract in which to measure performance-based outcomes of all 33 Performance Contracts, which include Tier I, Tier II, and Tier III funding for art and cultural organizations. Performance goals assist in supplying accountability and assurance of the use of City funding allocated appropriately with measurements. Funding recommendations below:

Tier I:

Organization	**FY2009 Annual Funding**
Wichita Art Museum, Inc.	$1,279,960
The Kansas African American Museum	$2,330
Wichita-Sedgwick County Historical Museum	$82,140
*Historic Wichita Sedgwick County, Inc. (Old Cowtown Museum)	$241,850
Arts Council	$6,540
Mid-America All-Indian Center	$57,900
Botanica	$232,500
Total Flat Funding	**$1,903,220**

**No flat funding contract for Old Cowtown Museum since it is now under management of the Division of Arts & Cultural Services*

Tier II:

Organization Name	**FY2009 Additional funding**
The Wichita Sedgwick County Historical Museum	**$43,000**
The Wichita Art Museum, Inc.	**$240,000**
Mid-America All-Indian Center	**$60,000**
Botanica, The Wichita Gardens	**$85,000**
The Kansas African American Museum	**$25,000**
*Old Cowtown Museum	**$150,000**
Orpheum Performing Arts Center, Ltd	**$50,891**
Sedgwick County Zoological Society	**$45,000**
Wichita Symphony Music Theatre of Wichita	**95,000** **$75,000**
Friends University	**$14,000**
Wichita Grand Opera	**$30,000**
Ulrich Museum	**$20,000**
Wichita Children's Theatre and Dance Center	**$40,000**

Tier III:

Organization Name	FY2009 Additional funding
Chamber Music at the Barn	**$20,000**
Arts Partners	**$33,000**
Ballet Wichita	**$15,000**
Kansas Aviation Museum	**$28,000**
The Wichita Asian Association	**$3,000**
Wichita Chamber Chorale, Inc.	**$2,000**
Tallgrass Film Festival	**$10,000**
Opera Kansas	**$5,000**
Heart of America Men's Chorus Inc.	**$5,000**
Wichita Film and Music Festival Inc.	**$3,000**
Music Theatre for Young People	**$4,000**
American Guild of Organists	**$450**
Wichita Black Arts Festival	**$3,000**
Wichita Public Library Foundation	**$22,500**
The Griots Storytelling Institute	**$1,000**
Total Cultural Funding (29)	**$1,127,841**

Financial Consideration: Finance department has reviewed the proposed contracts specific to performance goals and measurements.

Goal Impact: Enhance the Quality of Life

Legal Consideration: Law department has prepared and approved the form of the proposed contracts.

Recommendations/Actions: It is recommended that the City Council approve the 33 Performance Contracts, for Tier I, Tier II, and Tier III art and cultural organizations, for the FY2009 budget year.

KANSAS
DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Kathleen Sebelius, Governor
Don Jordan, Secretary

www.srskansas.org

September 24, 2008

Ms. Joyce Stockham
Career Development Office
444 E. William
Wichita, KS 67202

Subject: Provider Agreement #EES-WICR-07-04
Effective Dates: 10/9/06 to 10/8/08

Dear Ms. Stockham:

The above captioned SRS Provider Agreement is scheduled to expire on October 8, 2008. This letter serves to extend the agreement for a period of one year. The renewal period would cover October 9, 2008 through October 8, 2009.

Please verify your acceptance of this offer of renewal by signing the statement at the end of this letter and returning it to the office by October 8, 2008. If you have any questions regarding the renewal offer or renewal process, please feel free to contact this office.

Sincerely,

Jim Heiser
EES Program Administrator

Career Development Office agrees to renew the provider agreement with the Wichita Region Social and Rehabilitation Services (SRS) office and to provide services to EES consumers. The Career Development Office accepts the terms of this renewal offer which will be for the period of October 9, 2008 through October 8, 2009.

_____
Career Development Office

WICHITA REGION • JEAN A. HOGAN, LMSW, REGIONAL DIRECTOR
230 E. WILLIAM, P.O. BOX 1620, WICHITA, KS 67201-1620
Voice: (316) 337-6314 • Fax: (316) 337-6789

Agenda Report No. XII-21.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Renewal of SRS Purchase of Service Agreement

INITIATED BY: Human Resources

AGENDA: Consent

- -

Recommendation: Approve renewal of Purchase of Service Agreement and authorize necessary signatures.

Background: In March of 2004 the City of Wichita entered into a Kansas Department of Social and Rehabilitation Services (SRS) purchase of service agreement to have the City's Career Development Office (CDO) provide employment preparation and job placement services to welfare recipients. In October of 2006 the agreement was modified to incorporate provisions of the federal Deficit Reduction Act of 2005 and extended for a two-year period. The SRS now wishes to renew the agreement through October 8, 2009

Analysis: The CDO continues to exceed its contractual goals contained in the agreement, with a 65% placement rate, a 92% job retention rate, and an average hourly wage at placement of $8.69. Since March of 2004, over 500 individuals have achieved employment through the efforts of the CDO.

Financial Considerations: The maximum agreement amount for the 2008/09 period is $661,000, which will cover the expenses of the CDO in providing services to referred Sedgwick County welfare recipients. No general funds are obligated by the renewal of the agreement.

Goal Impact: The CDO in its fulfillment of the agreement will promote economic vitality and affordable living in Sedgwick County by sustaining or improving the affordable living of the SRS clients it serves.

Legal Considerations: The Department of Law has approved renewal of the provider agreement.

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

Attachments: SRS Provider Agreement renewal letter

Agenda Report No. XII-22.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Chapin Park Improvements (District III)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the Bonding Resolution and authorize initiation of the project.

Background: Chapin Park, formerly the Chapin Landfill, is located at 3800 South Hydraulic along the Arkansas River. Over the years, the need for parkland in the south sector of the City has increased dramatically to meet the needs of a growing population. Currently, this park is actively being used by the Wichita Radio Control Club for model airplane flying.

On June 06, 2006 funding was approved to develop plans for Chapin Park. The City of Wichita hired Law Kingdon, Inc., to provide design services for the future park.

Analysis: Park design and construction plans are nearing completion and will be ready for bidding soon. Improvements for the new park include entrance road and parking, walking paths and trails, outdoor shelters and picnic areas, mountain biking trails, and a dog park.

Financial Considerations: Funding for the construction of these park improvement project is provided by 2008 Park and Recreation Capital Improvement Project (CIP) Funds in the amount of $700,000.

Goal Impact: The initiation of this project will greatly enhance the Quality of Life for citizens of Wichita by increasing recreational opportunities and activities.

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

Recommendation/Action: It is recommended that the City Council 1) approve the Bonding Resolution; 2) authorize initiation of the project; and 3) authorize all necessary signatures.

Attachment: Bonding Resolution.

OCA785128

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-498

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE IMPROVEMENT AND RENOVATION OF PARK AMENITIES IN CHAPIN PARK.

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:

Labor, material, and equipment for the improvement or construction of an entrance road, parking, a dog park, outdoor shelters with picnic areas, mountain biking trails, walking paths and trails in Chapin Park.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $700,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

LEASE AGREEMENT

This Lease is made and entered into, effective this ___ day of May 2008,

by and between:

Cinema Old Town, L.L.C., a Kansas Limited Liability Corporation, hereinafter referred to as LANDLORD

and

The City of Wichita, hereinafter referred to as TENANT.

In consideration of the payments, covenants and agreements contained within this Lease, the parties agree as follows:

ARTICLE 1 PREMISES

1.1 Leased Premises:

LANDLORD hereby leases to TENANT the following described real property located in the City of Wichita, Sedgwick County, Kansas:

321 North Mead, a portion of the "Building" as outlined in red on Exhibit "A", containing approximately 1,300 square feet (which shall hereinafter be referred to as the Leased Premises), subject to the terms and conditions contained herein.

1.2 Definitions:

The term "Building" shall include the four exterior walls, the parking garage structure above and all space enclosed by the walls and parking garage structure.

The term "Common Area" shall be defined as on the outside of the Building, the following but not limited to, exterior windows; the plaza and parking area to the east and sidewalks on the east and south side; and the trash/service area to the north.

The term "Parking" shall refer to the Parking District that was established by the City of Wichita that allows occupancy within the buildings located in the "Old Town Marketplace District overlay". For the right to use this parking the City of Wichita charges a monthly fee based upon the Old Town Zoning Overlay.

The term "Operating Cost" shall include the total of only the following:

Property taxes and all special taxes
Maintenance and utility expenses by LANDLORD of the Common Areas
Property insurance
Trash
Management fee of 5% of the Rent

1.3 Access, Parking, Easements and Other Matters:

From and after the Commencement Date, LANDLORD grants TENANT, and its shareholders, employees, invitees, and licensees the rights under this Lease to use in common with LANDLORD and other tenants, occupants and visitors to the Building the Common Area. LANDLORD reserves the right to increase, reduce or change the size, height, layout, or location of the Building and its common areas and facilities (but not to the Leased Premises). No easement, license or other right to light, air, or view is created by this Lease. The Leased Premises do not include, and TENANT is given no right to use, control or occupy, the exterior wall surfaces of the Building and the parking structure of the Building. All space in or adjacent to the Leased Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, utility lines, sinks, and other Building facilities, and access thereto through the Leased Premises is reserved for the LANDLORD.

Parking rights are on a first come serve basis within the parking lots in the Parking District.

ARTICLE 2 – TERM

2.1 Term:

The Base Term of this Lease shall commence, hereafter referred to as Commencement Date, on May 1, 2007 and will expire on April 30, 2012. Due to the original Lease, the date of possession, hereafter referred to as Possession Date has continued since May 1, 2004.

2.2 Early Termination:

TENANT shall have the right to cancel this lease at anytime after the end of the second year of the lease term. LESSEE must give a minimum of one hundred eighty (180) days notice of said cancellation.

ARTICLE 3 – RENT

For the purposes of this Lease, "Rent" shall mean, "Base Rent" and "Additional Rent"

3.1 Base Rent:

TENANT agrees to pay LANDLORD, as Base Rent during the Base Term for the Leased Premises a total sum of Ninety-One Thousand Dollars and No Cents ($91,000.00) in equal installments of One Thousand, Five Hundred and Sixteen Dollar and Sixty-Seven Cents ($1,516.67) paid in advance at the beginning of each and every month during the Base Term of the Lease. In the event the Commencement Date is a day other than the first day of a calendar month, Base Rent for the first partial month shall be prorated and paid on or prior to the Commencement Date.

3.2 Additional Rent:

TENANT shall pay to LANDLORD as Additional Rent the following:

TENANT'S pro rata of the LANDLORD'S Operating Cost . As used in this Lease, Tenant's pro rata share is 7.36%.

TENANT shall pay to LANDLORD the estimated monthly installments of Additional Rent on the dates the Base Rent is due, which estimated Additional Rent shall be determined each calendar year by LANDLORD. The initial estimated monthly installments of Additional Rent for the lease years through 2008 are calculated on the basis Five Dollars and Eighty-six Cents ($5.86) per square foot contained in the Leased Premises, divided by 12, which amount for the calendar years through 2008 following the Commencement Date shall be Six Hundred, Thirty-four Dollars and Eighty-three Cents ($634.83) per month, which amount shall be prorated for a partial month. Parking fees for the Tenant, charged by the City, shall be paid by the Tenant directly to the City. The current charge for parking at Lease signing is 5 stalls at $10.00 per stall per month.

If in any calendar year LANDLORD underestimates the amount of the actual Additional Rent to be paid by TENANT, LANDLORD shall notify TENANT of such underpayment along with a reasonable accounting thereof and invoice TENANT therefore, with the amount of such underpayment to be paid by TENANT within thirty (30) days after receipt of such invoice from LANDLORD. If the actual amount of the Additional Rent due from TENANT for any calendar year is less than the amount paid by TENANT, LANDLORD shall promptly notify TENANT thereof and LANDLORD shall credit the amount of such excess against Rent due immediately following TENANT'S receipt of such notice; provided, with respect to the final calendar year during their term hereof, LANDLORD shall remit funds in the amount of such over payment to TENANT. In either case no interest is to be accrued. LANDLORD shall provide TENANT a reasonable accounting of the Operating Cost and such other information as shall be available to LANDLORD. TENANT shall have the right, at its expense, to audit Additional Rent for any calendar year within one hundred eighty (180) days following the expiration of the applicable calendar year.

3.3 Payment of Rent:

Rent shall be paid to LANDLORD at 151 N. Rock Island, Wichita, Kansas 67202, or at such other place as the LANDLORD may designate in writing to the TENANT.

3.4_Security Deposit:

None

3.5 Late Fees:

All Rent payments received by LANDLORD after the tenth day of each month shall be subject to a late fee in the amount of five percent (5%) of the balance due, calculated on Rent, Additional Rent, as well as past due late fees and other charges per the Lease. In the event any delinquent payment is not received within thirty (30) days following the date the same was originally due and owing hereunder, then in addition to such late fee, the delinquent sum and accrued interest at the rate of twelve percent (12%) per annum until such delinquent sum and accrued interest are paid in full. The provisions of this section are in addition to all other rights and remedies available to LANDLORD hereunder or at law or equity and shall not be construed as a penalty.

3.6 Other Provisions:

TENANT'S obligation to pay Rent hereunder shall be without the necessity of further demand therefore, and without any abatement, deduction, set-off or counterclaim for any reason whatsoever. Any payment, refund, or credit made pursuant to this Article 3 shall be made without prejudice to any right of LANDLORD to correct any item(s) as billed pursuant to the provisions hereof.

Any Rent payable for a partial calendar year at the beginning or end of the term of this Lease shall be prorated based upon the number of months contained in such partial year. Any Rent payable for a portion of a month shall be prorated based upon the number of days in the applicable calendar month.

No payment by TENANT or receipt by LANDLORD of lesser amounts of Rent than those required herein shall be deemed to be other than on account of the earliest unpaid stipulated Rent. No endorsement or statement on any check or letter accompanying any check or payment, as Rent shall be deemed an accord and satisfaction and LANDLORD may accept such check or payment without prejudice to LANDLORD'S right to recover the amounts of the Rent or pursue any other remedy provided in this Lease. Any credit due to TENANT hereunder by reason of an overpayment of estimated Additional Rent pursuant to this Article 3 shall first by applied to any damages or Rent owed to LANDLORD by TENANT if TENANT shall be in Default when said credit shall be due to TENANT.

The obligation of TENANT with respect to the payment of Rent, accrued and unpaid during the term of the Lease, shall survive the expiration or earlier termination of the Lease. The obligation of TENANT to pay Rent is an independent covenant and no act or circumstance whatsoever shall release TENANT from the obligation to pay Rent as required by this Lease unless otherwise expressly provided in the Lease.

ARTICLE 4 – UTILITIES; JANITORIAL

LANDLORD shall pay the monthly charges for trash service, water and sewer for the Leased Premises. From and after the Possession Date hereof, TENANT shall pay for all other utilities used in the Leased Premises and shall provide any deposits required for such services. TENANT'S gas and electricity will be metered separately from that of the other tenants, the parts of the Building not included in the Leased Premises, and the Common Area. TENANT shall arrange for and pay all costs for janitorial services for the Leased Premises.

ARTICLE 5 – TAXES

LANDLORD shall pay all of the real estate taxes and any special assessments assessed against the Building and Common Area during the term of this Lease. TENANT shall pay all personal property taxes levied or assessed against the equipment or other personal property owned by TENANT in the Leased Premises.

ARTICLE 6 – USE AND PURPOSE

6.1 TENANT'S Use:

TENANT agrees that the Leased Premises shall be used and occupied for purposes consistent with TENANT'S current business and for no other purpose without LANDLORD'S prior written consent. TENANT agrees that no activity shall be carried on in the Leased Premises, which shall be in violation of any applicable law, ordinances or codes.

6.2 Signs:

TENANT shall be permitted to maintain one (1) sign on the exterior of the Building in place, style, and design as mutually agreed upon by LANDLORD and TENANT, and as submitted and approved by the Old Town Design Review Committee per the Old Town Zoning Overlay. Except for such permitted exterior sign, TENANT shall not place on, in or near any exterior door, any wall or any window of the Leased Premises any sign or advertising matter that is visible from the exterior of the Leased Premises without first obtaining LANDLORD'S written approval and consent, which consent will not be unreasonably denied.

ARTICLE 7 – IMPROVEMENTS

LANDLORD agrees to furnish the Leased Premises to TENANT in an "AS IS" condition.

TENANT shall provide routine maintenance to keep and maintain the Leased Premises in a safe condition and in as good condition as at the commencement of this Lease, normal wear and tear excepted.

TENANT shall provide routine/nominal maintenance for the heating and air conditioning equipment, which includes annual inspections, cleaning and changing the filters for the heating and air conditioning equipment. LANDLORD shall be responsible for repairs not caused by the negligence of the TENANT to the Leased Premises which shall include only replacement of the heating and air

conditioning equipment, repairs to the exterior walls, roof, and other structural components of the Leased Premises. TENANT shall give to LANDLORD prompt written notice of any accident to, or any defects in, the roof, structural components, and heating and air conditioning on or in the Leased Premises that may come to its notice, and such defects shall be remedied by LANDLORD, at the expense of LANDLORD, with due diligence.

ARTICLE 8 – MAINTENANCE

8.1 LANDLORD'S Responsibilities:

Subject to the other provisions of this Lease, LANDLORD agrees, at its cost and expense (and not as an Operating Cost) to maintain, repair, and replace the structural portions (said "structural portions" consisting only of the foundation, exterior walls of the Building and members supporting the roof, but does not include, by way of example but not limitation, interior walls, doors, moldings, trim, window frames, door frames, closure devices, hardware, and windows or plate glass) and the Building roof of the Leased Premises so the same shall be in good order, condition, and repair. Additionally, if during the term hereof the heating, ventilating or air conditioning equipment shall cease to operate and is not in a condition which can reasonably be repaired, LANDLORD shall cause the same to be replaced following written notice from TENANT, at LANDLORD'S cost and expense. In addition LANDLORD shall maintain and clean the Common Areas and the exterior of the Building. Notwithstanding the foregoing, LANDLORD shall not be required to make any maintenance, repairs or replacements occasioned by the act or omission of TENANT, its employees, agents, servants, officers, directors, customers, visitors, invitees, licensees, contractors, subcontractors, sublessees, or assigns or the failure of TENENT to perform its obligation hereunder. TENANT shall notify LANDLORD in the event LANDLORD is required to perform any maintenance, repair or replacement hereunder. Upon receipt of any such notice, LANDLORD, directly or through a representative, shall promptly assess the deficiency and shall perform its obligations with reasonable dispatch.

8.2 TENANT'S Responsibilities:

Exclusive of the roof and structural portions of the Leased Premises and replacement of HVAC as referred to in Section 8.1 above, TENANT shall at all times be responsible for all other replacements, repairs, maintenance, and restorations required to be made to the Leased Premises. TENANT shall keep the Leased Premises in compliance with all codes, ordinances, statutes, regulations, and other governmental requirements applicable to the Leased Premises as any such codes, ordinances, statutes, regulations, or requirements may get amended from time to time. TENANT will maintain those portions of the HVAC Systems serving the Leased Premises in good condition and repair, including providing regularly scheduled preventative service on a semi-annual basis.

ARTICLE 9 – INSURANCE

9.1 LANDLORD'S Insurance:

During the term of this Lease, LANDLORD shall maintain and pay the premiums for (a) fire and extended coverage insurance concerning the Building and Common Area subject to reasonable exclusions in the amount of the replacement insurable value of the Building to be determined annually, (b) "loss of rents" coverage and (c) comprehensive general liability insurance.

9.2 TENANT'S Insurance:

Intentionally left blank

9.3 Waiver of Subrogation:

TENANT and the LANDLORD agree to cause the insurance companies issuing their respective property insurance policies pertaining to the Leased Premises, Common Area or Building to waive any subrogation rights those companies may have against LANDLORD and TENANT, their shareholder, officers, members, partners, employees and agents in connection with any loss or damage thereby insured against. Neither LANDLORD nor TENANT shall be liable to the other for any loss or damage caused by an y risk covered by insurance maintained by the party suffering such loss or damage, and each party hereto waives all claims against the other party, and its shareholders, member, officers, directors, employees and agents for such loss to the extent of insurance proceeds actually received by such party. Failure of a party to insure its property shall not void this waiver.

Except to the extent the losses are covered by insurance maintained by LANDLORD, LANDLORD, its shareholders, members, employees and agents shall not be liable for, and TENANT hereby waives all claims against such parties for business interruption and other losses occasioned thereby sustained by TENANT or any person claiming through TENANT resulting from an accident or occurrence in or upon the Building, or Common Area from any cause whatsoever, including without limitation, damage caused in whole or in part directly or indirectly, by the negligence of LANDLORD, its member, employees or agents.

9.4 Indemnification:

Except to the extent waived in Section 9.3 above, TENANT shall protect, indemnify and hold LANDLORD, its members, employees and agents harmless from and against all and any claims, actions, judgments, damages, liabilities, costs and expenses of any kind arising from (a) loss of life, injuries or damages to persons or property within the Building or Common Area arising out of or resulting in any way from any act or omission of TENANT, its shareholder, employees, agents, invitees, and licensees in the use or occupancy of the Leased Premises, Building or Common Area during the term of this Lease, and (b) any breach by TENANT of any of its obligations hereunder.

ARTICLE 10 – CASUALTY DAMAGE

In the event the Leased Premises are damaged or destroyed by fire or other casualty, the parties shall proceed as follows:

10.1 Partial Destruction:

If the damage is so minor that it will not interfere with the TENANT'S use of the property, then LANDLORD shall immediately repair such damage at LANDLORD'S expense paid by insurance proceeds received by LANDLORD and this Lease shall continue in full force and effect for the remainder of the term without Rent abatement. If the loss was caused by an act or inaction of the TENANT or its agents, employees or invitees then TENANT will be responsible to pay for any repairs to the Leased Premises not covered by insurance and reimburse LANDLORD within 30 days of being invoiced.

10.2 Substantial Destruction:

In the event the Leased Premises are partially damaged but not rendered totally unfit for its intended use (to an extent less than twenty five percent (25%) of replacement cost), then the LANDLORD shall immediately repair such damage at LANDLORD'S expense paid by insurance proceeds received by LANDLORD and this Lease shall continue in full force and effect for the remainder of the term, except Rent shall abate in proportion tot he damage during the period of repair. If the loss was caused by an act or inaction of the TENANT or its agents, employees or invitees caused the damage then TENANT will be responsible to pay for any repairs to the Leased Premises not covered by insurance and reimburse LANDLORD within 30 days of being invoiced.

10.3 Major Destruction:

In the event the Leased Premises are damaged or destroyed so as to render them substantially unfit for its intended use (to an extent more than twenty-five percent (25%) of replacement cost or if such damage cannot be repaired within 90 days after TENANT'S notice to LANDLORD to rebuild), TENANT, at TENANT'S option, may terminate this Lease and if the loss was caused by the action or inaction of TENANT, pay over to LANDLORD, within 30 days, the dollar value of LANDLORD'S insurance deductible. TENANT shall elect to either rebuild or terminate this Lease within sixty (60) days after the damage occurs. In the event TENANT elects to terminate this Lease, TENANT shall be relieved of liability for any further payments under this Lease. In the event of rebuilding as aforesaid, the Rent, as set forth in Article 3 above, shall not be due and owing during the period when the Leased Premises are untenable.

10.4 Matters Concerning Restoration:

If either party exercises a right of termination as aforementioned, this Lease shall expire and all interest of TENANT in the Lease shall terminate and the TENANT shall vacate the Leased Premises as soon as reasonably practicable after the termination date and the Rent (reduced by any abatement otherwise specified herein) shall be paid up to the date of such termination; provided, so long as TENANT occupies or maintains equipment, furniture or other items within the Leased Premises TENANT shall continue to provide insurance in accordance with Section 9.2 hereof and TENANT'S indemnification obligations contained in Section 9.4 hereof shall remain in effect and continue to apply notwithstanding such termination of the Lease. Each Party's rights and remedies against the other arising under this Lease prior to such termination shall survive such termination. LANDLORD shall refund to TENANT any Rent theretofore paid attributable to any period of time after such date of damage or destruction. If LANDLORD repairs or restores the damages or destruction referred to in this Article, LANDLORD shall not be required under any circumstances to repair, replace or restore any of TENANT'S office furnishing, fixtures, equipment or personal property with the Leased Premises subsequent to the Commencement Date.

ARTICLE 11 – ASSIGNMENT AND SUBLEASE

TENANT shall not assign its interest in this Lease or sublease the Leased Premises or any part thereof nor permit any other person or persons to occupy any portion of the Leased Premises, without the prior written consent of the LANDLORD and such consent shall not be unreasonably withheld. TENANT shall have the right to assign this Lease to a financially responsible party with a reputable establishment and with the consent of LANDLORD. Such consent shall not be unreasonably withheld. Any attempted assignment in violation hereof shall, at the LANDLORD'S option, constitute grounds for the termination of the Lease. Anything to the contrary herein notwithstanding, TENANT shall have the right to sublease a portion or portions of the Leased Premises to individuals or entities with written notice

to LANDLORD; provided TENANT shall at all times remain responsible for all terms and conditions of the Lease.

ARTICLE 12 – RIGHT OF ENTRY

LANDLORD shall have the right to enter the Leased Premises at reasonable times upon at least twenty-four (24) hours advance notice for the purpose in inspecting the same; for the purpose of doing anything that may be required by it under this Lease; or for inspection by LANDLORD'S lender, prospective lenders, prospective purchasers of the Building and, near the end of the term hereof, prospective tenants.

ARTICLE 13 – DEFAULT

In the event TENANT shall at any time Default for more than ten (10) days after written notice to TENANT in the payment of any installment of Rent or fail for more than thirty (30) days after written notice to TENANT to fulfill (or be diligently pursuing such fulfillment if such cannot be reasonably done in thirty (30) days) any of the other covenants, provisions, agreements or obligations under this Lease; or in the event the LESSE shall become insolvent or shall be adjudged bankrupt, or shall make an assignment for the benefit of creditors, or if a receiver shall be appointed for the TENANT, or if the interest of the TENANT in said premises shall be sold or placed for sale under execution or other legal process, then the LANDLORD may at its option, terminate this Lease. In the event of such termination, the balance of the term shall be forfeited and the LANDLORD shall be entitled to immediate possession of the Leased Premises and the TENANT shall be liable for all damages occurring by reason of its failure to comply with the terms hereof, including Rent. In case of Default by the TENANT and the LANDLORD does not elect to terminate this Lease, then the LANDLORD shall have the right to enter upon the Leased Premises and re-let the Leased Premises for the remainder of the term, in which case such rental shall be applied against the amount due and owing by TENANT under this Lease. In the event of a breach by the LANDLORD, then TENANT has the option to terminate this Lease providing that the breach is not cured within thirty (30) days from written notice of the breach by TENANT.

If TENANT shall fail, other than as a result of damage or fire or other casualty or in connection with remodeling the Leased Premises, to continuously and uninterruptedly, use, occupy, operate, or conduct TENANT'S business in the Leased Premises in accordance with normal business practices, such failure shall not be considered to be a Default under this Lease, but shall entitle LANDLORD to give notice to TENANT in the same manner as if a Default had occurred, and if TENANT shall not have resumed continuous operation within sixty (60) days following the date of such notice, LANDLORD shall be entitled to terminate this Lease in accordance with this Paragraph, TENANT shall surrender the Leased Premises and shall pay all Rent and other charges to the date of termination, but shall not be liable for Rent or other charges after such date.

ARTICLE 14 – EMINENT DOMAIN OR CONDEMNATION ACTION

In the event all the Leased Premises shall be taken under the right of eminent domain by any authority having the right of condemnation, or if a portion of the Leased Premises is so condemned as will prevent the practical use of the Leased Premises for TENANT'S purposes, this Lease and all obligations hereunder shall terminate on the date title vests, pursuant to such proceeding. If such taking does not prevent the practical use of the Leased Premises for the purpose of the TENANT, then this Lease shall continue in full force and effect and the Rent shall abate proportionately and such other adjustments shall be made as shall be just and equitable. In the event eminent domain or condemnation action is commenced involving the Leased Premises, LANDLORD and TENANT shall have their respective claims against the condemning authority for damages.

ARTICLE 15 – NOTICE

Any notice required to be given to TENANT shall be given to TENANT as follows: The City of Wichita – Property Management, 455 N. Main, Attn: Real Estate Administrator , Wichita, Kansas, 67202 or at such other place as TENANT may designate in writing. Any notice required to be given to LANDLORD shall be given at 151 N. Rock Island, Wichita, Kansas 67202, or at such other place as LANDLORD may designate in writing. Notices shall be deemed to be given when deposited in the United States mail, postage prepaid, certified mail, return receipt requested or hand delivered.

ARTICLE 16 – WAIVER

Any failure by the LANDLORD to declare a forfeiture or termination of the Lease by reason of TENANT'S Default hereunder shall not be considered as waiver of its right thereafter to declare a forfeiture or termination for any other like or succeeding Default.

ARTICLE 17 – HOLDING OVER

In the event TENANT continues to occupy the Leased Premises after the last day of the terms hereby created, or after the last day of any extension of said term, and LANDLORD elects to accept Rent thereafter, a tenancy from month to month only shall be created and not for any longer period, but subject to all other provisions of this Lease (including any renewal options). Base Rent for the hold over period shall be 1.5 times the Base Rent of the previous term. In the event LANDLORD does not accept the TENANT'S tender of Rent with respect to any hold over period or otherwise expressly consent in writing to such hold over, TENANT shall be liable for all damages incurred by LANDLORD as a result of such hold over. Nothing in this Article 17 shall be construed as consent for TENANT to retain possession of the Leased Premises beyond the term hereof.

ARTICLE 18 – SURRENDER AT TERMINATION

Upon expiration of this Lease for any reason, whether by reason of expiration of the term hereof, termination at TENANT'S option, or cancellation for Default or otherwise, TENANT shall and hereby covenants and agrees forthwith peaceably to surrender and deliver up possession of the Leased Premises to LANDLORD broom cleaned and in as good condition and repair as the same were in at inception of this Lease, normal wear and tear excepted, including, but not limited to, the obligation to repair any and all damages caused by TENANT'S removal of any trade fixtures or equipment installed by TENANT during the term hereof. All obligations of either LANDLORD or TENANT hereunder not fully performed as of the termination or expiration of the Lease shall survive such termination or expiration.

ARTICLE 19 – ENTIRETY OF AGREEMENT

This instrument incorporates all of the obligations, agreements, and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the property covered by this Lease Agreement.

ARTICLE 20 – BINDING EFFECT

This Lease shall be to the benefit of and be binding on the parties hereto, their respective heirs, successors, personal representatives and assigns.

ARTICLE 21 – COVENANT OF QUIET ENJOYMENT AND USE

LANDLORD agrees that, if the Rent is being paid in the manner and at the time prescribed and the covenants and obligations of TENANT being all and singular kept, fulfilled and performed, TENANT shall lawfully and peaceably have, hold, possess, use and occupy and enjoy the Leased Premises so long as this Lease remains in force, without hindrance, disturbance or molestation from LANDLORD and tenants, subject to the specific provisions of this Lease.

ARTICLE 22 – SUBORDINATION; ATTORNMENT

TENANT hereby subordinates this Lease and its right hereunder to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing now or hereafter in force against the Building and Common Area, which subordination shall be in a manner satisfactory to the mortgagor. Such mortgages, security interest and similar interests shall be superior to this Lease. This paragraph shall be self operative, however, TENANT shall execute and deliver to LANDLORD within five (5) days such further subordination instrument as LANDLORD'S lender shall request. Notwithstanding the foregoing, any such mortgage holder having a mortgage superior to this Lease may at anytime subordinate its mortgage to this Lease, without TENANT'S consent, by notice given in writing to TENANT. As used herein the term "mortgage" shall be deemed to include mortgages, security agreements and any other encumbrances. LANDLORD shall endeavor to obtain for the benefit of TENANT a nondisturbance agreement from the holder of any mortgage on the Building or Common Area whose lien is superior to agreement from the holder of any mortgage on the Building or Common Area whose lien is superior to this Lease or TENANT'S interest under this Lease. If any person or entity shall succeed to all or part of LANDLORD'S interest in the Property, whether by purchase, foreclosure, deed in lieu of foreclosure, or otherwise, and, if so requested or required by such successor-in-interest, TENANT shall attorn to such successor-in-interest and shall execute such agreement and confirmation of such attornment as such successor-in-interest shall reasonably request.

ARTICLE 23 – ESTOPPEL CERTIFICATE

TENANT agrees, from time to time, within 10 days after the request of LANDLORD, to execute and deliver to LANDLORD, or LANDLORD'S designee, an estoppel certificate requested by LANDLORD, stating that this Lease is in full force and effect, the date to which Rent has been paid, that LANDLORD is not in Default hereunder (or specifying in detail the nature of LANDLORD'S Default), the termination date of this Lease and such other matters pertaining to this Lease as may be reasonably requested by LANDLORD, to the extent such other matters would not in TENANT'S reasonable judgment prejudice its right under this Lease.

ARTICLE 24 – RULES AND REGULATIONS

TENANT shall, at all times during the Lease term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by LANDLORD covering use of the Leased Premises and Common Area. The current rules and regulations are attached hereto as Exhibit "B." In the event of any conflict between said rules and regulations and other provisions of this Lease, the other terms and provisions of this Lease shall control. LANDLORD shall at all times have the right, after notice to TENANT, to change such rules of the Building and amend them in such reasonable manner as LANDLORD deems advisable for the safety, care and cleanliness of the Building and the preservation of good order therein. All such rules and changes therein shall be provided in writing to TENANT and shall be carried out and observed by TENANT and TENANT'S agents, employees, invitees and licensees.

ARTICLE 25 – SECURITY SERVICE

TENANT may hire a security service to patrol or install a security system in the Leased Premises at TENANT'S cost. LANDLORD will not provide any security services for the Building.

ARTICLE 26 - FORCE MAJEURE

In performance of its obligations under this Lease, LANDLORD shall not be held responsible for delays in the performance of its obligations hereunder when caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, delays by TENANT in the submission of plans, drawings specifications or approvals and other causes beyond the reasonable control of LANDLORD.

ARTICLE 27– SEVERABILITY

If any clause or provision of the Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

ARTICLE 28 – LANDLORD'S RESERVED RIGHTS

LANDLORD reserves the following rights:

To change the name or street address of the Building without notice or liability to TENANT;

To constantly have pass keys to the Leased Premises;

At all times to have access to and to enter upon the Leased Premises and take any and all such measures, including inspections, repairs, alterations, additions and improvements to the Leased Premises or to the Building, as may be necessary or desirable for the comfort, safety, protection or preservation of the Leased Premises or the Building or the LANDLORD'S interests;

Upon reasonable prior notice to TENANT during the last six months of the term, to exhibit the Leased Premises to prospective tenants and to any prospective purchaser, mortgagee, or assignee of any mortgage on the Property and to others having a legitimate interest at any time during the term. Said showing of space shall not be deemed to be an interruption of the quiet enjoyment of the Leased Premises;

LANDLORD and LANDLORD'S agent shall have the following rights in and about the Leased Premises: (i) to enter the Leased Premises at all times to examine the Leased Premises or for any of the purposes set forth in this Article, or for the purpose of performing any obligation of LANDLORD under this Lease or exercising any right or remedy reserved to LANDLORD in this Lease, and if TENANT or TENANT'S agents shall not be personally present or shall not open and permit an entry in the Leased Premises at any time when such entry shall be necessary or permissible, to use a master key; (ii) to erect, install, use and maintain pipes, ducts and conduits in and through the Leased Premises; (iii) to exhibit the Leased Premises to others; (iv) to make such decorations, repairs, alterations, improvements or additions, or to perform such maintenance as LANDLORD may deem necessary or desirable; (v) to take all materials into and upon the Leased Premises that may be required in connection with any such repairs, alterations, improvements, additions or maintenance;

and (vi) to make such modifications or replacements (for example, the installation on the inside of the windows of a film and/or other energy saving devices) to reduce the usage of energy in the Building; and all parts (except surfaces facing the interior of the Leased Premises) of all walls, windows and doors bounding the Leased Premises (including exterior Building walls, core corridor walls, doors and entrances), the roof adjacent to the Leased Premises, all space in or adjacent to the Leased Premises used for shafts, stacks, stairways, chutes, pipes, conduits, ducts, fan rooms, heating, air-conditioning, plumbing, electrical and other mechanical facilities, service closets and other Building facilities, and the use thereof, as well as access thereto through the Leased Premises for the purposes of operation, maintenance, alteration and repair of the Building are hereby reserved to LANDLORD.

ARTICLE 29 – TRANSFER BY LANDLORD

LANDLORD may and shall have the right to transfer, mortgage, assign, pledge and convey, in whole or in part, the Building, this Lease, all rights (existing and to exist), Rents and amounts payable to it hereunder, and nothing herein contained shall limit or restrict any such rights. Upon assignment of the Lease by LANDLORD, LANDLORD shall be relieved automatically of any liability or responsibility under this Lease and to TENANT for all periods after the time and date of such assignment.

ARTICLE 30 – LIMITATION OF RIGHT OF RECOVERY AGAINST LANDLORD

TENANT agrees and acknowledges that the liability of LANDLORD under this Lease shall be limited to its interest in the Leased Premises, and any judgments rendered against LANDLORD shall be satisfied solely out of the proceeds of sale of its interest in the Leased Premises. No personal judgment shall lie against LANDLORD, and any judgment so rendered shall not give rise to any right of execution or levy against LANDLORD'S assets, other than as to the Leased Premises. The forgoing provisions are not intended to relieve LANDLORD from performance of its obligations, but only to limit the personal liability of LANDLORD in case of recovery of a judgment against LANDLORD.

ARTICLE 31 – SURVIVAL OBLIGATIONS

All obligations of TENANT hereunder not fully performed as of the expiration or earlier termination of the Lease shall survive such expiration or earlier termination, including, without limitation, all payment obligations hereunder.

Hereunder for the year in which the Lease expires or terminates all such amounts shall be used and held by LANDLORD for payment of such obligations of TENANT hereunder with TENANT being liable for any additional costs therefore upon demand by LANDLORD or with any excess to be returned to TENANT after such obligations have been determined and satisfied, as the case may be.

This lease contains 9 pages counting this one, plus

Exhibit A: Lease Premises Location
Exhibit B: Rules and Regulations

IN WITNESS WHEREOF, LANDLORD AND TENANT have executed and delivered this Lease effective on the day and year first written above.

LANDLORD
Cinema Old Town, LLC

By _____
David C. Burk
Manager

TENANT
The City of Wichita

By _____
Carl Brewer
Mayor

ATTEST:

By: _____
Karen Sublett
City Clerk

Approved as to Form:

By: _____
Gary E. Rebenstorf, Director of Law

Exhibit A: LEASED PREMISES LOCATION

The plan shown on this page is preliminary and may be modified at any time, in one or more respects, without the TENANT'S consent at the option of the LANDLORD, but the size, dimensions, and relative location of the Leased Premises shall not be altered. The Leased Premises are outlined in red.

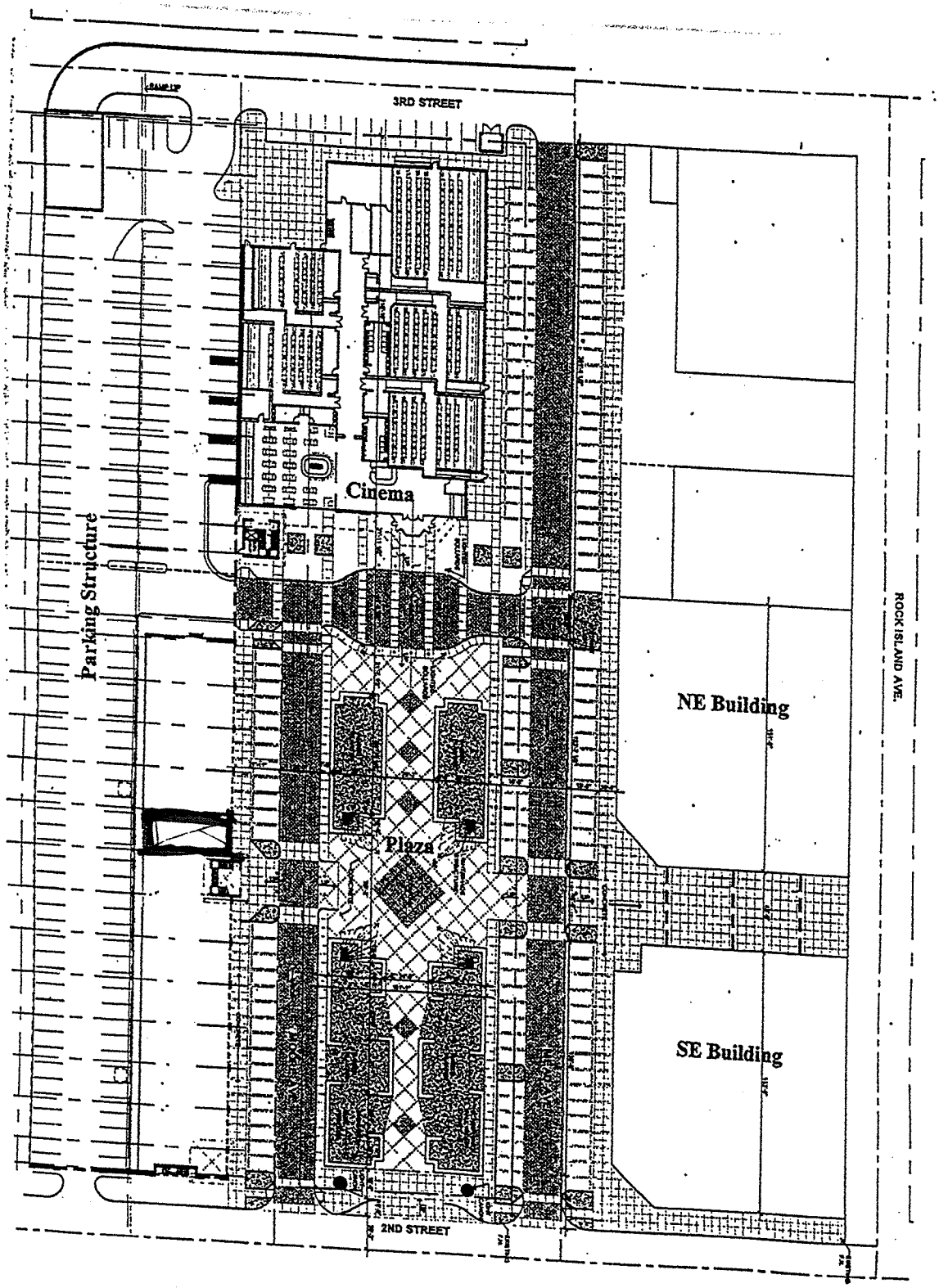


Exhibit B: RULES AND REGULATIONS

TENANT agrees as follows:

1. No loud speakers, televisions, phonographs, radios or other devices, except for security alarms, shall be used in a manner so as to be heard or seen outside of the Leased Premises without the prior written consent of LANDLORD. No aerial shall be erected on the roof or exterior walls of the Leased Premises or on the grounds, without in each instance, the written consent of LANDLORD. Any aerial so installed without such written consent shall be subject to removal without notice at any time.

2. TENANT shall keep the "Leased Premises" at a minimum 60 degrees F. to prevent freezing of water in pipes and fixtures.

3. The plumbing facilities in the "Common Area" shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage or damage resulting from a violation of this provision shall be borne by TENANT who shall, or whose employees, agents or invitees shall have caused it.

4. TENANT shall not burn any trash or garbage of any kind in or about the Leased Premises: TENANT shall use only the trash area designated by the LANDLORD for the disposal of its trash.

5. TENANT shall not make noises, cause disturbances, or create odors, or create or maintain any other nuisance which may be offensive to other tenants of the Property or their officers, employees, agents, servants, customers or invitees.

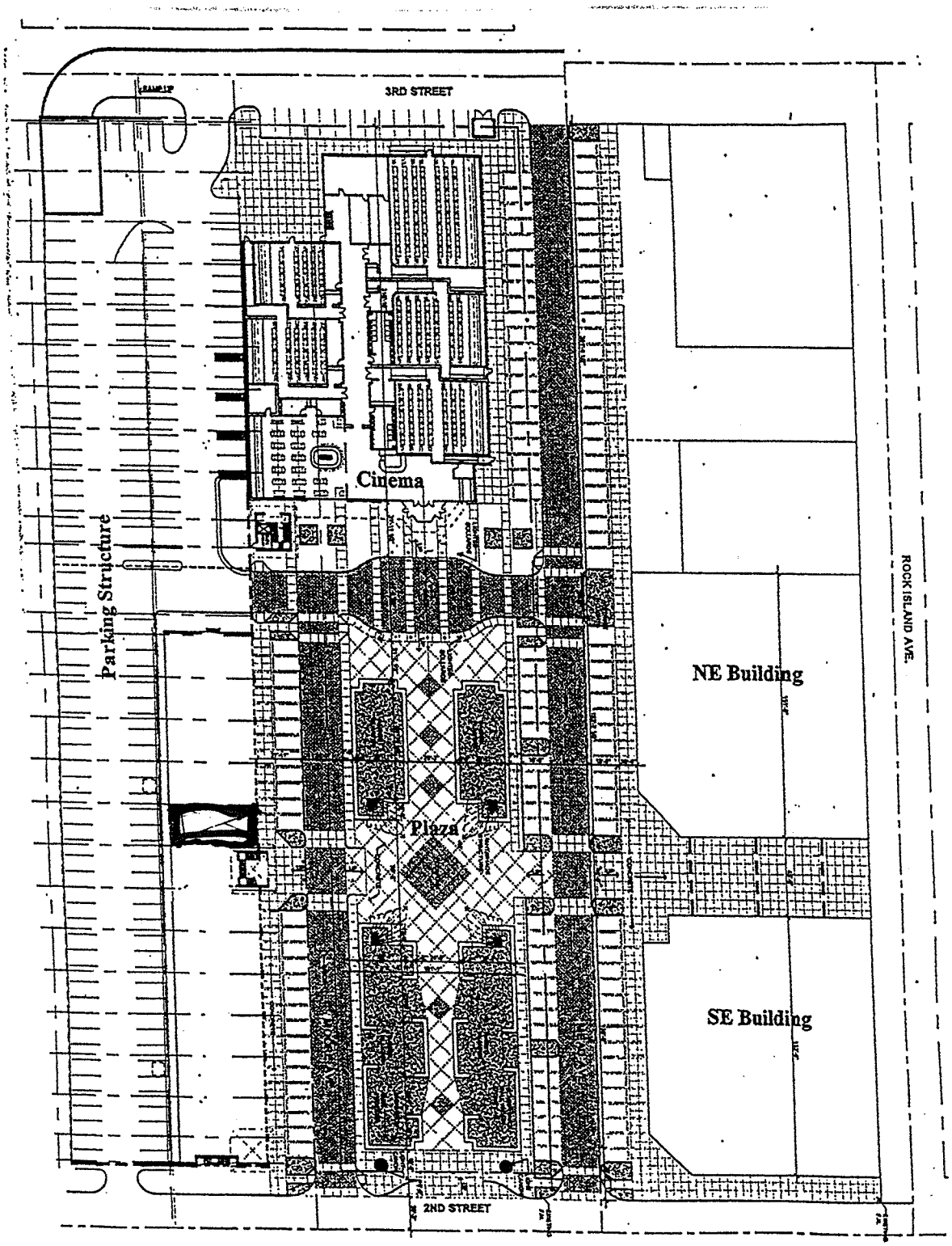
6. TENANT shall have employee's park in areas determined by the LANDLORD (but shall not be more than a city block away).

7. There is to be no smoking in the Building or Common Area except in designated smoking areas, if any, within the Leased Premises approved by LANDLORD.

8. TENANT shall not do or permit to be done anything which will invalidate or increase the cost of insurance on the Leased Premises, or will obstruct or interfere with the rights of other tenants in the Building.

Exhibit A: LEASED PREMISES LOCATION

The plan shown on this page is preliminary and may be modified at any time, in one or more Respects, without the TENANT'S consent at the option of the LANDLORD, but the size, Dimensions and relative location of the Leased Premises shall not be altered. The Leased Premises are outlined in red.



Agenda Report No. XII-23.

CITY OF WICHITA
City Council Meeting
October 21, 2008

TO: Mayor and City Council Members

SUBJECT: Lease of 321 North Mead for Wichita Police Department (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the lease.

Background: On March 16, 2004 City Council approved a lease at 321 North Mead in the Old Town Cinema complex for the Patrol South Officers. The leased space has 1,300 square feet. The location is part of the Old Town Cinemas parking structure providing adequate and convenient parking as well as quick and easy access to the core area for officers. The lease was rent free and had a term of three years. This lease expired April 30, 2007. The landlord has agreed to extend the lease for another five years, through April 30, 2012 at market rated rents.

Analysis: The proposed lease calls for rent $18,200 per year payable in monthly installments. This equates to $1,516.67 per month or $14.00 per square foot. In addition, the tenant is required to pay its pro-rata share of operating expenses. These are currently $5.86 per square foot ($634.83 per month) or $7,617.96 annually. These will be adjusted annually to reflect actual costs.

Financial Considerations: Rent and operating costs ($25,818) will be paid for out of the Police Department operating budget.

Goal Impact: This lease promotes a safe and secure community.

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

Recommendation/Action: It is recommended that the City Council approve the lease, authorize necessary signatures and approve budget adjustments as required.

Attachments: Premises map and lease agreement.

Agenda Report No. XII-24.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: North Woodland Park Improvements (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the Amended Bonding Resolution.

Background: The 2007 Park Capital Improvement Program (CIP) funding for Woodland Park improvements was approved by City Council on September 11, 2007. Planned improvements included basketball court renovations.

Analysis: The amended Bonding Resolution is required as the project list was broadened to include additional items after discussions with the neighborhood associations surrounding the park. There is no change in the total dollar amount.

Financial Considerations: The 2007 Park CIP includes $190,000 in funding for improvements to Woodland Park. The funding source is general obligation bonds.

Goal Impact: The park improvements and renovation will satisfy citizens with Quality of Life and help retain citizens in the community. The investment will also help maintain and optimize public facilities and assets.

Legal Considerations: The Law Department has approved the Amended Bonding Resolution as to form.

Recommendation/Action: It is recommended that the City Council approve the Amended Bonding Resolution and authorize all necessary signatures.

Attachment: Amended Bonding Resolution

OCA785116
397-225

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-499

A RESOLUTION AMENDING RESOLUTION NO. 07-508, AND AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE IMPROVEMENT AND RENOVATION OF AMENITIES IN NORTH WOODLAND PARK.

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

SECTION 1: That the description of public improvements identified in Section 1 of Resolution NO. 07-508, adopted September 11, 2007 is hereby amended to read as follows:

Labor, material, and equipment for the demolition, development and purchase of new and/or existing park amenities such as drinking fountains, benches, picnic tables and pads, pedestrian path, ADA ramp conversions, basketball and horseshoe court, volleyball standards, lighting and playground rubber resurfacing enhancements in Woodland Park.

SECTION 2: That Section 2 of Resolution No. NO. 07-508 is hereby amended to provide the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at $190,000, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

Agenda Report No. XII-25.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: City of Wichita Special Liquor Tax Grant

INITIATED BY: Police Department

AGENDA: Consent

Recommendation: Approve the application.

Background: The City of Wichita Police Department received notification that they are eligible to apply for 2009 City of Wichita Special Liquor Tax funds. That proposal was due on September 18, 2008. This funding will be used to establish a "Superstars" program within 14 targeted schools. Students will be chosen from each school to provide peer-to-peer leadership and positive influence on the topics of drug and alcohol prevention, through the training and education provided by the Wichita Police – USD 259 School Liaison Program.

Analysis: In 1978 the Wichita Police Department began providing classroom presentations through the School Liaison program. Officers assigned to School Liaison are certified as D.A.R.E. (Drug Abuse Resistance Education) and G.R.E.A.T. (Gang Resistance Education and Training) Officers. The unit includes a National Highway Traffic Safety Administration in Standardized Field Sobriety Testing instructor (one of only sixteen Drug Recognition Experts Instructors in the State), and a bi-lingual officer who frequently provides translation and services to the Hispanic segment of our community. This proposal focuses on 14 attendance centers determined to have the most need for drug and alcohol prevention services, and establishes a "Superstars" program within each of the targeted schools. Students chosen from each school will provide peer-to-peer leadership and positive influence on the topics of drug and alcohol prevention, through the training and education provided by the School Liaison Unit. "Superstar" student leadership teams will promote programs and activities at their own school sites, supported by a school-based adult sponsor and their School Liaison Officer.

Financial Considerations: The City of Wichita is requesting funding for $24,100.00 in Special Liquor Tax Funding. Program management and expertise of personnel from The Office of Safe and Drug-Free Schools, Wichita Public Schools and The Wichita Police Department's School Resource Officer Program will serve as the Department's in-kind fund match.

Goal Impact: Safe and Secure Community is affected by this grant.

Legal Considerations: If the grant is funded, the Department of Law will review the grant agreement prior to formal acceptance.

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

Program Proposal
regarding
Special Liquor Tax Programs

Proposer: On behalf of the Police-School Liaison Office
Capt. Randal B. Landen
Bureau Commander
Wichita Police Department
455 N. Main - 4th Floor
Wichita, Kansas 67202
Phone: (316) 268-4660
E-Mail: RLanden@wichita.gov

Contact Person: Michele Zahner
Police-School Liaison Office
Program Supervisor
455 N. Main – 4th Floor
Wichita, Kansas 67202
Phone: (316) 268-4207
E-Mail: MZahner@wichita.gov

Legal Status: Government Agency – Law Enforcement

SUPERSTARS STUDENT PREVENTION EDUCATION PROGRAM

Scope of Work

The commitment between the Wichita Police Department and Wichita Public Schools spans over thirty years, when in 1978 the Wichita Police Department began providing police officers for classroom presentations and special school programs through the establishment of the School Liaison program. The Police-School Liaison Unit, which is part of the Administrative-Services Bureau of The Wichita Police Department, is comprised of four commissioned Wichita Police Officers, as well as a full-time educator assigned by the Wichita Public Schools that serves as the program supervisor. This supervisor is a degreed, highly trained professional with experience in teaching and in the prevention field, having several years experience as a Drug and Violence Prevention Specialist. The four veteran officers have each gone through extensive training to be certified as D.A.R.E. (Drug Abuse Resistance Education) and G.R.E.A.T. (Gang Resistance Education and Training) Officers. As well, each is involved in numerous trainings and in-servicing throughout the year to keep them apprised of the most current and up-to-date research and facts regarding substance abuse education and prevention. Among the staff there is also a Kansas Certified Law Enforcement Instructor, having been certified through the National Highway Traffic Safety Administration in Standardized Field Sobriety Testing and as one of only sixteen Drug Recognition Experts Instructors in the State. Additionally, this unit has a Spanish speaking bi-lingual officer, who frequently provides extra support in translation and service to the Hispanic segment of our community. The School Liaison Unit operates out of the 4th floor of City Hall.
The Wichita Public Schools (USD 259) is the largest district in the city, as well as in the four-state Federal Region VII consisting of Kansas, Missouri, Nebraska and Iowa. Wichita Public Schools deliver

services to 48,705 students, 66% of which are considered economically disadvantaged, in grades K-12 at 90 elementary, secondary and special program sites. Wichita Public Schools has a student body rich in diversity, serving 39% Caucasian, 23% Hispanic, 21% African-American, 9% Multi-Racial, 5% Asian and 3% American Indian. Our proposal will focus on those attendance centers that we have determined to have the most need for drug and alcohol prevention services. Specifically, our target will be the following schools, allowing us to reach nearly 6500 K-5th grade students:

Isley Traditional Magnet	2500 E. 18th, 67214
Irving Elementary	1642 N. Market, 67214
Horace Mann Dual Language Magnet	1243 N. Market, 67214
Woodland Health/Wellness Magnet	1705 Salina, 67203
Washington Accelerated Learning	424 N. Pennsylvania, 67214
Spaght Accelerated Magnet Academy	2316 E. 10th, 67214
L'Ouverture Tech Magnet	1539 Ohio, 67214
Cloud Elementary	1212 W. 25th Street North, 67204
Adams Elementary	1002 N. Oliver, 67208
Harris Communications Magnet	706 N. Armour, 67206
Pleasant Valley Elementary	2000 W. 29th St. N., 67204
Park Elementary	1025 N. Main, 67203
Mueller Elementary	2821 E. 24th St. N., 67219
Gordon Parks Academy	2201 E. 25th St. N., 67219

Within each site, we will introduce our program through the school's 4th grade students (approximately 850 students), as we would like to reinforce and build upon the continuity of prevention education with them and their families, even earlier than the 5th grade year when we provide D.A.R.E. programming.

For over twenty years, researchers at the University of Washington (J. David Hawkins, PhD and Richard F. Catalano, PhD) have been examining what contributes to or protects against a child's developing problem behaviors. Through years of collecting and analyzing evidence, they found that there are conditions that contribute to, or safeguard against, substance abuse, juvenile delinquency and other problem behaviors such as gang involvement. They called these conditions risk and protective factors. Hawkins and his colleagues found that the most promising route to effective strategies for the prevention of adolescent alcohol and other drug problems is through a risk-focused approach. These approaches include early childhood and family support programs; programs for parents that focus on children's behavior problems; social competence skills training, including social influences resistance training and normative change efforts; promotion of academic achievement; and comprehensive risk-focused programs. Research also tells us that unless a prevention program is integrated into the system, or the entire school building (from students up to community members, for example) the message lacks the frequency and on-going dialogue that is necessary for a sustainable long-term impact.

Knowing this, our proposal will work to establish a "Superstars" program within each of the targeted schools. Students will be chosen from each school to provide peer-to-peer leadership and positive

influence on the topics of drug and alcohol prevention, through the training and education that we will provide to them. The "Superstar" student leadership teams will be invited to participate in a one-day conference, giving them the tools necessary to take what they learn and, along with the support of a school-based adult sponsor and their School Liaison Officer, continue the program and activities at their own school sites. This reinforces the research that indicates that ongoing discussion and consensus building by the entire school community, will create the greatest positive outcomes. The conference will include training and activities in the following areas:

- Drug and Alcohol Prevention and Education
- Alternatives to substance abuse and use
- Empowering youth with the knowledge to make the right decisions for themselves and their future
- Teambuilding

Additional support will be provided to the Superstars and their schools throughout the year by a variety of resources and mediums, including:

- A monthly message/theme that they can promote in their building and include in the parent newsletters, through handouts, posters and classroom materials to spark dialogue and interest in making a positive decisions (drug and alcohol abuse, tobacco, violence prevention, staying in school, being a good citizen, being a leader, etc.),
- Organizational meetings with their assigned School Liaison Officer, School Resource Officer and/or Community Policing Officer,
- Materials for distribution at Open Houses and at Parent/Teacher Conferences, and
- Evening educational meetings for parents and families, and positive reinforcements articles for students. All materials and presentations will be translated and available in Spanish and Vietnamese when possible and appropriate.

Our proposal will include the support of resources, research and the expertise of personnel from The Office of Safe and Drug-Free Schools, Wichita Public Schools and The Wichita Police Department's School Resource Officer Program.

An additional highlight of our program will be to include a community visit by the inspirational and "fun" speaker known as, "Retro Bill." Attached is a brief about this presenter, who is among other things, the official D.A.R.E. Safety Buddy. WPD D.A.R.E. officers were fortunate enough to hear "Retro Bill" at the recent International D.A.R.E. Conference. He truly was inspirational and moving, not only to students but adults as well. His message is one that seeks to encourage, inspire and bring to "light" the passion within all children to be safe, healthy and drug-free.

<u>Outcome Measurements</u>

- The Communities That Care Survey – to measure the attitudes and for a reduction in the age that students first try or experiment with alcohol or other drugs.
- End of the Year Survey – administered to parents, to measure their use and comfort with the information shared throughout the year.

- Wichita Public Schools – Year End Suspension Percentages by Building Report – to measure the correlation between problems in school and the early onset of substance abuse.
- School Liaison Unit Database – to measure use and frequency of student meetings, monthly prevention message, teacher and administrator surveys.
- Superstars Conference Evaluations.
- Retro Bill Presentation Evaluations.

Financial Management

Funds would be managed by the Administrative-Services Bureau of the Wichita Police Department.

Personnel	Officers and program management will be our in-kind match of funds	
Incentive Items for targeted at-risk students participating in the program	6500 students x .50 per student = 3250	$3250
Printing costs for program brochures, parent letters, student activity sheets & lessons, posters, bookmarks	Utilizing the Wichita Public School District's Print Shop when possible = 3000	$3000
General curriculum and office supplies for pencils, folders, storage tubs, markers, posters, paper, inks, etc.		$500
Refreshment supplies for conference, parent night, family night, student leadership team meetings		$1200
Superstars Student Leader T-shirts	850 students x 6.00 per shirt = 5100	$5100
Student Leader Notebooks	850 students x 3.00 per notebook = 2550	$2550
Site Rental for Conference		$400
Retro Bill Presentations	3 days @ 12 sites	$6000
Commercial Prevention Materials – videos, ribbons, posters, banners for participating school sites	14 sites x 150.00 =2100	$2100
Total		$24,100

Agenda Report No. XII-26.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Police Helicopter Repairs (All Districts)

INITIATED BY: Wichita Police Department

AGENDA: Consent

Recommendation: Approve the sole source purchase from McDonald Douglas Helicopters Inc. (MDHI), and the notification of a purchase due to public exigency.

Background: The Police Department utilizes a MDHI model 500E helicopter for aerial patrols and emergency support for public safety services. Aerial patrols effectively reduce crime, reduce response time, and limit police pursuits. Other important functions include searching large areas for lost children or victims of crime and assisting patrol officers in identifying and apprehending suspects.

Analysis: The helicopter requires maintenance based on FAA maintenance schedules. Mandated replacement of the transmission unit was expected to occur later in 2009. However, during a routine inspection last week, the transmission was found to have mechanical damage. Repairing the transmission, only to replace it next year due to the FAA mandated maintenance schedule was not economically feasible. Since the absence of the helicopter would diminish public safety services, the City Manager approved the transmission replacement as a public exigency. In addition, MDHI, as the original equipment manufacturer of the helicopter, was selected as a sole source vendor. The cost of the repairs is not expected to exceed $50,500.

Financial Considerations: The helicopter transmission repairs are budgeted.

Goal Impact: Safe and Secure Community is affected by this request.

Legal Considerations: City Code section 2.64.020 allows sole source procurement when items are available only from one vendor, such as the original manufacturer. The same code section also allows the City Manager to approve purchases as a public exigency.

Recommendations/Actions: It is recommended that the City Council approve public exigency and the sole source purchase from MDHI for the replacement helicopter transmission.

Agenda Report No. XII-27.

City of Wichita
City Council Meeting
October 21, 2008

TO: Mayor and City Council

SUBJECT: Parking Lots and Entry Drives (Districts I and IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the Bonding Resolutions.

Background: On December 19, 2006, the Bonding Resolution for the 2007 Capital Improvement Program (CIP) was approved for Parking Lots, Signage and Entry Drives improvements. On March 4, 2008, City Council rescinded the original Bonding Resolution and approved this funding for the Westside Athletic Field parking lot paving and reconstruction. The contract was awarded to Cornejo Construction and is currently under construction. The parking lot project is now adequately funded with construction expected to be completed this fall.

Analysis: On September 19th, 2008, the City received bids for the K96 lake road and parking lot which subsequently connects to the new Animal Control Facility located at K96 and North Hillside. Bids received were short of the engineer's estimate by over $80,000. When the bid exceeds the bonded amount, staff is then required to amend the project for each occurrence.

The attached Amended Bonding Resolution reallocates $40,000 of available funding from the Westside Athletic Field parking lot to the K96 Lake road and parking lot and the remaining $40,000 will come from the 2008-2009 Parking Lots and Entry Drives CIP.

Financial Considerations: The 2007 Park CIP includes $450,000 for parking lots and entry drive improvements. The funding source is general obligation bonds.

Goal Impact: New construction of an entry road and parking at the existing K96 Fishing Lake will improve the Quality of Life and help to increase and sustain neighborhood vibrancy and community satisfaction.

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

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

Attachments:

1. Amended Bonding Resolution – Westside Athletic Field parking lot
2. Bonding Resolution - K96 lake road and parking lot

397-216/785097

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-500

A RESOLUTION AMENDING RESOLUTION NO. 08-130, AND AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS.

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

SECTION 1: That the description of public improvements identified in Section 1 of Resolution No. 08-130, adopted March 7, 2008 is hereby amended to read as follows:

The labor, material, and equipment for the construction or repair of entry drives and parking lots at Westside Athletic Field.

SECTION 2: That Section 2 of Resolution No. No. 08-130 is hereby amended to provide the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at $410,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

785131

First Published in the Wichita Eagle on October 24, 2008

RESOLUTION NO. 08-502

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS AT K96 LAKE.

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:

Labor, Material, and Equipment for the repair, paving and reconstruction of entry drives and parking lots at K96 Lake.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $40,000.00 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21st day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on _____

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS AT K96 LAKE.

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:

Labor, Material, and Equipment for the repair, paving and reconstruction of entry drives and parking lots at K96 Lake.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $40,000.00 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21 day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on _____

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION NO. 08-130, AND AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE REPAIR AND CONSTRUCTION OF ENTRY DRIVES AND PARKING LOTS.

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

SECTION 1: That the description of public improvements identified in Section 1 of Resolution No. 08-130, adopted March 7, 2008 is hereby amended to read as follows:

The labor, material, and equipment for the construction or repair of entry drives and parking lots at Westside Athletic Field.

SECTION 2: That Section 2 of Resolution No. No. 08-130 is hereby amended to provide the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at $410,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by 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.

ADOPTED at Wichita, Kansas, this 21 day of October, 2008.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

Second Reading Ordinances for October 21, 2008: (First Read October 7, 2008)

Public Hearing on Proposed Assessments for Twenty Seven (27) Water Projects, Twenty Five (25) Sewer Projects, and Thirteen (13)Storm Sewer Projects in February 2009 Bond Sale Series 796.

Water:

(480-845/448-89546)

ORDINANCE NO. 48-001

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89546, TO SERVE WEST RIDGE COMMERICAL ADDITION, (East of 119th St. West, South of 29th St. North).

(480-025/448-89889)

ORDINANCE NO. 48-002

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89889, TO SERVE RIVENDALE ADDITION & PARCELS 'A' THROUGH 'F', (North of 55th Street South, West of Hydraulic).

(480-024/448-89959)

ORDINANCE NO. 48-003

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89959, TO SERVE TURKEY CREEK 2ND ADDITION, (North of Pawnee, West of 119th Street West).

(480-043/448-89964)

ORDINANCE NO. 48-004

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89964, TO SERVE HAMPTON SQUARE ADDITION, (West of Maize, North of 37th Street North).

(480-026/448-89974)

ORDINANCE NO. 48-005

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89974, TO SERVE PRAIRIE POINTE & PRAIRIE POINTE 2ND ADDITIONS, (North of 37th Street North, West of Maize).

(480-054/448-89979)

ORDINANCE NO. 48-006

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-89979, TO SERVE SHADY RIDGE ADDITION, (South of Central, East of Ridge).

(480-048/448-90020)

ORDINANCE NO. 48-007

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90020, TO SERVE WATERFRONT 4TH ADDITION, (North of 13th, East of Webb).

(480-988/448-90080)

ORDINANCE NO. 48-008

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90080, TO SERVE UNPLATTED TRACTS "A" & "B", & CLIFTON COVE ADDITION, (Along Clifton, from 63rd St. South to 55th St. South).

(480-058/448-90107)

ORDINANCE NO. 48-009

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90107, TO SERVE FALCON FALLS 2ND ADDITION, (North of 45th Street North, West of Hillside).

(480-016/448-90116)

ORDINANCE NO. 48-010

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90116, TO SERVE LILLIE 2ND ADDITION, (South of Maple, West of Maize).

(480-045/448-90184)

ORDINANCE NO. 48-011

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90184, TO SERVE BLACKSTONE ADDITION, (East of 151st Street West, North of 13th).

(480-008/448-90205)

ORDINANCE NO. 48-013

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90205, TO SERVE BELLECHASE ADDITION, (East of 127th Street East, North of Harry).

(480-005/448-90222)

ORDINANCE NO. 48-014

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90222, TO SERVE SOUTH BROADWAY GARDENS & MIDLAND PARK ADDITIONS, (South of 55th Street South, East of Broadway).

(480-040/448-90225)

ORDINANCE NO. 48-015

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of

Water Distribution System No. 448-90225, TO SERVE AVALON PARK 3RD & 4TH ADDITIONS, (East of Tyler, North of 37th Street North).

(480-018/448-90230)

ORDINANCE NO. 48-016

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90230, TO SERVE SOUTHWEST PASSAGE & TURKEY CREEK 3RD ADDITIONS, UNPLATTED TRACTS A & B, (Along Pawnee, West of 119th Street West).

(480-019/448-90231)

ORDINANCE NO. 48-017

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90231, TO SERVE SOUTHWEST PASSAGE ADDITION, (South of Pawnee, West of 119th Street West).

(480-010/448-90235)

ORDINANCE NO. 48-018

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90235, TO SERVE SOUTH BROADWAY GARDENS ADDITION, (South of 55th Street South, East of Broadway).

(480-039/448-90238)

ORDINANCE NO. 48-019

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90238, TO SERVE SILVERTON ADDITION, (North of 13th Street North, West of 135th Street West).

(480-022/448-90242)

ORDINANCE NO. 48-020

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of

Water Distribution System No. 448-90242, TO SERVE NORTHGATE ADDITION, (North of 53rd Street North, West of Meridian).

(480-012/448-90247)

ORDINANCE NO. 48-021

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90247, TO SERVE FOX RIDGE & FOX RIDGE 2ND ADDITIONS, (North of 29th Street North, West of Tyler).

(480-015/448-90252)

ORDINANCE NO. 48-022

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90252, TO SERVE BRENTWOOD SOUTH ADDITION, (North of Pawnee, East of Webb).

(480-057/448-90271)

ORDINANCE NO. 48-023

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90271, TO SERVE TYLER'S LANDING 3RD ADDITION, (South of 37th Street North, East of Tyler).

(480-023/448-90272)

ORDINANCE NO. 48-024

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90272, TO SERVE PIER 37 ADDITION, (South of 37th Street North, West of Ridge).

(480-033/448-90282)

ORDINANCE NO. 48-025

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of

Water Distribution System No. 448-90282, TO SERVE WILLOW CREEK EAST ADDITION, (East of Greenwich, South of Harry).

(480-044/448-90301)

ORDINANCE NO. 48-026

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90301, TO SERVE GRAY'S 6TH ADDITION, (South of MacArthur, West of Hoover).

(480-046/448-90306)

ORDINANCE NO. 48-027

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90306, TO SERVE FAWN GROVE at SUNSET LAKES ADDITION, (South of Kellogg, West of Greenwich).

SEWER:

(480-944/468-83627)

ORDINANCE NO. 48-028

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 41, DISTRICT T, SANITARY SEWER NO. 12, (North of 26th Street North, West of Grove).

(480-697/468-83682)

ORDINANCE NO. 48-029

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of MAIN 15, SANITARY SEWER NO. 23, (61st St. N on the N, Arkansas Ave. on the E, 37th St. N on the S, & Meridian Avenue on the West).

(480-903/468-83715)

ORDINANCE NO. 48-030

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of

LATERAL 95, MAIN 1, SOUTHWEST INTERCEPTOR SEWER, (North of 55th Street South, West of Hydraulic).

(480-927/468-83826)

ORDINANCE NO. 48-031

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 4, MAIN 7, NORTHWEST INTERCEPTOR SEWER, (West of Maize, North of 37th Street North).

(480-936/468-83838)

ORDINANCE NO. 48-032

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 501, SOUTHWEST INTERCEPTOR SEWER, (South of Central, East of Ridge).

(480-837/468-83889)

ORDINANCE NO. 48-033

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of MAIN 4, NORTHWEST INTERCEPTOR SEWER, (South of 21st, East of 151st Street West).

(480-931/468-83919)

ORDINANCE NO. 48-034

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 49, MAIN 24, WAR INDUSTRIES SEWER, (North of 13th, East of Webb).

(480-859/468-84022)

ORDINANCE NO. 48-035

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LIFT STATION, MAIN 1, BOEING SANITARY SEWER, (South of 63rd Street South, West of Clifton).

(480-882/468-84127)

ORDINANCE NO. 48-036

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of MAIN 19, FOUR MILE CREEK SEWER, (North of 13th, West of 159th Street East).

(480-883/468-84206)

ORDINANCE NO. 48-038

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of MAIN 20, FOUR MILE CREEK SEWER, (North of 21st, West of 159th Street East).

(480-925/468-84216)

ORDINANCE NO. 48-039

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 26, MAIN 19, SOUTHWEST INTERCEPTOR SEWER, (East of Tyler, North of 37th Street North).

(480-897/468-84228)

ORDINANCE NO. 48-040

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 12, MAIN 6, COWSKIN INTERCEPTOR SEWER, (South of Pawnee, West of 119th Street West).

(480-921/468-84243)

ORDINANCE NO. 48-041

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 10, MAIN 4, NORTHWEST INTERCEPTOR SEWER, (North of 13th Street North, West of 135th Street West).

(480-901/468-84248)

ORDINANCE NO. 48-042

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 2, MAIN 15, SANITARY SEWER NO. 23, (North of 53rd Street North, West of Meridian).

(480-902/468-84303)

ORDINANCE NO. 48-043

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 518, SOUTHWEST INTERCEPTOR SEWER, (South of 37th Street North, West of Ridge).

(480-919/468-84304)

ORDINANCE NO. 48-044

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 9, MAIN 15, SANITARY SEWER NO. 23, (South of 53rd Street North, West of Meridian).

(480-909/468-84306)

ORDINANCE NO. 48-045

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 43, MAIN 15, SOUTHWEST INTERCEPTOR SEWER, (East of Ridge, South of 29th Street North).

(480-972/468-84313)

ORDINANCE NO. 48-046

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 519, MBF 1, (North of 48th Street South, West of Meridian).

(480-915/468-84332)

ORDINANCE NO. 48-047

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 15, MAIN 7, NORTHWEST INTERCEPTOR SEWER, (West of Maize, South of 37th Street North).

(480-916/468-84338)

ORDINANCE NO. 48-048

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 404, FOUR MILE CREEK SEWER, (East of Greenwich, South of Harry).

(480-918/468-84343)

ORDINANCE NO. 48-049

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 14, MAIN 4, NORTHWEST INTERCEPTOR SEWER, (North of 13th, West of 135th Street West).

(480-922/468-84345)

ORDINANCE NO. 48-050

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 15, MAIN 4, NORTHWEST INTERCEPTOR SEWER, (North of 13th Street North, West of 135th Street West).

(480-928/468-84360

ORDINANCE NO. 48-051

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 523, SOUTHWEST INTERCEPTOR SEWER, (South of MacArthur, West of Hoover).

(480-930/468-84383)

ORDINANCE NO. 48-052

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 406, FOUR MILE CREEK SEWER, (South of Kellogg, West of Greenwich).

STORM WATER:

(485-294/468-83978)

ORDINANCE NO. 48-053

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 254, TO SERVE NORTH RIDGE VILLAGE ADDITION, (North of 37th Street North, West of Ridge).

(485-299/468-83979)

ORDINANCE NO. 48-054

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 255, TO SERVE NORTH RIDGE VILLAGE ADDITION, (North of 37th Street North, West of Ridge).

(485-322/468-84151)

ORDINANCE NO. 48-055

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 290, TO SERVE FOX RIDGE ADDITION, (North of 29th Street North, West of Tyler).

(485-310/468-84152)

ORDINANCE NO. 48-056

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Sewer No. 621, TO SERVE PAWNEE MESA ADDITION, (North of Pawnee, East of 119th Street West).

(485-323/468-84208)

ORDINANCE NO. 48-057

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 298, TO SERVE LILLIE 2ND ADDITION, (South of Maple, West of Maize).

(485-325/468-84230)

ORDINANCE NO. 48-058

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 301, TO SERVE SOUTHWEST PASSAGE ADDITION, (South of Pawnee, West of 119th Street West).

(485-336/468-84253)

ORDINANCE NO. 48-059

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 307, TO SERVE NORTHGATE ADDITION AND UNPLATTED TRACT B, (North of 53rd Street North, West of Meridian).

(485-328/468-84254)

ORDINANCE NO. 48-060

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 308, TO SERVE NORTHGATE ADDITION, (North of 53rd Street North, West of Meridian).

(485-340/468-84305)

ORDINANCE NO. 48-061

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 316, TO SERVE JOHNSON COMMERCIAL CENTRE, (South of 53rd Street North, West of Meridian).

(485-330/468-84323)

ORDINANCE NO. 48-062

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 318, TO SERVE KRUG SOUTH ADDITION & KRUG SOUTH 2ND ADDITION, (South of 21st Street, West of 143rd Street East).

(485-337/468-84335)

ORDINANCE NO. 48-063

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Sewer No. 630, TO SERVE EC & LR COLES ADDITION TO CAREY PARK, HIXON AND KILLINGERS ADDITION, (North of 29th Street North, West of Arkansas).

(485-342/468-84353)

ORDINANCE NO. 48-064

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Drain No. 326, TO SERVE EDGE WATER ADDITION, (South of 45th Street North, West of Hoover).

(485-346/468-84399)

ORDINANCE NO. 48-065

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Storm Water Sewer No. 633, TO SERVE REED COMMERCIAL ADDITION, (South of 21st Street, East of 127th Street East).

Public hearing on Proposed Assessments for Twenty-Five (25) Paving Projects in February 2009 Bond Sale Series 796. **(Districts I, II, III, IV, V, VI)**

PAVING:
490-162/472-83411

ORDINANCE NO. 48-066

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving 37th street north, to serve ridge port 4th addition.

203-332/472-83831

ORDINANCE NO. 48-067

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving McCormick, to Newman University 2nd Addition.

490-132/472-83979

ORDINANCE NO. 48-068

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving a two-lane asphalt mat on 143rd street east, to serve Krug North & Krug North 2nd Add., East Side Community Church 2nd Addition.

490-128/472-84030

ORDINANCE NO. 48-069

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving upland hills, Rogers lane, Haskell, upland hills court, to serve turkey creek 2nd addition.

490-145/472-84043

ORDINANCE NO. 48-070

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Rutgers, Havenhurst, Rutgers court, waterside, Westbrook & sidewalk, to serve Prairie Pointe; Prairie Pointe 2nd Addition.

490-149/472-84091

ORDINANCE NO. 48-071

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving mark Randal, Cortina, Shefford, including the cul-de-sac, to serve Fontana 3rd Addition.

490-161/472-84137

ORDINANCE NO. 48-072

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Woodridge, Woodridge Cir., Woodridge Fairmont 3rd Addition.

490-058/472-84222

ORDINANCE NO. 48-073

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving east-west alley between Woodlawn & Mission Road, to serve Lincoln Hills 2nd Addition.

490-142/472-84263

ORDINANCE NO. 48-074

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Pepper Ridge, High Pt., Conrey, Conrey Ct., including cul-de-sac, and sidewalk, to serve Tyler's Landing 3rd Addition.

490-113/472-84279

ORDINANCE NO. 48-075

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Westlakes Parkway & sidewalk, to serve Fox Ridge & Fox Ridge 2nd Addition.

491-017/472-84288

ORDINANCE NO. 48-076

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving facade at 820 & 900 East 2nd street, to serve H.L. and Annie M. Taylor's Addition.

490-109/472-84410

ORDINANCE NO. 48-077

an ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Merton, Seneca & including the cul-de-sac, to serve Rubottom, Fulgroat & Merton Park additions.

491-020/472-84411

ORDINANCE NO. 48-078

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving facade at 105 South Broadway, to serve William Grieffenstein's addition.

490-117/472-84421

ORDINANCE NO. 48-079

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Grey Meadow, Westlakes Parkway, Grey Meadow Courts, Flat Creek Court & Circle, including the cul-de-sac, to serve Fox Ridge Addition.

490-130/472-84426

ORDINANCE NO. 48-080

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Bellechase, Spring Valley, Horseback, Horseback Ct., Horseback Cir., Bellechase Ct., & sidewalks, to serve Bellechase.

490-124/472-84428

ORDINANCE NO. 48-081

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Governeour & Osie Cir., to serve Grillot & East Substation Additions, unplatted tract.

490-129/472-84442

ORDINANCE NO. 48-082

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Brookside and including the cul-de-sac, to serve Kretchmar, Kapaun 1st & 4th additions, unplatted tract.

490-131/472-84448

ORDINANCE NO. 48-083

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving spring Hollow drive, Watson, Clear Creek, St. Andrews Drive & sidewalks, to serve Clear Creek Addition.

490-137/472-84470

ORDINANCE NO. 48-084

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Westlakes Courts & including the cul-de-sacs, to serve Fox Ridge Addition & Fox Ridge 2nd Addition.

490-155/472-84473

ORDINANCE NO. 48-085

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Athenian and Athenian Ct., including the cul-de-sac, to serve Valencia Addition.

490-140/472-84476

ORDINANCE NO. 48-086

An ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Stafford & Cranbrook, to serve Brentwood South addition.

491-021/472-84497

ORDINANCE NO. 48-087

An ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving facade at 154 N. Emporia, to serve J. R. Mead's Addition.

490-147/472-84505

ORDINANCE NO. 48-088

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving flutter lane/24th St. Boxthorn, Camden Chase, Chelmsford/Camden Chase/Graystone, Chelmsford Cir., including cul-de-sac, Camden Chase Ct., & sidewalk, to serve Monarch landing addition & unplatted residential tract 1.

490-173/472-84565

ORDINANCE NO. 48-089

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Gilda and Wickham, to serve Gray's 6th Addition.

490-187/472-84601

ORDINANCE NO. 48-090

An Ordinance levying assessments on lots, pieces and parcels of land in the city of Wichita, Kansas, for the purpose of paying a portion of the cost of improving Wilderness Cir., including the cul-de-sac, to serve Willow Place 2nd Addition.

Public Hearing and Issuance of Industrial Revenue Bonds, H2 Corporate Office, LLC. (District II)

ORDINANCE NO. 48-091

An Ordinance authorizing the City of Wichita, Kansas to issue its Industrial Revenue Bonds, Series IV, 2008 (H2 Corporate Office, LLC) (taxable under federal law), in the aggregate principal amount not to exceed $7,200,000 for the purpose of constructing, repairing, improving, furnishing, equipping and acquiring a commercial facility; and authorizing the execution of certain documents in connection with the issuance of the bonds.

General Obligation Temporary Note Sale.

ORDINANCE NO. 48-092

An Ordinance authorizing and providing for the issuance of General Obligation Improvement Temporary Notes, Series 227 (taxable under federal law), of the city of Wichita, Kansas, in the total principal amount of $12,000,000, for the purpose of providing the necessary funds for the interim financing of costs in connection with certain capital improvements in the city; providing for the payment of the principal of and interest on the notes; and making certain other covenants and agreements with respect to the notes.

Ordinance Changes to the Fuel-Burning Fireplace Equipment Code, (City Code Title 22.06).

ORDINANCE NO. 48-093

An Ordinance amending Sections 22.06.010, 22.06.020, 22.06.030, 22.06.040, 22.06.050, 22.06.060, 22.06.065 and 22.06.066 of the code of the City of Wichita, Kansas, pertaining to fuel burning fireplace equipment and repealing the originals of said Sections.

ZON2008-00022-Zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”). Generally located on the southeast corner of Ridge Road and University Avenue. (District V)

ORDINANCE NO. 48-094

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.

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

ORDINANCE NO. 48-095

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.

ZON2008-00040 – Zone change from B Multi-family Residential ("B") to LI Limited Industrial ("LI"); generally located west of Main Street, between 11th and 12th Streets. (District VI)

ORDINANCE NO. 48-096

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.

A08-10R-Request by Laurence M. Holzman, Jr. to annex land generally located north of Harry Street and east of 127th Street East. (District II)

ORDINANCE NO.48-097

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas. (A08-10)

A08-11R-Request by Jay W. Russell, of JRD, LLC, to annex land generally located north of 63rd Street South, west of Clifton Avenue. (District III)

ORDINANCE NO.48-098

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas. (A08-11)

Citywide Storm Water System Inventory Study-Supplemental.

ORDINANCE NO. 48-099

An ordinance of the city of Wichita, Kansas authorizing the issuance of its General Obligation Bonds to pay the costs of preparation of a Comprehensive Citywide Digital Storm Water Drainage Structure Inventory; further authorizing and providing for the issuance of temporary improvement notes of the city from time to time as funds are needed for such purpose, and replacing resolutions 06-706 and 08-414 of the city.