

## **JANUARY 9, 2007 AGENDA REPORTS**

### **Agenda Item No. 5a.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0001

TO: Mayor and City Council Members

SUBJECT: Petitions to construct Paving, Sanitary Sewer, Drainage and Water System Improvements in Tyler's Landing 3rd Addition (south of 37th St. North, east of Tyler) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petitions.

Background: The Petitions have been signed by three owners representing 100% of the improvement districts.

Analysis: The projects will provide paving, sanitary sewer, drainage and water system improvements for a residential development located south of 37th St. North, east of Tyler.

Financial Considerations: The Petitions total \$1,497,355. The funding source is special assessments.

Goal Impact: These projects address the Efficient Infrastructure goal by providing for the construction of paving, sanitary sewer, drainage and water system improvements for a new subdivision.

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

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

Attachments: Map, CIP Sheet, Resolutions and Petitions.

**Agenda Item No. 5b.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0002

TO: Mayor and City Council Members

SUBJECT: Petition to Renovate Building Facade at 154 N. Emporia (southeast corner of 1st and Emporia) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics for buildings along Douglas, between Seneca and Washington, and provide an incentive for businesses to improve their property. On August 1, 2006, the City Council expanded the program boundaries to include the Downtown Self Supporting Municipal Improvement District and other areas. Up to two facades per building can be improved with 25% of the cost up to \$15,000 per facade in the form of a forgivable loan. Mid-block buildings are limited to \$10,000 and one facade. The owner of a building located at 154 N. Emporia has submitted the required Petition. The signature on the Petition represents 100% of the improvement district.

The project has received approval of the Design Council and the Design Review Committee of the Historic Preservation Board.

Analysis: The existing building is a two story office building. The facade project will repair the masonry exterior and replace windows and doors. New awnings will be installed.

Financial Considerations: The project budget is \$91,000, with \$68,250 paid by special assessments and \$22,750 as a forgivable loan. The City Council has allocated \$761,000 for the forgivable loan component of the Facade Program. With the approval of this project, \$471,143 will be available for future projects.

Goal Impact: This project addresses the Dynamic Core Area goal by facilitating improvements to privately owned buildings in the Downtown area.

Legal Considerations: State Statutes provide the City Council authority to use special assessment funding for the project. The Facade Easement has been approved as to form by the Department of Law.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution, approve the Facade Easement and authorize the necessary signatures.

Attachments: Map, CIP sheet Petition, Resolution and Application

**Agenda Item No. 11a.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0003

TO: Mayor and City Council

SUBJECT: Contract with Inter-Faith Ministries GoZones (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

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Recommendation: Approve the contract.

Background: The Park and Recreation Department offers an After School Program for children at each of its 10 Recreation Centers for children 6-15 years of age. The program runs 5 days a week, from 3:30 pm to 5:30 pm. Activities include intramural sports, game room activities, arts and crafts, active games, quiet games and some club activities. The After School Program is an opportunity for area youth to interact socially and recreate in a safe and positive atmosphere.

The Recreation Division is continuously striving to find ways to enhance and improve the programs being offered. The division has been considering enhancements to make the After School program more attractive and beneficial to the participants. Research has shown that an After School program must have multiple components, beyond just recreational activities. A successful After School program must provide educational components, nutritional snacks, homework rooms, club activities and technology opportunities.

Analysis: The Department of Park and Recreation proposes collaboration with GoZones, an agency affiliated with Interfaith Ministries. This collaboration would create a six-month GoZones site at the Orchard Recreation Center (January of 2007 through June 30, 2007). The collaboration would improve the existing After School recreation program by creating a homework room, club activities (chess, model rockets, etc.) and offering some limited tutoring opportunities. GoZones would provide 65% of the funding to hire 2 additional staff for 30 hours per week. The City would fund the remaining 35%.

GoZones and Inter-Faith Ministries have secured grant funding through the AmeriCorp agency. AmeriCorp requires a 65/35 match.

Successful implementation of this pilot program could expand similar funding potential to all 10 Recreation Centers during the second half of 2007.

Financial Considerations: Total cost to the City for the 6-month program is \$2,700. The matching funds would come from the existing General Fund already established for the Orchard Recreation Center (OCA 172208). City staff would use existing Part-Time Seasonal funding (line item -2508) to meet the match. There would be no additional impact to the City budget.

Goal Impact: Quality of Life Goal is impacted as Park and Recreation offers an improved, multi-faceted program to more area youth. Additionally, the Economic Vitality and Affordable Goal is impacted as the department is utilizing outside funding to provide an improvement to a service by providing two additional staff that will supervise a home work room, develop special interest clubs and provide limited tutoring sessions at 35% of the total cost.

Legal Considerations: The Law Department has reviewed and approved the contract as to form. The contract will be for 6 months beginning January 1, 2007 through June 30, 2007.

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

**Agenda Item No. 11b.**

City of Wichita  
City Council Meeting  
January 9,2007

Agenda Report No. 07-0004

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Pawnee from Meridian to Seneca  
(District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On May 4, 2004, the City entered into an Agreement with TranSystems Corporation for designing Pawnee from Meridian to Seneca. The fee was \$85,700.

Analysis: TranSystems has been asked by the City to widen Glenn Street at Pawnee, which includes adding a center left turn lane. A Supplemental Agreement has been prepared to authorize the additional design services.

Financial Considerations: Payment to TranSystems for this Supplemental Agreement will be made on a lump sum basis of \$36,850, and will be paid by General Obligations Bonds.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through a high volume arterial street intersection.

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

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

Attachments: Supplemental Agreement.

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED MAY 4, 2004

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

TRANSYSTEMS CORPORATION

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated May 4, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to Pawnee from Meridian to Seneca (Project No. 472 84012).

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

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

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

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

include the following:

Widening of Glenn Street at Pawnee (south leg only)

- Design of Glenn Street widening, which includes adding a center left turn lane.
- Additional survey along Glenn to design drainage, sidewalk and pavement widening improvements.
- Design a video traffic and pedestrian signal at the Glenn and Pawnee intersection. This will include the pedestrian signals to be combined at this location.
- Design a signal wiring diagram and phasing plan including signal timings for the new signal system.
- Design additional storm sewer along Glenn Street due to widening that will lower the pavement and create a low spot on Glenn Street. The new inlets will be tied into the existing storm sewer system in Pawnee.
- Develop typical sections and cross sections for Glenn, as well as new Pawnee profile to accommodate.
- Add quantities to the Engineer's probable construction cost.
- Provide intersection details, including brick crosswalks, for the Glenn intersection, as a result of combining the existing two signals into one.
- Revise traffic control and phasing plans to accommodate the new design at Glenn.

**B. PAYMENT PROVISIONS**

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

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

472 84012     \$36,850.00

**C. COMPLETION**

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by \_\_\_\_\_; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

**D. PROVISIONS OF THE ORIGINAL CONTRACT**

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

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

BY ACTION OF THE CITY COUNCIL

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

ATTEST:

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

APPROVED AS TO FORM:

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

TRANSYSTEMS CORPORATION

\_\_\_\_\_  
(Name and Title)

ATTEST:

\_\_\_\_\_

**Agenda Item No. 11c.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0005

TO: Mayor and City Council Members  
SUBJECT: TreeCycle Program (All Districts)  
INITIATED BY: Department of Public Works  
AGENDA: Consent

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Recommendation: Approve the agreement.

Background: In the past, Sedgwick County and the City of Wichita have partnered to operate the Christmas TreeCycle Program. This program provides site set-up, site monitoring and maintenance, Christmas tree grinding and hauling, mulch production and distribution for public use, closing down and making final site clean-up. Our current agreement with the County to run this program is about to expire.

Analysis: The attached agreement allows for continuation of the TreeCycle Program throughout the city. This agreement would be effective December 22, 2006 and will expire January 23, 2011.

Financial Considerations: There is no cost to the City. The City provides the sites for use.

Goal Impact: The goal impact would be Safe and Secure Community since this program improves environmental health and safety.

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

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

Attachments: Christmas TreeCycle Program Agreement

**Agenda Item No. 12a.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0006

TO: Mayor and City Council Members

SUBJECT: 21st St. Improvement, between the K-96 Expressway and 159th St. East  
(District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the design agreement and the revised design project budget.

Background: Sedgwick County has obtained Federal Funds in the amount of \$2,600,000 from the 2005 Federal Highway Bill to improve 21st Street, between the K-96 Expressway and 159th St. East. Because of the rapid pace of development within the corridor, most of the roadway has or will be soon annexed into the City of Wichita. As a result, on March 21, 2006, the City Council approved a City/County agreement that provides for the City to take over the responsibility to construct the project. The County has assigned its earmarked Federal funding in the amount of \$2,600,000 to the City. The City's responsibility is to annex the remaining roadway, provide local funding and administer construction of the project. The County's consultant engineer, Professional Engineering Consultants (PEC) completed its design work for the County at no cost to the City. Since that time, the continued platting of adjacent property, access management issues and landscape design requirements has necessitated some City design expenditures with PEC. An agreement with PEC has been prepared to authorize the additional design work.

Analysis: The project will reconstruct 21st Street to provide four through lanes and landscaped medians for left turn lanes. A storm water sewer will be constructed.

Financial Considerations: The current design budget is \$50,000. An additional \$50,000 is needed for design services to cover recent changes, for a total budget of \$100,000. The funding source is General Obligation Bonds. Funding for the increased budget is available from under expenditures in the Greenwich improvement, between 27th and 29th Streets North.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving vehicular safety and capacity along an important transportation corridor.

Legal Considerations: The Design Agreement and amending Ordinance have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Design Agreement, approve the revised design budget, place the amending Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, amending Ordinance and Agreement

#### AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between Sedgwick County, Kansas, hereinafter referred to as “County” and the City of Wichita, Kansas, hereinafter referred to as “City.”

#### WITNESSETH:

WHEREAS, County and City are authorized to enter into an agreement pursuant to K.S.A. 12-2908, as amended; and

WHEREAS, County and City desire to make certain improvements to 21st St. N. between K-96 and 159th St. East; and

WHEREAS, County has obtained earmarked federal funding for the improvements in the 2005 Federal Highway Bill; and

WHEREAS, County desires that City construct the said improvements;

NOW, THEREFORE, for and in consideration of the parties’ mutual promises and covenants, it is agreed as follows:

1. The purpose of this Agreement is to provide for the construction and financing of street improvement work by City on a portion of 21st St. N. that lies partially within the corporate limits of the City and partially within the unincorporated area of the County. The improvements will consist of widening 21st St. to at least a four lane urban section with curb and gutter and storm sewers.
2. The Improvements shall be completed and financed in the following manner:
  - A. County agrees to pay for design up to the amount approved in County’s existing agreement with Professional Engineering Consultants.
  - B. County agrees to acquire and pay for all costs of right of way on the portion of the project east of 143rd St. East.

C. City agrees to pay for all costs of design over and above the County's cost as outlined above, utility relocation, construction, construction engineering and any other project costs that might be incurred.

D. City agrees to acquire and pay for all costs of right of way on the portion of the project west of 143rd St. East.

E. The County agrees to assign the earmarked federal funding in the amount of \$2,600,000 to City which may be used for any eligible project costs incurred by City.

3. The City shall have final authority in regard to the bidding, contracting and administration of the project; and City shall be responsible for all legal and engineering matters concerning the Improvements.

4. City must improve the entire section of 21st St. N. from K-96 to 159th St. East. If required in order to be eligible to use the earmarked federal funds, City shall annex the entire project prior to construction.

5. City shall accept the Improvements by permitting the same to be open to public travel and, upon such opening; City shall thereafter assume all liability for maintenance and repair. The agreement of City for maintenance and repair of the improvements shall survive the termination of this Agreement.

6. To the extent permitted by law, City does hereby release, discharge, indemnify and hold harmless the County, its agents, servants and employees from any and all liability and damages of whatsoever nature and arising from whatsoever cause, relating to and arising from errors and omissions from the design of the project or from errors and omission resulting from construction means and methods used in the construction of the project. This release and indemnity shall survive termination of this agreement.

7. The duration of this Agreement is until the completion of the Improvements.

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

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

THE CITY OF WICHITA, KANSAS

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BEN SCIORTINO,  
Chairman, Fifth District

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CARLOS MAYANS  
Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_  
DON BRACE,  
County Clerk

KAREN SUBLETT  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_  
ROBERT W. PARNACOTT,  
Assistant County Counselor

GARY E. REBENSTORF  
City Attorney

**Agenda Item No. 13a.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0007

TO: Mayor and City Council Members

SUBJECT: Change Order: Sanitary Sewer Main along Meridian, north of the K-96 Freeway (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

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Recommendation: Approve the Change Order.

Background: On February 28, 2006, the City Council approved a contract with Utility Contractors to construct a sanitary sewer main and pump station to serve an area along Meridian, north of the K-96 Freeway. Because of the presence of ground water, the project required the temporary installation of large water pumps to dewater the work area. Because of the summer drought conditions, the water level in nearby private lakes was lowered. As a result, it became necessary to divert discharge from the pumps into the lakes.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is \$13,385 with the total paid by the Sanitary Sewer Utility. The original contract amount is \$7,111,940. This Change Order plus previous change orders represents 00.35% of the original contract amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by expanding the City's sanitary sewer system.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

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

Attachments: Change Order.

November 16, 2006  
PUBLIC WORKS-ENGINEERING  
CHANGE ORDER

To: Utility Contractors      Project: North SS Pump Station & Main 15, SS #23  
Change Order No.: 3 Project No.: 468-83682  
Purchase Order No.: 600272 OCA No.: 744009/622083  
CHARGE TO OCA No.: 744009    PPN: 480697/671118

Please perform the following extra work at a cost not to exceed \$13,385.00

The contractor was redirecting much of the tail water from the dewatering into the adjoining lakes during construction of the sewer line along Meridian. However, due to a combination of factors including drought like conditions, the water level in the adjoining lakes still experienced a drop in elevation. The City instructed the contractor to pump water from other wells into these lakes to maintain or raise the water level.

Recommended By:

Approved:

\_\_\_\_\_  
Larry Schaller, P.E.      Date  
Construction Engineer

\_\_\_\_\_  
Jim Armour, P.E.      Date  
City Engineer

Approved:

Approved:

\_\_\_\_\_  
Contractor      Date

\_\_\_\_\_  
Chris Carrier, P.E.      Date  
Director of Public Works

Approved as to Form: By Order of the City Council:

\_\_\_\_\_  
Gary Rebenstorf      Date  
Director of Law

\_\_\_\_\_  
Carlos Mayans      Date  
Mayor

Attest: \_\_\_\_\_  
City Clerk

**Agenda Item No. 13b.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0008

TO: Mayor and City Council Members

SUBJECT: Change Order: River Corridor Improvements (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On April 5, 2005, the City Council approved a construction contract with Dondlinger and Sons for River Corridor improvements. A part of the work is the construction of two pedestrian bridges spanning the Arkansas River and the Little Arkansas River. In order to provide a uniform appearance, it is proposed that the bridge box segments be coated with a textured, colorized material.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is \$13,912 with the total paid by General Obligation Bonds and Federal Grants. The original contract amount is \$20,595,000. This Change Order plus previous change orders represents 00.54% of the original contract amount.

Goal Impact: This project addresses the Dynamic Core Area goal by enhancing the appearance and improving pedestrian access to the River Corridor.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

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

Attachment: Change Order

August 23, 2005  
PUBLIC WORKS-ENGINEERING CHANGE ORDER

To: Dondlinger & Sons Project: Wichita River Corridor Improv.  
Proj. and Cable Stayed Pedestrian Bridges over Big and Little  
Arkansas Rivers  
Change Order No.: 2 Project No.: 87TE-0176-01/472-82799  
Purchase Order No.: 500600 OCA No.: 706556/715691  
CHARGE TO OCA No.: 706556 PPN: 405209/242107

Please perform the following extra work at a cost not to exceed \$10,565.60

Measured quantities for the 90 auger cast piles at the Keeper Plaza overran by 264.14 feet to achieve adequate penetration in the underlying clay layer for bearing. Add 264.14 lf of auger cast piles at the bid measured quantity price of \$40.00 per lf.

Measured Quantity Bid Item:  
Auger Cast Piles 264.14 lf @ \$40.00/lf = \$10,565.60

Recommended By:

Approved:

\_\_\_\_\_  
Stan Breitenbach, P.E. Date  
Date  
Special Projects Coordinator

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

Approved:

Approved:

\_\_\_\_\_  
Contractor Date  
Date

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

Approved as to Form: By Order of the City Council:

\_\_\_\_\_  
Gary Rebenstorf Date  
Date  
Director of Law

Carlos Mayans  
Mayor

Attest: \_\_\_\_\_  
City Clerk

**Agenda Item No. 14a.**

CITY OF WICHITA  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0009

TO: Mayor and City Council Members

SUBJECT: Acquisition of Land at Kinkaid and Greenwich for Fire Station 20  
(District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the acquisition.

Background: The City Council has previously reviewed and approved the Fire Station Location Study. The study anticipates the relocation of eight existing fire stations and the construction of two new stations in the near term. One area for a new station is near the intersection of Greenwich and Pawnee.

Analysis: A City staff team consisting of representatives from the Fire Department, Public Works, and City Manager's Office conducted a review of multiple sites. A site on Greenwich Road approximately 625 feet north of Pawnee has been selected pursuant to the requirements of the Fire Station Location Study. The site is at the southwest corner of Kinkaid and Greenwich. It consists of two 250 by 150 foot lots. Total site size is 75,000 square feet. The owner of the corner lot has agreed to sell his lot for \$45,000 and the owner of the interior lot will sell for \$25,000.

Financial Considerations: A budget of \$75,000 is requested. This includes \$70,000 for the acquisitions and \$5,000 for surveys, title insurance and miscellaneous closing costs. Funding for the land acquisition is included in the adopted Capital Improvement Program.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure to serve this rapidly growing area and provide a safe and secure community.

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 Contracts; and 3) Authorize all necessary signatures.

Attachments: Real estate purchase agreements and aerial.

**Agenda Item No. 15.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0010

TO: Mayor and City Council Members

SUBJECT: Surplus of Vacant Parcel at Acadia and Hale (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Declare the property surplus.

Background: The property is legally described as Lot 9, Block 4, Country Acres 2nd Addition except the Easterly 30 feet retained for drainage. This property was originally purchased July 12, 1962 from the Country Acres Improvement District for a drainage easement. The present drainage canal is located on the Easterly 30 feet of the site. It seems that the remaining area of land, approximately 8,550 square feet, is not needed and can be declared as surplus.

Analysis: All City departments have been notified and have shown no interest in the property. Since there is no interest in retaining ownership and because its costly to maintain, it appears to be in the best interest of the public to declare the property as surplus and offer it for sale to the general public.

Financial Considerations: The City will receive cash consideration for the sale of the property. The surplus and sale of this property to a private party will place additional value into the tax base.

Goal Impact: Support vibrant neighborhoods. The lot could be developed for residential use.

Legal Considerations: None

Recommendations/Actions: It is recommended that the City Council declare the property as surplus and designate it as avialable for sale to the general public.

Attachments: Aerial map

**Agenda Item No. 16.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0011

TO: Mayor and City Council

SUBJECT: Renaming of Reflection Square Park (District 1)

INITIATED BY: Park and Recreation Department

AGENDA: Consent

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Recommendation: Rename the park.

Background: City Council Policy 13 delineates the requirements for naming public facilities "... in accordance with their intended use ..." The policy calls for a seven-member committee consisting of residents appointed by the Mayor and City Council to formulate the recommendation prior to City Council consideration. On March 4, 2003, the City Council approved the official naming committee to be the Board of Park Commissioners.

Reflection Square Park was originally named by the City Council on May 2, 2000, because of its significance to the civil rights protests and the sit-in at the Dockum drug store, which were held in the area close to where the park is located.

Analysis: The Wichita NAACP came to the Park Board on November 13, 2006, and requested that the park be renamed in honor of Chester I. Lewis. Mr. Lewis was a prominent leader during the civil rights movement in and around the Wichita area. He authorized the first sit-in at the Dockum drug store and served as the leader of the NAACP from 1956-1968. Mr. Lewis also sought and secured racial integration of the City's police, fire departments and its public schools.

On December 11, 2006, The Board of Park Commissioners unanimously voted, after hearing public comment, to recommend the City Council rename the park the "Chester I. Lewis Reflection Park."

Financial Considerations: The costs to the Park and Recreation department will be limited to labor for installation of a new sign and can be absorbed in the current operating budget.

Goal Impact: Renaming the park will provide a vibrant neighborhood by giving a better sense of

place  
in the core area.

**Legal Considerations:** The Board of Park Commissioners action as naming authority for park and recreation areas is consistent with the provisions of City Council Policy 13.

**Recommendations/Actions:** It is recommended that the City Council rename Reflection Square Park to the “Chester I. Lewis Reflection Park.”

## **Agenda Item No. 17.**

City Of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0012

TO: Mayor and City Council

SUBJECT: Evaluation of Membrane Filtration for ASR Project

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the engineering services with Camp Dresser & McKee to evaluate membrane filtration.

Background: On October 3, 2000, City Council approved and instructed Staff to begin implementation of the Concept Design Plan for the Integrated Local Water Supply (ILWS) Plan. The plan identified cost-effective water resources that would be adequate to meet Wichita's water needs to the year 2050. On September 19, 2006, City Council authorized a project to evaluate membrane filtration as a treatment technology for use in the Aquifer Storage and Recovery Project.

Analysis: The Purchasing Manager issued Requests for Proposals for engineering services associated with evaluating the use of membrane filtration to be submitted by October 27, 2006. Two firms responded: Burns & McDonnell and Camp Dresser & McKee. The Staff Screening and Selection Committee heard presentations on November 15, 2006, and based on proposals, unanimously recommended Camp Dresser & McKee (CDM).

Concurrent with issuing the RFP, Staff investigated the potential of doing the project in cooperation with the American Waterworks Association Research Foundation (AwwaRF). Much of the information gained from this evaluation may be applicable to other water utilities with similar needs. If it is approved by AwwaRF as a tailored collaboration, AwwaRF could contribute up to 50 percent funding. In addition to providing funding assistance, doing the study in cooperation with AwwaRF would provide third party validation and help assure regulators and the public that the filtration performance would be effective.

The CDM Contract has three components: engineering services associated with membrane filtration evaluation, an allowance for construction of facilities to operate pilot equipment, and the cost to assist Staff in preparing the application to AwwaRF for the tailored collaboration project.

Financial Considerations: The estimated cost for the membrane evaluation project is \$332,000. Not to exceed costs include engineering services at \$181,300; allowance for construction facilities at \$86,190; and the cost for preparing an application for tailored collaboration with AwwaRF for \$25,000. Additionally, the City will need to acquire pilot treatment units for the test at a rental cost of approximately \$28,000.

A budget of \$14,800,000 was authorized when the Design/Build Project to construct the ASR Water Treatment Plant was initiated on January 10, 2006. The project was completed at a cost of \$11,784,300. It is recommended that cost savings be used to fund the membrane evaluation project.

Goal Impact: The project will help Ensure Efficient Infrastructure by assisting in the evaluation of facilities needed to provide reliable, compliant and secure utilities. Careful evaluation of new technologies will assure that the City invests appropriately in the construction of facilities required to maintain future water supply needs.

Legal Considerations: The Law Department has approved the CDM Contract as to form. If AwwaRF offers to participate in the project, the AwwaRF Contract will be submitted to the City Council for approval.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Contract; 2) approve the use of unexpended funds from the ASR Water Treatment Plant Project; and 3) authorize the necessary signatures.

Attachments: Contract with CDM.

## **Agenda Item No. 18.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0013

TO: Mayor and City Council Members

SUBJECT: Amending Resolution: Sanitary Sewer Lateral to serve the Whistling Walk Estates Additions (south of 13th, west of 119th St. West) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendations: Adopt the amending Resolution.

Background: On May 3, 2005, the City Council approved a Petition to construct a sanitary sewer for the Whistling Walk Estates Additions, a residential development located south of 13th, west of 119th St. West. During the design process it was determined that Lot 1, Block A, Whistling Walk Estates 3rd Addition should be removed from the improvement district because it is vacant and unlikely to ever be developed. The owner, who owns an adjacent lot, is in concurrence.

Analysis: The sanitary sewer lateral does not reach the lot to be removed from the improvement district.

Financial Considerations: The project budget is unaffected.

Goal Impact: The project addresses the Efficient Infrastructure goal by extending a sanitary sewer lateral to an existing residential development.

Legal Considerations: State Statutes provide the City Council the authority to remove property from the assessment district.

Recommendation/Actions: It is recommended that the City Council adopt the amending Resolution.

Attachment: Amending Resolution

## **Agenda Item 19.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0014

TO: Mayor and City Council

SUBJECT: Amendment of Industrial Revenue Bond Documents (Airtechnics, Inc.)  
(District II)

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Approve the amendments and place the Ordinances on first reading.

Background: On May 1, 2001, City Council approved the issuance IRBs in the amount of \$4.3 million for Airtechnics, Inc., a manufacturer and distributor of electronic components for the aircraft industry. The City Council also approved a 100% tax exemption for a term of five years, plus an additional five years subject to City Council review. Bond proceeds were used to finance the construction and equipping of a new manufacturing, warehouse, administrative, and sales facility located at 3851 N. Webb Road.

On February 5, 2002 and March 8, 2005, the City Council approved amendments to the Ordinances and other bond documents to restructure debt service payments in accordance with the lower interest rates agreed to between the IRB Tenants and Bondholders. Airtechnics has recently negotiated additional changes to the provisions in the bond documents that govern the calculation of interest payments that will result in a reduction in the company's borrowing costs.

Analysis: Pursuant to the bond documents, the interest rate on the bonds is indexed to the prime lending rate, plus a spread over that rate. Since the date on which the IRBs were initially issued, interest rates have declined substantially. Airtechnics wishes to restructure the bonds to obtain a lower interest rate, and the institutional lenders that hold the Bonds have agreed to consent to restructuring the index and spread that determines the rate. To accomplish this, certain terms of the bond documents must be amended by means of an Ordinance.

Financial Considerations: There is no financial impact to the City as a result of the amendment.

Goal Impact: Economic Vitality and Quality of Life. Cooperating with the Tenant and Trustee

on IRB issues is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

Legal Considerations: The City Attorney's Office has reviewed and approved the Ordinances and amended documents as to form.

Recommendations/Actions: It is recommended that the City Council approve document amendments needed to restructure the debt services payments for each series in accordance with lower interest rates, and place the Ordinances on first reading.

Attachments: Ordinances

TRIPLETT, WOOLF & GARRETSON, LLC

ORDINANCE NO. 47-\_\_\_

OF THE

THE CITY OF WICHITA, KANSAS

RELATING TO:

\$825,000  
CITY OF WICHITA  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES I, 2001  
(AIRTECHNICS, INC.)

(Published in The Wichita Eagle, January 27, 2007)

ORDINANCE NO. 47-\_\_\_

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, AUTHORIZING THE EXECUTION AND DELIVERY OF, AND CONSENTING TO, A THIRD AMENDMENT OF A CERTAIN EQUIPMENT TRUST INDENTURE BY AND BETWEEN THE CITY OF WICHITA, KANSAS, AS ISSUER, AND THE BANK OF NEW YORK TRUST COMPANY, N.A., ST. LOUIS, MISSOURI, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE.

WHEREAS, the City of Wichita, Kansas (the "Issuer") has previously authorized and issued its industrial revenue bonds designated "City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series I, 2001 (Airtechnics, Inc.)" in the aggregate principal amount of \$825,000 (the "Equipment Bonds") pursuant to a certain Equipment Trust Indenture dated as of May 1, 2001 (the "Equipment Indenture"), as previously amended by a First Amendment to Equipment Trust Indenture dated as of March 1, 2002 (the "First Amendment"), and a Second Amendment to Equipment Trust Indenture dated as of March 1, 2005 (the "Second Amendment"), all by and between the Issuer and The Bank of New York Trust Company, N.A., a national banking association organized and existing and authorized to accept and execute trusts of the character therein described under the laws of the United States with its office located in St. Louis, Missouri, as successor in interest to INTRUST Bank, N.A., as Trustee (the "Trustee"), for the purpose of paying the cost of purchasing and installing certain machinery and equipment in a manufacturing facility located in the City of Wichita, Kansas (the "Equipment Project"); and

WHEREAS, the Issuer has acquired title to all of the Equipment Project and is leasing the Equipment Project to Airtechnics, Inc., a Kansas corporation duly qualified to do business in the State of Kansas (the "Tenant"), pursuant to the Equipment Lease dated as of May 1, 2001 (the "Equipment Lease") between the Issuer and Tenant; and

WHEREAS, the Issuer, Tenant and 100% of the Owners of the Equipment Bonds desire and consent to amend the Equipment Indenture in order to reduce the interest on the Equipment Bonds and issue replacement bonds therefor according to the terms provided in a Third Amendment to Equipment Trust Indenture (the "Third Amendment"), dated as of January 1, 2007, by and between the Issuer and Trustee; and

WHEREAS, all acts and things necessary (including compliance with Sections 1102 and 1103 of the Equipment Indenture) have been done and performed and the Third Amendment has in all respects been duly authorized.

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

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Third Amendment hereinafter authorized.

Section 2. Authorization of Third Amendment to Equipment Trust Indenture. The Issuer is hereby authorized to execute and deliver the Third Amendment, under which the interest rate on the Equipment Bonds shall be modified effective January 1, 2007 upon the terms and conditions set forth in the Third Amendment, as presented and now before the governing body of the Issuer.

Section 3. Execution of the Third Amendment. The Mayor or Vice Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute and deliver the Third Amendment for and on behalf of and as the act and deed of the Issuer in substantially the form as it is presented today with such minor corrections or amendments thereto as the Mayor or Vice Mayor of the Issuer shall approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the City of Wichita, Kansas are hereby authorized and directed to attest the execution of the Third Amendment on behalf of the Issuer and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 4. Further Authority. The Mayor of the Issuer is hereby authorized and directed to execute any replacement Equipment Bond certificates necessitated by the Third Amendment and to deliver the same to the Trustee for authorization for and on behalf of the Issuer. The City Clerk is hereby authorized and directed to attest the execution of such Equipment Bonds. In addition, the Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the Third Amendment, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer, and publication once in the official newspaper of the Issuer.

[Remainder of Page Intentionally Left Blank]

PASSED, ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas this 23rd day of January, 2007.

CITY OF WICHITA, KANSAS

[seal]  
By  
Carlos Mayans, Mayor

ATTEST:

By  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By  
Gary Rebenstorf, City Attorney  
TRIPLETT, WOOLF & GARRETSON, LLC

ORDINANCE NO. 47-\_\_\_

OF THE

THE CITY OF WICHITA, KANSAS

RELATING TO:

\$3,475,000  
CITY OF WICHITA  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES II, 2001  
(AIRTECHNICS, INC.)

(Published in The Wichita Eagle, January 27, 2007)

ORDINANCE NO. 47-\_\_\_

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, AUTHORIZING THE EXECUTION AND DELIVERY OF, AND CONSENTING TO, A THIRD AMENDMENT OF A CERTAIN REAL ESTATE TRUST INDENTURE BY AND BETWEEN THE CITY OF WICHITA, KANSAS, AS ISSUER, AND THE BANK OF NEW YORK TRUST COMPANY, N.A., ST. LOUIS, MISSOURI, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE.

WHEREAS, the City of Wichita, Kansas (the “Issuer”) has previously authorized and issued its industrial revenue bonds designated “City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series II, 2001 (Airtechnics, Inc.)” in the aggregate principal amount of \$3,475,000 (the “Real Estate Bonds”) pursuant to a certain Real Estate Trust Indenture dated as of May 1, 2001 (the “Real Estate Indenture”) as previously amended by a First Amendment to Real Estate Trust Indenture dated as of March 1, 2002 (the “First Amendment”) and a Second Amendment to Real Estate Trust Indenture dated as of March 1, 2005 (the “Second Amendment”) all by and between the Issuer and The Bank of New York Trust Company, N.A., a national banking association organized and existing and authorized to accept and execute trusts of the character therein described under the laws of the United States with its office located in St. Louis, Missouri, as successor in interest to INTRUST Bank, N.A., as Trustee (the “Trustee”), for the purpose of purchasing, acquiring and constructing a new manufacturing facility to be located in the City of Wichita, Kansas (the “Real Estate Project”); and

WHEREAS, the Issuer has acquired title to all of the Real Estate Project and is leasing the Real Estate Project to Mann Properties, L.L.C., a Kansas limited liability company, duly qualified to do business in the State of Kansas (the “Tenant”), pursuant to the Real Estate Lease dated as of May 1, 2001 (the “Real Estate Lease”) between the Issuer and Tenant; and

WHEREAS, the Tenant is subleasing its interest in the Real Estate Project to Airtechnics, Inc., a Kansas corporation duly qualified to do business in the State of Kansas (the “Subtenant”), pursuant to a certain sublease dated May 1, 2001 (the “Sublease”); and

WHEREAS, the Issuer, Tenant and 100% of the Owners of the Real Estate Bonds desire and consent to amend the Real Estate Indenture in order to reduce the interest on the Real Estate Bonds and issue replacement bonds therefor according to the terms provided in a Third Amendment to Real Estate Trust Indenture (the “Third Amendment”), dated as of January 1, 2007, by and between the Issuer and Trustee; and

WHEREAS, all acts and things necessary (including compliance with Sections 1102 and 1103 of the Real Estate Indenture) have been done and performed and the Third Amendment has in all respects been duly authorized.

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

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Third Amendment hereinafter authorized.

Section 2. Authorization of Third Amendment to Real Estate Trust Indenture. The Issuer is hereby authorized to execute and deliver the Third Amendment, under which the interest rate on the Real Estate Bonds shall be modified effective January 1, 2007 upon the terms and conditions set forth in the Third Amendment, as presented and now before the governing body of the Issuer.

Section 3. Execution of the Third Amendment. The Mayor or Vice Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute and deliver the Third Amendment for and on behalf of and as the act and deed of the Issuer in substantially the form as it is presented today with such minor corrections or amendments thereto as the Mayor or Vice Mayor of the Issuer shall approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the City of Wichita, Kansas are hereby authorized and directed to attest the execution of the Third Amendment on behalf of the Issuer and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 4. Further Authority. The Mayor of the Issuer is hereby authorized and directed to execute any replacement Real Estate Bond certificates necessitated by the Third Amendment and to deliver the same to the Trustee for authorization for and on behalf of the Issuer. The City Clerk is hereby authorized and directed to attest the execution of such Real Estate Bonds. In addition, the Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the Third Amendment, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer, and publication once in the official newspaper of the Issuer.

[Remainder of Page Intentionally Left Blank]

PASSED, ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas this 23rd day of January, 2007.

CITY OF WICHITA, KANSAS

[seal]  
By  
Carlos Mayans, Mayor

ATTEST:

By

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By

Gary Rebenstorf, City Attorney

**Agenda Item No. 20.**

CITY OF WICHITA  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0015

TO: Mayor and City Council Members

SUBJECT: Sale of Parking Lot at 220 South Emporia (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the sale.

Background: The City owns a 35,000 square foot parking lot at the northeast corner of Emporia and English. This property is located within acquisition area identified for the new downtown arena. The parcel is currently improved with asphalt surface and is utilized as public parking.

Analysis: Sedgwick County had the parcel appraised and has offered to purchase the lot from the City for the appraised value of \$350,000. The County will assemble this parcel with other properties in the area for the arena site.

Financial Considerations: The City will receive cash consideration from the sale of the property at closing. Upon sale, the property will be utilized as part of a major downtown redevelopment project.

Goal Impact: The sale of this parcel would assist in increasing neighborhood vibrancy in the downtown area.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the Quit Claim Deed and 2) Authorize the necessary signatures.

Attachments: Quit Claim Deed and aerial map.

**Agenda Item No. 22.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0016

TO: Mayor and City Council Members

SUBJECT: Pawnee Improvement, between 119th St. West and Maize (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the revised project budget.

Background: On January 10, 2006, the City Council approved a project to improve Pawnee, between 119th St. West and Maize. On September 12, 2006, the City Council approved a revised project budget because of increased construction costs. Since that time, Kansas Department of Transportation (KDOT) Officials have advised that the amount of Federal Transportation Grants available for the project have been reduced. As a result, additional City funding is needed. An amending Ordinance has been prepared to revise the project budget.

Analysis: The project will reconstruct Pawnee to provide four through lanes and a median for left turn lanes. A new storm water sewer will be constructed.

Financial Considerations: The current budget is \$8,000,000, with \$2,900,000 paid by the City and \$5,100,000 by Federal Grants administered by KDOT. The funding source for the City share is General Obligation Bonds. The proposed revised budget is \$7,500,000, with \$3,300,000 paid by the City and \$4,200,000 paid by Federal Grants. Funding for the increased City cost is available from under expenditures in the amount of \$200,000 from the Pawnee/ McLean intersection improvement and \$200,000 from the Pawnee improvement, between Meridian and Seneca

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

Legal Considerations: The Law Department has approved the amending Ordinance as to legal form.

Recommendations/Actions: It is recommended that the City Council approve the revised budget, place the amending Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP Sheet and Ordinance.

**Agenda Item No. 23.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0017

TO: Mayor and City Council  
SUBJECT: General Obligation Bond and Note Sale  
INITIATED BY: Finance Department  
AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale two series of general obligation temporary notes totaling \$62,093,000 (Series 218 and 219) and two series of general obligation bonds (Series 788 and 788A) in an amount not to exceed \$19,915,000 for the purpose of providing permanent financing for capital improvement projects of the City.

Analysis: The proceeds from the sale of the Series 218 and 219 Improvement and Renewal Notes will be used to provide interim financing for City-at-large, improvement district projects and improvements located within the East Bank Tax Increment Financing District. Due to the nature of the improvements located within the East Bank Tax Increment Financing District, the Series 219 Renewal Notes are taxable under Federal law. The proceeds from the sale of the Series 788 and 788A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts.

Sealed bids will be accepted via facsimile, walk-in sealed bids or electronically through I-Deal, LLC/PARITY Electronic Bid Submission System until 10:30 a.m. CST in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:30 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest true interest rate.

Financial Considerations: The Series 218 and 219 Temporary Notes will mature August 9, 2007, and will be retired using cash, the proceeds of both permanent financing bonds and renewal notes issued at that time. The Series 788 Bonds will mature serially over fifteen years and will be paid

from special assessments that are levied against benefited property. The Series 788A Bonds will mature serially over twenty years and will be paid from special assessments that are levied against benefited property. The Series 788 Bonds will be callable in 2014 and the Series 788A Bonds will be callable in 2017 with a 1% call premium, in accordance with the City's debt management policy.

**Goal Impact:** This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

**Legal Considerations:** Bond Counsel will review and approve the bids and the Law Department will approve the authorizing Ordinances and Resolutions which have been prepared by Bond Counsel.

**Recommendations/Actions:** It is recommended that the City Council: (1) direct the opening and reading of the bids; (2) award the sale of the Bonds and Temporary Notes; and (3) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction, adopt the Bond and Note Ordinances and Resolutions and authorize the publication of the Bond and Note Ordinances.

**Attachments:** For each bond and note series: Request for Declaration of Emergency  
Resolution Authorizing Issuance of Bonds/Notes  
Ordinance Authorizing Issuance of Bonds/Notes

## REQUEST FOR DECLARATION OF EMERGENCY

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

I, CARLOS MAYANS, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, to-wit, January 9, 2007, of an ordinance entitled:

“AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$14,930,000, FOR THE

PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.”

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 788 Bonds occur on the same day bids are received and to enable the City to deliver the Series 788 Bonds authorized by said Ordinance on February 8, 2007.

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

EXECUTED at Wichita, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Carlos Mayans, Mayor

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Karen Sublett, City Clerk

#### REQUEST FOR DECLARATION OF EMERGENCY

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

I, CARLOS MAYANS, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, to-wit, January 9, 2007, of an ordinance entitled:

“AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,985,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE

BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.”

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 788A Bonds occur on the same day bids are received and to enable the City to deliver the Series 788A Bonds authorized by said Ordinance on February 8, 2007.

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

EXECUTED at Wichita, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Carlos Mayans, Mayor

---

Karen Sublett, City Clerk

#### REQUEST FOR DECLARATION OF EMERGENCY

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

I, CARLOS MAYANS, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, to-wit, January 9, 2007, of an ordinance entitled:

“AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 218, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$57,703,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW A PORTION OF THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED CAPITAL IMPROVEMENTS IN THE CITY, AND FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH NEWLY COMMENCED 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.”

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 218 Notes occur on the same day bids are received and to enable the City to deliver the Series 218 Notes authorized by said Ordinance on February 8, 2007.

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

EXECUTED at Wichita, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Carlos Mayans, Mayor

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Karen Sublett, City Clerk

#### REQUEST FOR DECLARATION OF EMERGENCY

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

I, CARLOS MAYANS, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, to-wit, January 9, 2007, of an ordinance entitled:

“AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 219 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$4,390,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED 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.”

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 219 Notes occur on the same day bids are received and to enable the City to deliver the Series 219 Notes authorized by said Ordinance on February 8, 2007.

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

EXECUTED at Wichita, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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

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

(Published in The Wichita Eagle on \_\_\_\_\_, 2007.)

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

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 218, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$57,703,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW A PORTION OF THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED CAPITAL IMPROVEMENTS IN THE CITY, AND FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH NEWLY COMMENCED 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

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; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and

publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 216, dated August 10, 2006 (the "Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are newly commenced or for which additional interim financing is now required; and

WHEREAS, the Governing Body, pursuant to Resolution No. R-06-704, duly adopted December 19, 2006, advertised for bids at a public sale for \$57,703,000 of the City's General Obligation Renewal and Improvement Temporary Notes, Series 218, for the purpose of renewing interim financing for the Original Improvements and providing new interim financing for the Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Renewal and Improvement Temporary Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes (in the sum of \$16,505,950), and for the interim financing of the Improvement costs (in the sum of \$41,197,050), there shall be issued general obligation renewal and improvement temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessments taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Note Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency

in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Note Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain issued in book-entry-only form, the City shall act as Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and interest on the Notes, and DTC will remit such principal and interest to its Direct Participants for the distribution to the beneficial owners in the manner set forth in Section 2.04(A) of the Note Resolution and as governed by the terms of the Letter of Representation.

In the event the Notes should be issued and delivered in certificated form at any time after the

initial delivery of the Notes, the City hereby designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas (herein sometimes referred to as the "Fiscal Agent"), as the initial Paying Agent and Note Registrar for the Notes, and the Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books on behalf of the City.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 9, 2007.

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Carlos Mayans, Mayor

(Seal)

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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

RESOLUTION NO. R-07-\_\_\_\_\_, OF THE CITY OF WICHITA, KANSAS, AS ADOPTED  
JANUARY 9, 2007, AUTHORIZING THE ISSUANCE OF \$57,703,000 GENERAL  
OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES SERIES 218

DATED AS OF FEBRUARY 8, 2007

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RESOLUTION NO. R-07-\_\_\_

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 218, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$57,703,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW A PORTION OF THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED CAPITAL IMPROVEMENTS IN THE CITY, AND FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH NEWLY COMMENCED CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to Ordinance No. \_\_\_\_\_ duly passed January 9, 2007 (the “Note Ordinance”), has authorized the issuance of the Notes in the aggregate principal amount of \$57,703,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in Schedule I which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as listed on Schedule I are herein collectively referred to as the “Original Improvements”), and of those certain capital improvements in the City described in Schedule I which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Improvements as listed on Schedule I are herein collectively referred to as the “Improvements”) and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, those Improvements constituting building facades are hereby found and determined to be municipal improvements necessary to prevent or alleviate blight and/or preserve historic neighborhoods; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 216, dated August 10, 2006 (the “Original Notes”), a portion of the

proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are newly commenced or for which additional interim financing is now required; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

#### ARTICLE I

#### DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Ordinance No. 46-632 of the City, Ordinance No. 46-656 of the City, Charter Ordinance No. 156 of the City, K.S.A. 10-101 et seq., K.S.A. 10-123, K.S.A. 12-6a01 et seq., K.S.A. 12-110c, K.S.A. 12-685 et seq., K.S.A. 12-1770 et seq., and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Original Improvements and the Improvements are authorized, the Original Notes were issued and the Notes are issued.

“Authentication Date” shall mean the date on which a Note is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Note.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

(A) For all purposes, including as defeasance investments in refunding escrow accounts:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or

(2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and

(B) For all purposes other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export - Import Bank
- Farmers Home Administration
- General Services Administration
- U. S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association  
(GNMA)
- U. S. Department of Housing & Urban Development (PHA's)
- Federal Housing Administration;

(2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;

(3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

(4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;

(6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

(7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.

(C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein.)

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or

firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Original Improvements and the Improvements.

“Date of Issuance” shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Notes, which is February 8, 2007.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Notes for a single Bond Year, as described in the Code.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to Article III hereof.

“Fiscal Agent” shall mean the State Treasurer of Kansas, and its successors and assigns.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by Article III hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Original Improvement and/or Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the newly commenced capital improvements constructed in the City as described on Schedule II hereto.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be August 9, 2007.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Note Ordinance” shall mean Ordinance No. \_\_\_-\_\_\_ of the City, passed by the Governing Body on January 9, 2007, and authorizing and providing for the issuance of the Notes.

“Note Registrar” shall mean the City, or such other entity maintaining Registration Books on behalf of the City as set forth in Section 2.03 hereof, and its successors and assigns.

“Noteowner(s)” shall mean the Owner(s) of the Notes.

“Notes” shall mean the \$57,703,000 original principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 218, dated as of February 8, 2007, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

“Original Notes” means the notes previously issued by the City described in the preamble to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Notes to the Original Purchaser.

“Original Purchaser” shall mean \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

“Outstanding,” when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Paying Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Paying Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Note, the person or entity in whose name the Note is registered as shown on the Registration Books

maintained on behalf of the City.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the City, or such other entity acting on behalf of the City as Paying Agent for the Notes as set forth in Section 2.03 hereof, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to Article III hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” shall mean the purchase price paid by the Original Purchaser to the City for the Notes and is calculated as being the par value of the Notes, plus accrued interest from the Dated Date to the Date of Issuance, plus any premium.

“Record Date” shall mean August 1, 2007.

“Redemption Fund” shall mean the Series 216 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Note Registrar for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution No. R-07-\_\_\_, adopted by the Governing Body of the City on January 9, 2007, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

(A) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,

(B) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or in The New York Times -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and

(C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

## ARTICLE II

### AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes (in the sum of \$16,505,950), and for the interim financing of the Improvement costs (in the sum of \$41,197,050), there shall be issued general obligation renewal and improvement temporary notes of the City (the “Notes”). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessment taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$57,703,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 218.” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated as of February 8, 2007 (the “Dated Date”), shall mature on August 9, 2007 (the “Maturity Date” or the “Principal Payment Date”), and shall bear interest at the rate of \_\_\_\_% per annum (computed on the basis of a 360-day year of twelve 30-day months). The Notes shall bear interest from their Dated Date and such interest shall become due and payable on the Interest Payment Date. The Notes shall not be subject to call for redemption and payment prior to the Maturity Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC one certificate, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Fiscal Agent shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the City shall act as the Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 2.04(A) and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after

the initial delivery of the Notes, the City has designated and appointed the Kansas State Treasurer, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as Note Registrar and Paying Agent for the Notes and the Mayor and City Clerk, or such other officer of the City as may be directed by the Mayor, are authorized to execute on behalf of the City any necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC’s nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Notes in denominations permitted by Section 2.02 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (the “beneficial owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. Principal of and interest on the Notes shall be payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of debts due in the United States of America. Principal of and interest on the Notes shall be paid to the owner of each Note upon presentation and surrender of the Note on the Maturity Date at the principal office of the Fiscal Agent. The Fiscal Agent shall maintain at its offices a record of the payment of principal and interest on the Notes.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City’s official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City’s official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer’s official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City’s official seal affixed or imprinted opposite said countersignature.

Notwithstanding the provisions of the foregoing paragraph regarding the manner of and the method for the execution, registration and countersigning of the Notes, as a condition precedent to the authentication of the Notes by the Note Registrar and the issuance and delivery of the

Notes to the Original Purchaser, one or more of the aforesaid signatures required to appear on the Notes shall be by manual signature of one or more of the aforementioned officials.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution. For the initial delivery of the Notes, which will consist of one certificate in book-entry-only form as described in Section 2.04(A) hereof, the Notes shall be authenticated by the City Clerk.

**Section 2.06 Payment of Costs of Notes.** The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

**Section 2.07 Form of Notes.** The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act for the purpose of renewing portions of the principal amount of the Original Notes and for the interim financing of costs in connection with the Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

**Section 2.08 Registration, Transfer and Exchange of Notes.** The Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Fiscal Agent duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Fiscal Agent. Upon the surrender for transfer of any certificated Note at its office, the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Fiscal Agent, the Fiscal Agent shall transfer or exchange any Note(s) for new

Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Fiscal Agent for cancellation. Prior to delivery of any new Note(s) to the transferee, the Fiscal Agent shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Fiscal Agent shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Note Registrar shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Note Registrar, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Note Registrar and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Note Registrar. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The City and the Note Registrar may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Note Registrar after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Note Registrar and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Note Registrar to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Note Registrar for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one

time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

### ARTICLE III

#### FUNDS AND ACCOUNTS

Section 3.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 218;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 218, to be created within the City’s Capital Project Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 218.

Section 3.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

### ARTICLE IV

#### APPLICATION OF NOTE PROCEEDS;

#### DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 4.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by Article III of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes, and the portion of the Purchase Price which represents the premium, if any, paid on the Notes; and
- (B) To the Redemption Fund, the sum of \$16,505,950; and
- (C) The balance of the proceeds, in the amount of \$41,197,050, to the Improvement Account.

Section 4.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the completion of the Original Improvements and/or the Improvements and the levying of special assessments against the real properties benefitted thereby, any of such special assessments which are collected during the pay-in period shall be deposited into the Principal and Interest Account. Additionally, upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designed for payment of the costs of the Original Improvements and/or the Improvements, if any, shall likewise be deposited into the Principal and Interest Account.

Section 4.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Paying Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Paying Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Paying Agent in trust for and on behalf of the Owners of the Notes.

Section 4.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation Note issues of the City shall be transferred and paid into the General Fund of the City.

Section 4.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding Section 4.01 shall be used solely for the purpose of paying the portion of the principal amount of the Original Notes issued for the Original Improvements.

Section 4.06 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Original Improvements and the Improvements, it will perform all duties and obligations relative to such Original Improvements and Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 4.07 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Original Improvements and the Improvements, and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 4.08 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Original Improvements and the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

## ARTICLE V

### DEPOSITS AND INVESTMENT OF MONEYS

Section 5.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 5.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 5.03 Deposits Into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Note shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Notes.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Notes shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

#### ARTICLE VI

##### PROVISION FOR PAYMENT OF NOTES

Section 6.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 6.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's

general funds for such expended amounts immediately upon the collection and receipt of said moneys.

## ARTICLE VII

### DEFAULT AND REMEDIES

Section 7.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 7.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 7.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action

or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

#### ARTICLE VIII AMENDMENTS

Section 8.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, will not cause the interest on the Notes to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 8.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or

modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

#### ARTICLE IX

##### DEFEASANCE

Section 9.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Paying Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Paying Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

#### ARTICLE X

##### MISCELLANEOUS PROVISIONS

Section 10.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or

taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid. Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

**Section 10.02 Severability.** In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

**Section 10.03 Further Authority.** The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other

documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 10.04 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 10.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 9, 2007.

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

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

By: \_\_\_\_\_

Gary E. Rebenstorf, Director of Law

(Published in The Wichita Eagle on \_\_\_\_\_, 2007.)

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

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 219 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$4,390,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED 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

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; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal Temporary Notes, Series 217, dated August 10, 2006 (the “Original Notes”), the proceeds of which were expended to renew notes previously issued to provide interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body, pursuant to Resolution No. R-06-704, duly adopted December 19, 2006, advertised for bids at a public sale for \$4,390,000 of the City’s General Obligation Renewal Temporary Notes, Series 219 (Taxable Under Federal Law), for the purpose of renewing interim financing for the Original Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Renewal Temporary Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew the principal amount of the Original Notes (in the sum of \$4,390,000), there shall be issued general obligation renewal temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose. It is further anticipated that the Notes will be payable from tax increment revenues generated from a certain tax increment district within the City.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Note Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants to provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes.

Section 5. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain issued in book-entry-only form, the City shall act as Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and interest on the Notes, and DTC will remit such principal and interest to its Direct Participants for the distribution to the beneficial owners in the manner set forth in Section 2.04(A) of the Note Resolution and as governed by the terms of the Letter of Representation.

In the event the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City hereby designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as the initial Paying Agent and Note Registrar for the Notes, and the Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books on behalf of the City.

Section 6. Further Authority. The Governing Body hereby authorizes orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to

carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 7. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 9, 2007.

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

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

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

RESOLUTION NO. R-07-\_\_\_\_ OF THE CITY OF WICHITA, KANSAS, AS ADOPTED JANUARY 9, 2007, AUTHORIZING THE ISSUANCE OF \$4,390,000 GENERAL OBLIGATION RENEWAL TEMPORARY NOTES SERIES 219, (TAXABLE UNDER FEDERAL LAW).

DATED AS OF FEBRUARY 8, 2007

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RESOLUTION NO. R-07\_\_\_\_\_

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 219 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$4,390,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO RENEW THE PRINCIPAL AMOUNT OF TEMPORARY NOTES PREVIOUSLY ISSUED FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH PREVIOUSLY COMMENCED CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to Ordinance No. \_\_\_\_\_ duly passed January 9, 2007 (the "Note Ordinance"), has authorized the issuance of the Notes in the aggregate principal amount of \$4,390,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in Schedule I which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements as listed on Schedule I are herein collectively referred to as the "Original Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal Temporary Notes, Series 217, dated August 10, 2006 (the "Original Notes"), the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I  
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156 of the City, K.S.A. 10-101 et seq., K.S.A. 10-123 and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Original Improvements were authorized, the Original Notes were issued and the Notes are issued.

“Authentication Date” shall mean the date on which a Note is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Note.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

(A) For all purposes, including as defeasance investments in refunding escrow accounts:

- (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
- (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and

(B) For all purposes other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export - Import Bank
- Farmers Home Administration
- General Services Administration
- U. S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association

(GNMA)

-- U. S. Department of Housing & Urban Development (PHA's)

-- Federal Housing Administration;

(2) Bonds, notes or other evidences of indebtedness rated “AA” by Standard & Poor's, a Division of the McGraw-Hill Companies (“S&P”) and “Aa2” by Moody's Investor Services (“Moody's”) issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;

(3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

(4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State

which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category of S&P and Moody’s, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody’s or S&P;

(6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

(7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.

(C) The value of the above investments shall be determined as of the end of each month. (See the definition of “Value” herein.)

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Original Improvements.

“Date of Issuance” shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Notes which is February 8, 2007.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City,

or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Fiscal Agent" shall mean the State Treasurer of Kansas, and its successors and assigns.

"Fiscal Year" shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

"Governing Body" shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

"Government Obligations" means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

"Indirect Participants" shall have the meaning set forth in and defined by the Letter of Representation.

"Interest Payment Dates" shall be August 9, 2007.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

"Mayor" shall mean the duly elected and acting Mayor of the City or in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

"Note Ordinance" shall mean Ordinance No. \_\_\_\_\_ of the City, passed by the Governing Body on January 9, 2007, and authorizing and providing for the issuance of the Notes.

"Note Registrar" shall mean the City, or such other entity maintaining Registration Books on behalf of the City as set forth in Section 2.03 hereof, and its successors and assigns.

"Noteowner(s)" shall mean the Owner(s) of the Notes.

"Notes" shall mean the \$4,390,000 original principal amount of General Obligation Renewal Temporary Notes, Series 219 (Taxable Under Federal Law), dated as of February 8, 2007, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

"Original Notes" means the notes previously issued by the City described in the preamble to this Resolution.

"Original Proceeds" shall mean all of the proceeds, including accrued interest, derived from the sale of the Notes to the Original Purchaser.

"Original Purchaser" shall mean \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

"Outstanding," when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Paying Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Paying Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

"Owner(s)" or "Registered Owner(s)" shall mean, when used with respect to any Note, the

person or entity in whose name the Note is registered as shown on the Registration Books maintained on behalf of the City.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the City, or such other entity acting on behalf of the City as Paying Agent for the Notes as set forth in Section 2.03 hereof, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to Article III hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” shall mean the purchase price paid by the Original Purchaser to the City for the Notes and is calculated as being the par value of the Notes, plus accrued interest from the Dated Date to the Date of Issuance, plus any premium.

“Record Date” shall mean August 1, 2007.

“Redemption Fund” shall mean the Series 217 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Note Registrar for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution No. R-07-\_\_\_\_\_, adopted by the Governing Body of the City on January 9, 2007, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

(A) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,

(B) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or in The New York Times -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and

(C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

## ARTICLE II

### AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to renew the principal amount of the Original Notes (in the sum of \$4,390,000), there shall be issued general obligation renewal temporary notes of the City (the “Notes”). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$4,390,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 219 (Taxable Under Federal Law).” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated as of February 8, 2007 (the “Dated Date”), shall mature on August 9, 2007 (the “Maturity Date” or the “Principal Payment Date”), and shall bear interest at the rate of \_\_\_\_\_% per annum (computed on the basis of a 360-day year of twelve 30-day months). The Notes shall bear interest from their Dated Date and such interest shall become due and payable on the Interest Payment Date. The Notes shall not be subject to call for redemption and payment prior to the Maturity Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC one certificate, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Fiscal Agent shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the City shall act as the Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 2.04(A) and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City has designated and appointed the Kansas State Treasurer, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as Note

Registrar and Paying Agent for the Notes and the Mayor and City Clerk, or such other officer of the City as may be directed by the Mayor, are authorized to execute on behalf of the City any necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by Section 2.02 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. Principal of and interest on the Notes shall be payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of debts due in the United States of America. Principal of and interest on the Notes shall be paid to the owner of each Note upon presentation and surrender of the Note on the Maturity Date at the principal office of the Fiscal Agent. The Fiscal Agent shall maintain at its offices a record of the payment of principal and interest on the Notes.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

Notwithstanding the provisions of the foregoing paragraph regarding the manner of and the method for the execution, registration and countersigning of the Notes, as a condition precedent to the authentication of the Notes by the Note Registrar and the issuance and delivery of the Notes to the Original Purchaser, one or more of the aforesaid signatures required to appear on the Notes shall be by manual signature of one or more of the aforementioned officials.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution. For the initial delivery of the Notes, which will consist of one certificate in book-entry-only form as described in Section 2.04(A) hereof, the Notes shall be authenticated by the City Clerk.

**Section 2.06 Payment of Costs of Notes.** The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

**Section 2.07 Form of Notes.** The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act for the purpose of renewing the principal amount of the Original Notes. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

**Section 2.08 Registration, Transfer and Exchange of Notes.** The Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Fiscal Agent duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Fiscal Agent. Upon the surrender for transfer of any certificated Note at its office, the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Fiscal Agent, the Fiscal Agent shall transfer or exchange any Note(s) for new Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Fiscal Agent for cancellation. Prior to delivery of any new

Note(s) to the transferee, the Fiscal Agent shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Fiscal Agent shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

**Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes.** In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Note Registrar shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Note Registrar, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Note Registrar and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Note Registrar. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The City and the Note Registrar may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

**Section 2.10 Surrender and Cancellation of Notes.** Whenever any Outstanding Note shall be delivered to the Note Registrar after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Note Registrar and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Note Registrar to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

**Section 2.11 Execution and Delivery of Notes.** The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Note Registrar for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

### ARTICLE III

#### FUNDS AND ACCOUNTS

Section 3.01 Creation of Account. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 219 (Taxable Under Federal Law) to be created within the City’s Capital Project Fund.

Section 3.02 Administration of Account. The account established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

### ARTICLE IV

#### APPLICATION OF NOTE PROCEEDS;

#### DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 4.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by Article III of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes, and the portion of the Purchase Price which represents the premium, if any, paid on the Notes; and

(B) To the Redemption Fund, the sum of \$4,390,000.

Section 4.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes, as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the issuance of the City’s general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designed for payment of the costs of the Original Improvements, if any, shall likewise be deposited into the Principal and Interest Account.

Section 4.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Paying Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date together with

such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Paying Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Paying Agent in trust for and on behalf of the Owners of the Notes.

Section 4.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation Note issues of the City shall be transferred and paid into the General Fund of the City.

Section 4.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding Section 4.01 shall be used solely for the purpose of paying the principal amount of the Original Notes issued for the Original Improvements.

#### ARTICLE V

##### DEPOSITS AND INVESTMENT OF MONEYS

Section 5.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 5.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month.

#### ARTICLE VI

##### PROVISION FOR PAYMENT OF NOTES

Section 6.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment

of the Notes. It is further anticipated that the Notes will be payable from tax increment revenues generated from a certain tax increment district in the City.

Section 6.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

## ARTICLE VII

### DEFAULT AND REMEDIES

Section 7.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 7.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 7.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and

each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

#### ARTICLE VIII AMENDMENTS

Section 8.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Original Improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 8.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the

City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

#### ARTICLE IX

##### DEFEASANCE

Section 9.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Paying Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Paying Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

#### ARTICLE X

##### MISCELLANEOUS PROVISIONS

Section 10.01 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the

covenant, stipulation, obligation or agreement of the City to the full extent permitted by law. Section 10.02 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 10.03 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 10.04 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 9, 2007.

---

Carlos Mayans, Mayor

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

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

(Published in The Wichita Eagle on \_\_\_\_\_, 2007.)

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

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$14,930,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS

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; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 et seq., as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the "Improvements"), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements are \$17,656,900 as detailed on said Schedule I attached to the Resolution, that \$420,447.00 thereof has been paid in cash by the owners of the real properties against which special assessments therefor were levied, that \$2,287,337.00 thereof has been paid from lawfully available excess water and sewer utility funds of the City, that \$17,025.00 thereof has been paid for by the City-at-large, that \$2,091.00 is available from other funds of the City, and that the balance for which funding is necessary is in the amount of not to exceed \$14,930,000.00, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 et seq., as amended and supplemented, to issue the City's general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$100,000; and

WHEREAS, the Governing Body, pursuant to Resolution No. R-06-704, duly adopted December 19, 2006, advertised for bids at a public sale for not to exceed \$14,930,000 of the City's General Obligation Bonds, Series 788, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable

tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Bond Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive

payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 9, 2007.

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

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

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

RESOLUTION NO. R-07-\_\_\_\_, OF THE CITY OF WICHITA, KANSAS, AS ADOPTED JANUARY 9, 2007, AUTHORIZING THE ISSUANCE OF \$14,930,000 GENERAL OBLIGATION BONDS, SERIES 788

DATED AS OF FEBRUARY 1, 2007

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RESOLUTION NO. R-07-\_\_\_

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$14,930,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to Ordinance No. \_\_\_-\_\_\_ duly passed January 9, 2007 (the "Bond Ordinance"), has authorized the issuance of the Bonds in the aggregate principal amount of \$14,930,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect

thereto;

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

ARTICLE I

DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 et seq., as amended and supplemented, and K.S.A. 12-6a01 et seq., as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

(A) For all purposes, including as defeasance investments in refunding escrow accounts:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or

(2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and

(B) For all purposes other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export - Import Bank
- Farmers Home Administration
- General Services Administration
- U. S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association

(GNMA)

-- U. S. Department of Housing & Urban Development (PHA's)

-- Federal Housing Administration;

(2) Bonds, notes or other evidences of indebtedness rated “AA” by Standard & Poor's, a Division of the McGraw-Hill Companies (“S&P”) and “Aa2” by Moody's Investor Services (“Moody's”) issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;

(3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

(4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of

the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category of S&P and Moody’s, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody’s or S&P;

(6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

(7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.

(C) The value of the above investments shall be determined as of the end of each month. (See the definition of “Value” herein.)

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Ordinance” shall mean Ordinance No. \_\_-\_\_ of the City, passed by the Governing Body on January 9, 2007, and authorizing and providing for the issuance of the Bonds.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$14,930,000 original principal amount of General Obligation Bonds, Series 788, dated February 1, 2007, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general

Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is February 1, 2007.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to Article IV hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by Article IV hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City

or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on Schedule I hereto.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be March 1 and September 1 of each year commencing March 1, 2008, and ending September 1, 2022 or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” shall mean \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to Article IV hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean September 1 of each year, commencing September 1, 2008, and ending September 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” shall mean the purchase price paid by the Original Purchaser to the City for the Bonds and is calculated as being the par value of the Bonds, plus accrued interest from the Dated Date to the Date of Issuance, plus any premium.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent

for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution No. R-07-\_\_\_\_, adopted by the Governing Body of the City on January 9, 2007, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

(A) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,

(B) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or in The New York Times -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and

(C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

## ARTICLE II

### AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefitted from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$14,930,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 788.” The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall be dated as of February 1, 2007 (the “Dated Date”), and shall mature on September 1 (the “Principal Payment Date”) in the years and in the principal amounts and shall bear interest at the respective rates per annum (computed on the basis of a 360-day year of twelve 30-day months) as follows:

Series 788 Bonds

Maturity Schedule

Principal Payment Date	Amount of Principal Payment	Interest Rate Per Annum
September 1, 2008	\$ 725,000	%
September 1, 2009	760,000	%
September 1, 2010	790,000	%
September 1, 2011	825,000	%
September 1, 2012	860,000	%
September 1, 2013	900,000	%
September 1, 2014	940,000	%
September 1, 2015	980,000	%
September 1, 2016	1,020,000	%
September 1, 2017	1,065,000	%
September 1, 2018	1,110,000	%
September 1, 2019	1,160,000	%
September 1, 2020	1,210,000	%
September 1, 2021	1,265,000	%
September 1, 2022	1,320,000	%

The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date. The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days'

written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation. The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 2.04(A) and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following Section 2.04(B).

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by Section 2.02 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced

by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

**Section 2.06 Payment of Costs of Bonds.** The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

**Section 2.07 Form of Bonds.** The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

**Section 2.08 Registration, Transfer and Exchange of Bonds.** In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal

office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

**Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

**Section 2.10 Surrender and Cancellation of Bonds.** Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

**Section 2.11 Execution and Delivery of Bonds.** The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore

provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s debt coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

### ARTICLE III

#### REDEMPTION OF BONDS

Section 3.01 Optional Redemption. The Bonds maturing September 1, 2008 to September 1, 2014, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing September 1, 2015, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after September 1, 2014. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

Redemption Dates	Redemption Prices
September 1, 2014, through August 31, 2015	101.00%
September 1, 2015, through August 31, 2016	100.50%
September 1, 2016, and thereafter	100.00%

Section 3.02 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a

denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by Section 3.02 above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

#### ARTICLE IV

#### FUNDS AND ACCOUNTS

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788;

- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

## ARTICLE V

### APPLICATION OF BOND PROCEEDS;

### DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by Article IV of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the portion of the Purchase Price which represents the premium, if any, paid on the Bonds; and

(B) The balance of the proceeds, in the amount of \$14,930,000, to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this

Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

#### ARTICLE VI

##### DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United

States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the “Rebate Amounts”). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City’s General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City’s obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

## ARTICLE VII

### PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City’s general funds, the amount required for such payments and to then reimburse the City’s general funds for such expended amounts immediately upon the collection and receipt of said taxes.

## ARTICLE VIII

## DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or

exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

## ARTICLE IX

### AMENDMENTS

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

#### ARTICLE X

##### DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

#### ARTICLE XI

##### MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable

dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

**Section 11.02 Severability.** In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

**Section 11.03 Further Authority.** The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 9, 2007.

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

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

By: \_\_\_\_\_

Gary E. Rebenstorf, Director of Law

(Published in The Wichita Eagle on \_\_\_\_\_, 2007.)

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

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,985,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND

## AGREEMENTS WITH RESPECT TO THE BONDS

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; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 et seq., as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements”), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements are \$5,354,175.00 as detailed on said Schedule I attached to the Bond Resolution, that \$153,673.66 thereof has been paid in cash by the owners of the real properties against which special assessments therefor were levied, that \$138,575.00 thereof has been paid from lawfully available excess water and sewer utility funds of the City, that \$74,588.53 thereof has been paid for by the City-at-large, that \$2,337.81 is available from other funds of the City, and that the balance for which funding is necessary is in the amount of not to exceed \$4,985,000.00, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 et seq., as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$100,000; and

WHEREAS, the Governing Body, pursuant to Resolution No. R-06-704 duly adopted December 19, 2006, advertised for bids at a public sale for not to exceed \$4,985,000 of the City’s General Obligation Bonds, Series 788A, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize

the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days’ written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates

required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 9, 2007.

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

(Seal)

ATTEST:

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

APPROVED AS TO FORM:

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

RESOLUTION NO. R-07-\_\_\_\_\_ OF THE CITY OF WICHITA, KANSAS, AS ADOPTED

JANUARY 9, 2007, AUTHORIZING THE ISSUANCE OF \$4,985,000 GENERAL  
OBLIGATION BONDS SERIES 788A

DATED AS OF FEBRUARY 1, 2007

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Schedule I: The Improvements			

RESOLUTION NO. R-07-\_\_\_\_\_

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 788A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL

PRINCIPAL AMOUNT OF \$4,985,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to Ordinance No. \_\_\_\_\_ duly passed January 9, 2007 (the "Bond Ordinance"), has authorized the issuance of the Bonds in the aggregate principal amount of \$4,985,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

#### ARTICLE I

#### DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean K.S.A. 10-101 et seq., as amended and supplemented, and K.S.A. 12-6a01 et seq., as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

"Authentication Date" shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

"Authorized Investments" shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

(A) For all purposes, including as defeasance investments in refunding escrow accounts:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or

(2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and

(B) For all purposes other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export - Import Bank
- Farmers Home Administration
- General Services Administration
- U. S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association

(GNMA)

- U. S. Department of Housing & Urban Development (PHA's)
- Federal Housing Administration;

(2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;

(3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

(4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;

(6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

(7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.

(C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein.)

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

"Bond Ordinance" shall mean Ordinance No. \_\_\_\_\_ of the City, passed by the Governing Body on January 9, 2007, and authorizing and providing for the issuance of the Bonds.

"Bond Registrar" shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$4,985,000 original principal amount of General Obligation Bonds, Series 788A, dated February 1, 2007, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is February 1, 2007.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to Article IV hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by Article IV hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on Schedule I hereto.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be March 1 and September 1 of each year commencing March 1, 2008, and ending September 1, 2027, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” shall mean \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its

successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to Article IV hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean September 1 of each year, commencing September 1, 2008, and ending September 1, 2027, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” shall mean the purchase price paid by the Original Purchaser to the City for the Bonds and is calculated as being the par value of the Bonds, plus accrued interest from the Dated Date to the Date of Issuance, plus any premium.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution No. R-07-\_\_\_\_\_, adopted by the Governing Body of the City on January 9, 2007, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

(A) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,

(B) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or in The New York Times -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and

(C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

## ARTICLE II

### AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et seq., as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefitted from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the

full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable. Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$4,985,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 788A.” The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall be dated as of February 1, 2007 (the “Dated Date”), and shall mature on September 1 (the “Principal Payment Date”) in the years and in the principal amounts and shall bear interest at the respective rates per annum (computed on the basis of a 360-day year of twelve 30-day months) as follows:

Maturity Schedule

MaturityDate	MaturingPrincipal	InterestRate	MaturityDate	MaturingPrincipal	InterestRate
09/01/08	\$155,000	%	09/01/18	\$245,000	%
09/01/09	165,000		09/01/19	260,000	
09/01/10	170,000		09/01/20	270,000	
09/01/11	180,000		09/01/21	285,000	
09/01/12	185,000		09/01/22	295,000	
09/01/13	195,000		09/01/23	310,000	
09/01/14	205,000		09/01/24	325,000	
09/01/15	215,000		09/01/25	340,000	
09/01/16	225,000		09/01/26	355,000	
09/01/17	235,000		09/01/27	370,000	

The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date. The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby

authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

**Section 2.03 Designation of Paying Agent and Bond Registrar.** Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation. The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 2.04(A) and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following Section 2.04(B).

**Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.**

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by Section 2.02 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining,

supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form

and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City,

evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s debt coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

### ARTICLE III

#### REDEMPTION OF BONDS

Section 3.01 Optional Redemption. The Bonds maturing September 1, 2008, to September 1, 2017, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing September 1, 2018, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after September 1, 2017. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

Redemption Dates      Redemption Prices

September 1, 2017, through August 31, 2018	101.00%
September 1, 2018, through August 31, 2019	100.50%
September 1, 2019, and thereafter	100.00%

Section 3.02 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption

Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by Section 3.02 above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

#### ARTICLE IV

##### FUNDS AND ACCOUNTS

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788A;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788A, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 788A.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

#### ARTICLE V

##### APPLICATION OF BOND PROCEEDS;

##### DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by Article IV of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the portion of the Purchase Price which represents the premium, if any, paid on the Bonds; and
- (B) The balance of the proceeds, in the amount of \$4,985,000, to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from

the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

## ARTICLE VI

### DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created

and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

## ARTICLE VII

### PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

#### ARTICLE VIII

#### DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall

affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

#### ARTICLE IX AMENDMENTS

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such

instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

## ARTICLE X

### DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of

the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders

and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 9, 2007.

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Carlos Mayans, Mayor

(Seal)

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: Gary E. Rebenstorf, Director of Law

**Agenda Item No. 24.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0018

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures  
Districts I, III, and VI

INITIATED BY: Office of Central Inspection

AGENDA: New Business

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Recommendations: Adopt the resolutions.

Background: On November 21, 2006 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on January 9, 2007.

Analysis: On November 6, 2006 the Board of Code Standards and Appeals (BCSA) held a hearing on five (5) properties. The five (5) properties are listed below:

Property Address	Council District
a. 4031 East Stearman	III
b. 1421 N. Madison	I
c. 416 North Ash	I
d. 2232 North Woodland	VI
e. 2222 South Washington	III

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

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

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on November 22, 2006, and November 29, 2006. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings dangerous and unsafe structures, and accept the BCSEA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structures would be contingent on the following: (1) All taxes have been paid to date, as of January 9, 2007; (2) the structures have been secured as of January 9, 2007 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of January 9, 2007 and will be so maintained during renovation.

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

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

**Agenda Item No. 25.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0019

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request  
(Leading Technology Composites, Inc.) (District IV)

INITIATED BY: City Manager' Office

AGENDA: New Business

Recommendation: Close the public hearing and approve first reading of the ordinance and tax exemption request.

Background: Leading Technology Composites, Inc., located at 2626 W. May in southwest Wichita, was locally formed in 1993. Since inception, Leading Technology Composites has sustained consistent growth in manufacturing parts for the aerospace industry. Leading Technology Composites recently expanded its manufacturing capacity through the acquisition of new machinery and equipment. Based on a letter of intent, Leading Technology Composites is now requesting approval of an Economic Development Tax Exemption on the manufacturing equipment in conjunction with the expansion project.

Analysis: Leading Technology Composites, Inc., is a manufacturer that makes aerospace, military, and automotive composites. Leading Technology Composites produces products from raw materials to final assembly. The products they produce include vehicle and personal body armour as well as products such as oxygen drop boxes, structural carbon fiber, honeycomb doors and fairings, heat exhaust and waste ducting, interior panels, and inlet fairings and cowling. Leading Technology Composites has the ability to lay up molds, trim fixtures, and assembly jigs with total in-house control, start to finish. From master model to finished tools, the Company's in house tooling capability allows for timely production of tooling to the highest standards of detail and conformity. The company' engineering ability includes source control drawings, CAD design, finite element analysis, and static testing. Leading Technology Composites process equipment is equal to even the largest structural fabrications, a computer controlled autoclave 8' in diameter by 14' in length, computer controlled over 8' by 6'8" by 24 feet, and a 24-ton heated platen press. Leading Technology Composites exports its products out of the State of Kansas via Cessna, Raytheon, BAE Systems, and Lockheed Martin.

Leading Technology Composites currently employs 32 employees. As a result of the expansion project, Leading Technology Composites will create 47 new jobs over the next five years, at an

average annual salary of \$35,163. The City's Economic Development Incentive Policy requires eligible businesses to pay wages that exceed the lower of the average wage for the Company's type of business or the average of all wages in the Wichita MSA, excluding transportation equipment manufacturing. Leading Technology Composites meets this threshold.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Leading Technology Composites is eligible for the following property tax abatement:

#### TAX EXEMPTION ELIGIBILITY

#### ELIGIBLE % INCENTIVE EXPLANATION

78.0% New Job Creation: Leading Technology Composites will create at least 47 new jobs.

22.0% Capital Improvements: Leading Technology Composites will invest at least \$1,451,195.

100.0% Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)

00.0% Location Premium: Leading Technology Composites is not located in the central redevelopment area.

#### 100.0% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, Leading Technology Composites, Inc., is eligible for a 100% tax exemption on new personal property for a five-year term.

Financial Considerations: The estimated first year taxes on the proposed \$1,451,195 expansion would be \$36,086 on personal property, based on the 2006 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$36,086 of new taxes from the personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$9,934; County/State - \$10,202; and USD 259 - \$15,948.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita 2.97 to one  
Sedgwick County 2.37 to one  
USD 259 1.25 to one  
State of Kansas 6.01 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax

exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's office has approved the Ordinance as to form. A notice of public hearing has been published.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance, granting a 100% tax exemption on the identified personal property improvements for a five year term, and authorize the Mayor to sign.

Attachments: Ordinance.

Leading Technology Composites, Inc.

Exhibit I

Equipment Purchases:

Busch Vacuum Pump	\$4,320	
Blue Jay Spread & Cut System	37,059	
Blue Jay Spread & Cut System	33,161	
1206 Ton Hydraulic Press	88,130	
Walk-in Type Oven	29,550	
Integrated Flying Bridge System-Water JE	212,898	
Walk-in Freezer (16X20X9)	10,098	
Rotary Press (Laminator)	101,000	
Grieve Oven Model WTC566-500	8,500	
120" Pressure Vessel	113,422	
84" Pressure Vessel	68,122	
Integrated Flying Bridge System-Water JE	222,930	
7500 CFM Cyclone Dust Collector	17,757	
6' X4' Downdraft Tables W/ X-Skirts	10,900	
HD Walk-in Type Oven (Model EWN-824-8E)	45,973	
DOALL #36 Highspeed Vertical Saw	5,500	
DOALL #36 Highspeed Vertical Saw	5,500	
Model M9000 Machine	74,922	
Motor Control Center	2,675	
CMM Machine Center	8,400	
Adhesive Injection Machine	9,742	
707 Ton Hydraulic Press	70,000	
Integrated Flying Bridge System-Water JE	210,000	
Materials Test Sys W/Exensometer	47,495	
Heated Tank W/ Motor Starter		13,140
Total Equipment	\$ 1,451,195	
Total Expansion Project	\$ 1,451,195	

**Agenda Item 26.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0020

TO : Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request  
(The Print Source, Inc.)(District IV)

INITIATED BY: City Manager's Office

AGENDA: New Business

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Recommendation: Close the public hearing and approve the tax exemption request and first reading of the Ordinance.

Background: was locally. The Print Source, Inc. ("Print Source") is a commercial printing and graphics company formed in 1982. Print Source is experiencing growth in sales and production and, in response to an increase in production requirements, is expanding its manufacturing capacity through acquisition and renovation of the former Target Store building, located at 404 South Tracy in west Wichita. Pursuant to a letter of intent, Print Source is requesting approval of a five-plus-five year 100% Economic Development Tax Exemption on the building and its renovation in connection with the expansion project.

Analysis: Print Source is a locally owned, family operated, full-service printing and graphics company. Print Source has expanded their product offerings from screen printed decals to include business printing, container decorating, high-speed web printing, pad printing and finishing services. Print Source has developed a niche specialty of printing directly onto plastic bottles used by clients as containers of a wide variety of liquid products, using special equipment to print continuously around bottles and similar substrates. The acquisition of a larger facility will enable Print Source to manufacture the plastic containers in-house.

Print Source currently employs 59 employees and projects to add 52 new jobs over a ten-year period. Print Source's expansion includes acquisition and renovation of the 103,000 square foot building at a cost of \$2,981,044 and acquisition of new manufacturing equipment. Print Source exports 74% of all production out of Kansas via such clients as BG Products, Excel Industries, Optima Bus, and Cessna.

Under the City's Economic Development Incentive Policy, Print Source qualifies for a 100% tax exemption for the initial five-year term on the newly acquired building, plus a second five-year

term subject to Council review. The former Target building has been vacant for over two years. The incentive policy normally requires a vacancy of three years; however, given the job creation and scope of the expansion, staff recommends that an exception be made to the vacancy requirement in this case. Print Source has agreed to comply with all other conditions set forth in the Economic Development Incentive Policy.

Print Sources' expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Print Source is eligible for the following property tax abatement:

**TAX EXEMPTION ELIGIBILITY**

ELIGIBLE %	INCENTIVE	EXPLANATION
70.00%	New Job Creation:	Print Source will create at least 52 new jobs.
32.00%	Capital Improvements:	Print Source will invest at least
\$2,981,044.		
102.00%	Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)	
00.00%	Location Premium:	Print Source is not located in the central redevelopment area.
100.00% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY		

Financial Considerations: The estimated first year taxes on the proposed \$2,981,044 expansion would be \$86,497 on real property, based on the 2006 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$86,497 of new taxes from the tax rolls. The tax exemption would be shared among the taxing entities as follows: City – \$23,813; County/State - \$24,456; and USD 259 - \$38,228.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	1.34 to one
Sedgwick County	1.16 to one
USD 259	1.00 to one
State of Kansas	3.70 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office has approved the Ordinance as to form. A notice of public hearing has been published.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Print Source, Inc. a 100% tax exemption on the identified real property, plus a 100% tax exemption for a second five-year term, subject to City Council approval.

Attachments: Ordinance.

The Print Source, Inc.

Exhibit I

Building Acquisition and Renovation	\$2,981,044
404 South Tracy	
Total Expansion Project	\$2,981,044

**Agenda Item No. 27.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0021

TO: Mayor and City Council

SUBJECT: PUD2006-02 #24 – Creation of the Wal-Mart at Oliver Planned Unit Development to allow general retail sales. Generally located south of Kellogg Avenue, east of Oliver Avenue. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendations: Approve, subject to staff recommendations (12-1).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve, subject to conditions outlined by staff plus three other conditions outlined below (8-2).

Background: The application area is 12.2 acres located southeast of the Kellogg and Oliver intersection, north of Orme and west of Bleckley. The applicants are seeking Planned Unit Development zoning (PUD-24) to allow re-development of the property for “any commercial use permitted by-right in the LC Limited Commercial district excluding: night club in the city, sexually oriented business, correctional placement residence, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, theatre and tavern and drinking establishment uses.” The proposed PUD would allow up to 159,485 square feet of gross floor area or 30 percent coverage of the area of the site. It should be noted that the way the proposed use is listed, it excludes non-commercial uses such as office, public or civic or industrial, manufacturing or extractive uses that are permitted by-right in the LC district.

The expected use on the site is a Wal-Mart, however there are not any requirements within the PUD that require the site to be developed with any particular brand or company. The conceptual site plan shows a building with 135,229 square feet. The square footage is to be divided between 109,663 square feet of general retail sales and 25,566 square feet of grocery sales. The front of the building is to face west toward Oliver Street. Quik-Brik masonry having an “earth tone

blend” color (orangish) along with Ouik-Brik masonry pilasters having a “promenade blend” color (redish) is to be used on the north, west and south sides of the building. The east side is to be a painted (canyon clay) smooth face brick. The facade will also have a band of “pure white” EFIS trim. General Provision 13 states that all buildings on Parcel 1 shall share uniform architectural character, color, texture and the same predominate exterior building material, with earth tone colors with a variety of textures with red and white accents.

Loading docks, a compactor and bale and pallet storage are depicted on the east side of the building (Bleckley). The loading docks, truck wells and bale and pallet storage are to be screened with 10-foot high masonry screening walls while the compactor is to be screened with an eight-foot high wall. Other work and storage areas including a garden center are to be located on the south side of the building (Orme). The garden center is to be screened from the south with four-foot eight-inch tall knee walls and 12-foot tall pilaster with black ornamental fencing and mesh panels. Building height is limited to a maximum of 40 feet.

The parking field is primarily located between the front or west side of the building and Oliver. Additional parking is shown along both the north and south property lines. Proposed access to the site is to be allowed by five driveways; two each along the Kellogg frontage road and Orme, and one off of Oliver. Because the Kellogg frontage road is one-way to the east that makes those access drives right-in and right-out only. The two access points on Orme are shown as full movement. The applicant’s site plan depicts a median located in Oliver at the Oliver access point that would make that entrance right-in and right-out as well. A traffic signal is proposed at the intersection of Orme and Oliver. If the site is developed with a Wal-Mart, they expect that there will be, on an average day, two to three trucks, but there could be as many as six to seven at busier times.

Landscaping and berms are to be placed on all four sides of the site. As depicted on the proposed plan, portions of the berms and landscaping are shown in the right-of-way. Landscaping and berms are only allowed in the right-of-way with the approval of the Traffic Engineer. As proposed, landscaping is to meet minimum landscape ordinance requirements. Height of the berms is not specified.

Height of lighting standards is limited to 25 feet or less.

Building setbacks of five to 20 feet are proposed.

As developed and zoned today, the application area is a mix of zoning including: LC Limited Commercial zoning subject to Community Unit Plan DP-261 (limited to LC uses except for a list of uses similar to the applicant’s list of excluded uses), LC Limited Commercial, NR Neighborhood Retail, GO General Office, B Multi-family Residential, MF-29 Multi-family Residential and TF-3 Two-family Residential. Existing uses within the application area include: single-family, two-family and four-plex residential; vacant, freestanding and strip retail sales and vehicle sales. The area also contains platted right-of-way (East Eilerts, South Glendale and Elpyco) and utility easements. If this request is approved, these right-of-ways and easements will need to be vacated to accommodate this development proposal.

Property neighboring the application area is also a mix of zoning ranging from: LC Limited Commercial, GO General Office, MF-18 Multi-family Residential and TF-3 Two-family Residential. Existing uses are single-family residences, medical offices and retail commercial as well as vacant commercial. US Highway 54/400 is located to the north of the application area, and north of the highway is a masonry wall dividing the highway from other uses. Kellogg is a nationally significant roadway carrying both intra-city and inter-state traffic. There is also an elementary school located southwest of the corner of Orme and Oliver.

Analysis: District Advisory Board (DAB) III heard this request on November 1, 2006. Over 13 citizens commented on the application. In general, they commented on: the increased traffic volume the store will generate; increased auto emissions generated by vehicles waiting at stop lights; impact on the single-family residences located south of Orme; safety of school kids crossing Oliver or unloading at Jefferson Elementary school; drainage; light pollution; Wal-Mart business practices regarding employees and competition; increased truck traffic; delivery hours and overall impact on the quality of life of nearby residents due to the scale of the project. DAB III voted 8-2 to support the request subject to conditions contained in the staff report, plus three additional conditions: carts with wheel locks are to be used; widen Orme from Oliver to Bleckley and Wal-Mart is to follow through with its offer to provide land for parking and bus unloading for Jefferson Elementary School. See attached DAB III meeting summary.

District Advisory Board II heard this request on November 6, 2006. Approximately 15 people commented on the project, citing their concerns that this project would increase traffic on Oliver north of Kellogg to the point that this segment of Oliver Street would have to be widened, and the Oliver Street and Douglas intersection would have to be widened. Widening Oliver Street and improving the Oliver intersection with Douglas are viewed as having negative affects to the viability of businesses located at Oliver and Douglas, and detrimental to pedestrians and pedestrian oriented neighborhoods. Speakers also expressed concern that local independent businesses would not be able to compete with Wal-Mart. One speaker spoke in support of the project. DAB II recommended that the project be approved.

Wal-Mart representatives also attended neighborhood meetings held by the Dry Creek and College Hill neighborhood associations. It was reported at the DAB III meeting that the Dry Creek Neighborhood Association's official position was neutral to supportive of the request. The College Hill Neighborhood Association meeting was held on October 24, 2006, and was attended by approximately 140 people. There were expressions of both support and opposition at the meeting. It was also reported at the DAB III meeting that a majority of those in attendance at the College Hill meeting were not supportive of the request.

The Metropolitan Area Planning Commission (MAPC) heard the request on November 2, 2006. Approximately 16 speakers spoke citing many of the issues discussed at the previous DAB and neighborhood meetings. The MAPC voted 12-1 to recommend approval of the request per the requirements contained in the staff report.

When this item was heard by the City Council at its December 12, 2006, meeting, it deferred

action to January 9, 2007, in order to allow the applicant additional time to address a number of issues that did not appear to be fully resolved. Staff will report on any progress made by the applicant since December 12, 2006.

Protest petitions representing 41.97 percent have been submitted. Since the percentage of protest exceeds 20 percent, a ¾ majority vote by the governing body will be required to approve the request.

Financial Considerations: None

Goal Impact: Promote economic vitality and affordable living.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve PUD2005-00002 subject to the conditions contained in the staff report including re-platting within one year; instruct the Planning Department to forward the ordinance for first reading when the plat has been recorded with the Register of Deeds; 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 members of the governing body on the first reading.)

150004) Published in The Wichita Eagle on \_\_\_\_\_  
ORDINANCE NO. \_\_\_\_\_

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

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

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

Case No. PUD2006-00002

Request for Zone change from LC Limited Commercial, DP-261, B Multi-family Residential, NR Neighborhood Retail, GO General Office, MF-29 Multi-family Residential and TF-3 Two-family Residential to The Wal-Mart at Oliver Planned Unit Development District #24 on property described as:

Lot 1, Schmid Addition; the north 138 feet of Lot 2, Jim Burns Addition; Lot 2, except the north 138 feet of Jim Burns Addition; Lot 1, except the west 10 feet dedicated for street, and except the north 3.29 feet thereof, and all of Lots 2, 3 and 4, Block 1, Mission Heights; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 2, Mission Heights; the south 10 feet of Lot 3 and the north 55 feet of Lot 4, Block B, Nashville Park Addition; the south 5 feet of Lot 4 and all of Lot 5, Block 5, Block B, Nashville Park Addition; Lots 6 and 7, Block B, Nashville Park Addition; Lot 1, DeWitt 2nd Addition; Lot 1, Block B, Ann Walenta Addition; Lot 1 Davis-Moore 11th Addition; all of Eilerts Street, Glendale Avenue and Elpyco Avenue rights of way adjoining said described lots, all additions to Wichita, Sedgwick County, Kansas.

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

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

ADOPTED AT WICHITA, KANSAS, \_\_\_\_\_

\_\_\_\_\_  
Carlos Mayans - Mayor  
ATTEST:

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

(SEAL)

Approved as to form:

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

## **Agenda Item No. 28.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0022

TO: Mayor and City Council

SUBJECT: ZON2006-00038 – Zone change from “LI” Limited Industrial to “B” Multi-family Residential. Generally located north of Kellogg between Pattie and Laura. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve (9-3) on October 5th, 2006, Deny (8-5) on December 7, 2006.

MAPD Staff Recommendations: Approve.

DAB Recommendations: Deny (6-3).

Background: The application area, the Kellogg Elementary School building, is currently zoned “LI” Limited Industrial, consistent with its location along Kellogg/US-54. The applicants wish to convert the existing school building into apartments and construct additional freestanding apartments on the site. LI zoning prohibits residential use; therefore, the applicants have requested a zone change to “B” Multi-family Residential, which is considered a down-zoning. B zoning permits up to 75 dwelling units per acre. The applicant could request a down-zoning to any level of commercial or office zoning, which would permit residential development as well. But, the applicant wishes to restrict the redevelopment of the property to multi-family residential. “GC” General Commercial, “LC” Limited Commercial and “GO” General Office all permit 75 dwelling units per acre, equivalent to the B zoning residential density.

Most of the surrounding properties are zoned LI, with the exception of several rezonings to enable the refinancing or sale of residential properties. All immediately surrounding properties to the north and west are developed with single-family residences. East of the site, across Pattie, is a mixture of small businesses, warehousing, manufacturing, school parking and residential uses. Further east of the site, east of Lulu, is a large church complex, which has bought property in the neighborhood over time. South of the site is Kellogg/US-54, a limited access freeway. A pedestrian bridge connects this site with a residential neighborhood south of Kellogg. The greater surrounding neighborhood includes a land use mix of office, retail, manufacturing,

warehousing, single and multi-family residential, churches, a childrens theater and a park.

To the north side of Waterman Street, one block north of this site, the Douglas Street corridor was rezoned in 2005 from LI to “CBD” Central Business District. Likewise, west of Washington Street, two blocks west of this site, was also rezoned in 2005 from LI to “CBD” Central Business District. The purpose of that rezoning was to enable residential development and to increase zoning flexibility for the redevelopment of older buildings within these areas.

Analysis: District I Advisory Board heard this request on October 2, 2006; several small business owners and a representative of the neighborhood church spoke against the request. The DAB recommended denial by a vote of 6-3.

MAPC heard this request on October 5, 2006; several small business owners and a representative of the neighborhood church again spoke against the request. MAPC approved the request by a vote of 9-3.

WCC heard this request on November 7, 2006. The action of the council was to return the item to MAPC, to give the applicant the opportunity to meet with the neighborhood association and opposed business owners. This neighborhood association meeting was held on November 18, 2006. A formal vote was not taken at that neighborhood meeting, the president of the association is supportive of the zone change request, and the association is not opposed to the zone change.

MAPC then heard this request a second time on December 7, 2006. The neighborhood association president spoke in favor of the request, several small business owners and a representative of the neighborhood church again spoke against the request. MAPC reversed their previous decision by denying the request by a vote of 8-5.

Staff received several letters of opposition from small business owners and the neighborhood church. Forty-one formal protest petitions have been filed from small business owners and the neighborhood church that owns numerous lots in the immediate area; 10 of these protests are within the official protest calculation area. The official protest results in a 26.3% protest percentage, see the attached protest map. A protest of greater than 20% requires the governing body to have a  $\frac{3}{4}$  majority override to approve the zone change request.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, and deny the zone change; or
2. Override the MAPC decision, approve the zone change and place the ordinance on first

reading; or

3. 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.)

**Agenda Item No. 29.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0023

TO: Mayor and City Council Members

SUBJECT: Appeal of Historic Preservation Board action regarding demolition of structures in the immediate area of the footprint of the Sedgwick County Arena (District I)  
HPC2006-00685, HPC2006-00686, HPC2006-00687, HPC2006-00688, HPC2006-00689, HPC2006-00690 and HPC2006-00694

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Non-Consent)

HPB Recommendation: Deny the requests for demolition of 219 S. St. Francis, 223 S. St. Francis, 233 S. St. Francis, 301 S. St. Francis, 305 S. St. Francis, 315 S. St. Francis and 310 S. Commerce.

Staff Recommendation: Overturn the decision of the Historic Preservation Board

Background: At the December 11, 2006, Historic Preservation Board (HPB) meeting, Sedgwick County requested approval for demolition of 15 structures located within the footprint of the arena structure and its immediate surroundings. The properties are located within 500 feet of the East Douglas Avenue National Register Historic District and are subject to the Environs Review as set forth in Kansas State Statute K.S.A. 75-2715 – 75-2725 that requires projects occurring within 500 feet of a state or national register listed property or district be reviewed.

Analysis: The HPB denied the demolition of seven of the 15 buildings because they did not meet Kansas State Statute Environs guidelines as follows:

Guideline #1 specifies, “The character of a historic property’s environs should be retained and preserved. The removal or alteration of distinctive buildings, structures, landscape features, spatial relationships, etc. that characterize the environs should be avoided.”

Guideline #2 specifies, “The environs of a property should be used as it has been historically or allow the inclusion of new uses that require minimal change to the environs’ distinctive materials, features, and spatial relationships.” Demolition of character-defining features or structures with no plans for compatible replacement features or structures is not recommended.

Demolition of character-defining structure(s) with the intention of creating open space, such as a parking lot or park is not recommended.

These properties are listed below:

Property Address	HPB Vote
a. HPC2006-00685 219 S. St. Francis	6-0
b. HPC2006-00686 223 S. St. Francis	6-0
c. HPC2006-00687 233 S. St. Francis	6-0
d. HPC2006-00688 301 S. St. Francis	6-0
e. HPC2006-00689 305 S. St. Francis	4-2
f. HPC2006-00690 315 S. St. Francis	6-0
g. HPC2006-00694 310 S. Commerce	6-0

In September 2005, the County hired Brenda Spencer, a qualified historic preservation consultant, to complete a historic building survey of the potential arena site using Kansas State Historical Society's Historic Properties Survey to determine eligibility of listing in the Register of Historic Kansas Places and the National Register of Historic Places. The area surveyed was Douglas south to Kellogg and Market east to the Santa Fe Railroad. This survey identified buildings as either not eligible for listing or eligible for listing using a three-tier system – National Register listed buildings, buildings eligible for individual listing and buildings eligible for listing either in a district or a multiple property documentation. In order to be determined eligible for individual listing, a building must be 50 years old or older and have had no major alterations. Eligibility for listing as a contributing structure within a district requires that the building be 50 years old or older and may have a few alterations, none of which can be significant. In preparing the survey, the consultant researched the Sanborn Fire Insurance Maps covering the years 1900 through 1959 and the historic building permit files that cover construction in the city limits from around 1912 through late 1940s.

In preparing recommendations of the historic significance of the 15 structures submitted for consideration of demolition, Historic Preservation staff researched Wichita City directories from 1920 through 1931, 1934 through 1936, 1939, 1941 through 1943 and 1951.

Two of the seven buildings were determined by the preservation consultant to be not eligible for listing. Historic Preservation staff did not find any additional information to contradict this finding and further determined that the buildings do not provide historic context for the East Douglas NR Historic District or potentially eligible historic districts. These buildings are identified as 305 S. St. Francis (HPC2006-00689) and 310 S. Commerce (HPC2006-00694). Staff recommended that the HPB find the demolition of these structures would not encroach, damage or destroy the environs of the East Douglas Avenue National Register Historic District as the environs already exhibits lack of historic context and be allowed to be demolished.

The remaining five buildings were identified by the consultant as being eligible for listing as part of district or a multiple property survey. A district listing through expansion of the East Douglas Avenue Historic District was investigated with the Kansas State Historical Society (SHPO) by

the consultant and staff. Because of lack of integrity and historic context of the area immediately surrounding the district, SHPO will not support the expansion of the district. With the exception of the 400 block of South Commerce, no other potential district exists within the 2005 survey area. The other buildings identified as eligible for listing would have to be part of a multiple property survey. Multiple property surveys require a strong common historic context as well as a high level of structural integrity in order to be eligible for listing in the National Register. Another factor in consideration of listing these structures will be if another example of the building type or the work of the architect or builder exists in better condition or may be already listed in another location within the city.

Buildings identified as eligible for listing in a multiple property survey are 219 S. St. Francis (HPC2006-00685); 223 S. St. Francis (HPC2006-00686); 233 S. St. Francis (HPC2006-00687); 301 S. St. Francis (HPC2006-00688); and 315 S. St. Francis (HPC2006-00690). Although 233 S. St. Francis is designed by architect Glenn Thomas and built by Siedhoff Construction, the integrity of the building has been significantly compromised by the replacement of all original windows and doors. Since this is only a one-story building, the replacement of all of the building's windows significantly reduces its level of integrity and therefore would not qualify for listing individually. Also, better representations of both of these individuals' work are already listed in the National Register individually or within National Register historic districts within the city. Other buildings associated with Dunn Mercantile and the Dunn Family remain extant in the City and in the opinion of staff would represent a higher degree of significance. Staff recommended that the HPB find the demolition of these structures would not encroach, damage or destroy the environs of the East Douglas Avenue National Register Historic District as the environs already exhibits lack of historic context and be allowed to be demolished.

Legal Considerations: The HPB has a programmatic agreement with the State Historic Preservation Office to review applications for all properties individually listed, listed in historic districts in the state/national register of historic places or within the environs of properties listed in the state/national registers of historic places. The Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S. A. 75- 2724 and the City Code Section 2.12.1023(c), and (f). In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no "feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

Financial Considerations: None to the city.

Goal Impact: Core Area and Neighborhood

Recommendations/Actions:

- 1) Uphold the decision of the Historic Preservation Board; or
- 2) Overturn the decision of the Historic Preservation Board

Attachments

Draft Historic Preservation Board Minutes of December 11, 2006

Notification letters dated December 13, 2006  
Letter dated December 14, 2006 appealing decision of HPB  
Map of site showing buildings to be demolished  
Aerial map prepared by historic preservation consultant

**Agenda Item No. 30.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0024

TO: Mayor and City Council Members

SUBJECT: Appeal the authority of the Historic Preservation Board to issue Certificates of Appropriateness regarding demolition of structures in the immediate area of the footprint of the Sedgwick County Arena (District I)  
HPC2006-00693 and HPC2006-00702

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Non-Consent)

Staff Recommendation: Uphold the authority of the Historic Preservation Board to issue Certificates of Appropriateness.

Background: At the December 11, 2006, Historic Preservation Board (HPB) meeting, Sedgwick County requested approval for demolition of 15 structures located within the footprint of the arena structure and its immediate surroundings. The properties are located within 500 feet of the East Douglas Avenue National Register Historic District and are subject to the Environs Review as set forth in Kansas State Statute K.S.A. 75-2715 – 75-2725 that requires projects occurring within 500 feet of a state or national register listed property or district be reviewed.

Sedgwick County owns three of the properties and the remaining 12 are in process of purchase negotiation or eminent domain proceedings. John Belford, Belford Electric remains the owner of record of the two structures at 600 E. Waterman and 326 S. Commerce and is appealing the authority of the HPB to take action on a property not owned by the applicant.

Analysis: The HPB did review the request of Sedgwick County to allow demolition of 600 E. Waterman and 326 S. Commerce and determined the demolition of the buildings did not encroach, damage or destroy the environs of the East Douglas Avenue National Register Historic District pursuant to K.S.A. 75-2724(a) and (e)(1).

K.S.A. 75-2724(a) The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic

places or the environs of such property until the state historic preservation officer has been given notice as provided herein, and an opportunity to investigate and comment upon the proposed project.

K.S.A. 7502724(e)(1) The state historic preservation officer may enter into an agreement authorizing a city or county to make recommendations or to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c) if the state historic preservation officer determines that the city or county has enacted a comprehensive local historic preservation ordinance, established a local historic preservation board or commission and is actively engaged in a local historic preservation program.

Legal Considerations: The appellant has not appealed the decision of the HPB that the demolition of the structures on these two properties would not encroach upon, damage or destroy the environs of the East Douglas Avenue Historic District. The appeal challenges the authority of Sedgwick County to file an application on property of which they are not the record owner and the Historic Preservation Board to act on the application. K.S.A. 75-2724(a) clearly states that any political subdivision of the state is to give notice to the state historic preservation officer and to provide an opportunity to investigate and comment upon any proposed project that may encroach, damage or destroy any historic property listed in the state or national registers or within the environs of such property. The State Historic Preservation Office has a programmatic agreement effective through October 2010 pursuant to K.S.A. 75-2724(e)(1), which delegates the authority of the Historic Preservation Board to act on their behalf.

Financial Considerations: None to the city.

Goal Impact: Core Area and Neighborhood

Recommendations/Actions:

- 1) Find the action of the HPB to be in compliance with K.S.A. 75-2724 and affirm the authority of the Historic Preservation Board; or
- 2) Find the action of the HPC to not be in compliance with K.S.A. 75-2724 and nullify the action of the Historic Preservation Board.

Attachments

Draft Historic Preservation Board Minutes of December 11, 2006

Notification letters dated December 13, 2006

Letter dated December 15, 2006 and December 20, 2006 appealing decision of HPB

Map of site showing buildings to be demolished

**Agenda Item No. 31.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0025

TO: Mayor and City Council Members

SUBJECT: A07-02R Request by Shonda Chapa, of Rain Link, LLC to annex land generally located east of West Street, between I-235 and MacArthur Road. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 1.62 acres of land generally located east of West Street, between I-235 and MacArthur Road. The annexation area abuts the City of Wichita to the north, east, south and west. The property owner anticipates that the proposed property will be developed with a 20,000 square foot industrial structure in the next ten years.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 1.62 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, east, south and west is zoned "LI" Limited Industrial. Property to the north, west and south is developed, while the property to the east is only partly developed, with a few scattered commercial buildings.

Public Services: There is a 16" water main along the west side of West Street across the frontage of the subject property. There are also two 1" water service lines established to the subject property. There is a 21" sewer main that is under construction in MacArthur Road from Sheridan to Blue Lake. It is being constructed in part with the intent that if these properties on either side of West Street, from MacArthur Road north to I-235, ever want or need sewer service, the public sewer laterals would be extended from this 21" sewer main in MacArthur Road.

Street System: The subject property borders West Street to the west, which is a 2-lane asphalt road. The 2006 Transportation Improvement Program and the Sedgwick County Capital Improvement Program 2006-2010 have scheduled improvements to West Street, from I-235 to 47th Street South, directly west of the subject property. The City of Wichita Capital Improvement Program (CIP) 2005-2014 does not call for improvements near the proposed

annexation site.

**Public Safety:** Fire services to this site can be provided by the City of Wichita within a five (5) to six (6) minute approximate response time from City Station No. 12, located at 3443 South Meridian. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

**Parks:** South View Park, a 20-acre park, is located approximately 2 1/2 miles to the southeast of the subject property and contains two tennis courts, six soccer fields, a children's play area, a restroom and two parking areas. South Lakes Park, a 250-acre park, is located approximately 2 1/2 miles southeast of the subject property and contains sixteen soccer fields, eight softball fields, one football field, three concession stands, four fishing areas and two parking areas. Osage Park, a 20-acre park, is located 1 1/2 miles to the northeast of the subject property and contains a recreation center, a small children's swimming/wading pool, two softball diamonds, two tennis courts, three horseshoe court, a basketball court, a children's play area, a restroom and two parking areas. Wildwood Park, a 10-acre park, is located 2 miles to the northeast of the subject property and contains an open shelter, two horseshoe courts, a children's play area and a wood-chip walking path.

**School District:** The annexation property is part of the Unified School District 261 (Haysville 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 \$167,190 with a total assessed value of \$26,543. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$834 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 a 20,000 square foot industrial structure will be developed within the next ten years. The total appraised value of this development after completion is estimated at \$1,300,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$10,207 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 \_\_\_\_\_

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

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A07-02)

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 IV respectively:

Beginning 426 feet south of the northwest corner of the Southwest Quarter, of Section 12, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence east parallel to the north line of said Southwest Quarter, 278.71 feet; thence south parallel to the west line of said Southwest Quarter, 315.69 feet, thence west 278.71 feet; thence north 315.69 feet to the place of beginning EXCEPT for that part designated as West Street.

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 \_\_\_\_\_.

\_\_\_\_\_  
ATTEST:

Carlos Mayans, Mayor

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Karen Sublett, City Clerk

Approved as to form:

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Gary E. Rebenstorf, Director of Law

**Agenda Item No. 32.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0026

TO: Mayor and City Council Members

SUBJECT: A07-03R Request by Rob Ramseyer, of Ritchie Development Corp., to annex land generally located southwest of the intersection of 21st Street North and 143rd Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 96.69 acres of land generally located southwest of the intersection of 21st Street North and 143rd Street East. The annexation area abuts the City of Wichita to the north and west. The property owner anticipates that the proposed property will be developed with 155 single-family units in the next five years.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 96.69 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 and west is almost fully developed and is zoned "SF-5" Single-Family Residential. Property to the east is primarily undeveloped and zoned "SF-20" Single-Family Residential. Property to the south is zoned both "SF-20" and "SF-5" Single-Family Residential, of which a portion of the property has been developed with the Savanna at Castle Rock Ranch Subdivision.

Public Services: There is an existing 30" water main along 21st Street North and a 12" water line in 143rd Street East that are available to be extended into the subject property. There is an 18" sewer line on the west side of the Reed's Cove Addition reserve at the southwest corner of the subject property, but the capacity of this line is limited by lines further downstream that were installed by Sedgwick County Four Mile Creek. Plans for an interceptor are currently under design that would eliminate these limitations.

Street System: The subject property borders 21st Street to the north and 143rd Street to the east.

21st Street North and 143rd Street East have asphalt pavement with one lane running each direction. The City of Wichita Capital Improvement Program (CIP) 2005-2014, the 2006 Transportation Improvement Program and the Sedgwick County Capital Improvement Program 2006-2010 have scheduled improvements to 21st Street North from K-96 to 159th Street East, directly north of the subject property.

**Public Safety:** Fire services to this site can be provided by the City of Wichita within a seven (7) to eight (8) minute approximate response time from City Station No. 18, located at 2808 N. Webb Rd. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 S. Edgemoor.

**Parks:** The Northeast Sports Complex, a 60-acre park, is located approximately 3 miles to the northwest of the proposed annexation site and is currently being developed for youth athletics. According to the 1996 Parks and Open Space Master Plan, a potential pathway has been identified, which would run along the south line of the subject property.

**School District:** The annexation property is part of the Unified School District 385 (Andover 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 \$159,550 with a total assessed value of \$20,488. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$1,294 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 155 single-family units will be developed in the next five years. The total appraised value of this development after completion is estimated at \$49,600,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$179,140 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 \_\_\_\_\_

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

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A07-03)

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

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

A tract of land located in the Northeast One-Quarter of Section 11, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas and being more particularly described as follows:

COMMENCING at the Northeast corner of said Northeast One-Quarter; thence along the East line of said Northeast One-Quarter, on a Kansas coordinate system 1983 south zone bearing of S00°53'20"E, a distance of 850.00 feet to the POINT OF BEGINNING; thence continuing south on said East line, S00°53'20"E, a distance of 1811.32 feet to the Southeast corner of said Northeast One-Quarter; thence along the south line of said Northeast One-Quarter, S88°38'21"W, a distance of 2643.28 feet to the Southwest corner of said Northeast One-Quarter; thence along the west line of said Northeast One-Quarter, N00°57'48"W, a distance of 665.78 feet to a point on a southerly line of Reeds Cove 3rd Addition, Wichita, Sedgwick County, Kansas, as recorded on DOC#/FLM-PG: 28573853 in the Sedgwick County Register of Deeds office; thence along the southerly and easterly lines of said addition through the following seven courses; S77°35'17"E, a distance of 149.26 feet; N73°29'13"E, a distance of 269.96 feet; N39°30'04"E, a distance of 1100.06 feet; N50°29'57"W, a distance of 150.00 feet; N00°59'12"W, a distance of 309.98 feet; S88°37'36"W, a distance of 75.00 feet; N00°57'58"W, a distance of 720.00 feet to a point on the North line of said Northeast One-Quarter; thence N88°37'33"E, along said North line, a distance of 563.62 feet; thence S00°53'20"E, parallel with the East line of said Northeast One-Quarter, a distance of 850.00 feet; thence N88°37'33"E, parallel with the North line of said Northeast One-Quarter, a distance of 1153.19 feet to the POINT OF BEGINNING, EXCEPT for that part designated as 143rd Street East.

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 \_\_\_\_\_.

\_\_\_\_\_  
ATTEST:

Carlos Mayans, Mayor

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

Approved as to form:

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

**Agenda Item No. 33.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0027

TO: Mayor and City Council Members

SUBJECT: ZON2004-00041 – Extension of time to complete the platting requirement for a zone change from “SF-5” Single-Family to “GO” General Office. Generally located north of 29th Street North and west of Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve a platting deadline extension to April 13, 2007.

Background: On October 13, 2004, the City Council approved the zone change from “SF-5” Single-Family to “GO” General Office. Approval of the request was subject to the condition of platting the property within one year.

The applicant sought and received an administrative 6-month platting extension to April 13, 2006. The applicant has initiated the platting process, their plat has been approved by the MAPC. The applicant intends to have the plat before City Council by April 13, 2007.

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

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

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 extended platting deadline of April 13, 2007.

**Agenda Item No. 34.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0028

TO: Mayor and City Council

SUBJECT: ZON2006-00049 – Zone change from “TF-3” Two-family Residential to “GO” General Office. Generally located north of Central and west of Grove (east of Spruce Street). (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations (12-0).

MAPD Staff Recommendations: Approve, subject to replatting within one year.

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

Background: The applicant requests a zone change from “TF-3” Two-family Residential to “GO” General Office on a 0.72-acre tract generally located north of Central and east of Spruce Street. The tract requested for rezoning currently is vacant.

The tract is part of an expanded site for a new, larger facility for the Hunter Health Clinic. The existing clinic and the other existing commercial buildings located on the north side of Central between Grove and Spruce will be removed for the new clinic; this property is zoned “LC” Limited Commercial. Vacant property along Grove will be incorporated into the site and already is zoned GO. This request would extend the northern boundary of GO zoning west of Grove to Spruce Street.

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 abutting lot on the north of the rezoning request is a vacant lot. The property to the south of Central is the site of the Johnson Drug Store Building listed on the National Register of Historic Places. Other uses along Central include retail and office buildings and a vacant church building.

Analysis: At the District I Advisory Board meeting held December 4, 2006, DAB I voted (10-0) to recommend approval of the zone change request to GO subject to staff recommendation of replatting within one year. No citizens were present to speak on the request. At the MAPC

meeting held December 7, 2006, MAPC voted (12-0) to recommend approval of the zone change request for GO subject to staff recommendation of replatting within one year. No citizens were present to speak on the request at the MAPC public hearing. No protest petitions have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to replatting within one year; withhold the publication of the ordinance until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

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

**Agenda Item No. 35.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0029

TO: Mayor and City Council

SUBJECT: CUP2006-45 Associated with ZON2006-44 – Create DP-302 Krug South Community Unit Plan; zone change to “LC” Limited Commercial. Generally located on the southwest corner of 21st Street North and 143rd Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff conditions (12-1).

MAPD Staff Recommendations: Approve, subject to conditions.

**BACKGROUND:** The applicant proposes to create a commercial community unit plan containing approximately 20 acres with four parcels and rezone the property to “LC” Limited Commercial. The property is located on the southwest corner of 21st Street North and 143rd Street East. Parcel 1, the largest parcel, is 12.9 acres in size and occupies the southern 500 feet of the tract; one access drive connects it to 21st Street North. Parcels 2, 3, and 4 are located directly along 21st Street North and range in size from 1.8 acres to 3.1 acres. The property was filed as a Sedgwick County zone change/community unit plan request, but was annexed to the City of Wichita October 26, 2006, thus transferring action on the request to the Wichita City Council.

Requested uses would be those allowed by right in LC except: group residence, limited and general; correctional placement residence, limited and general; parks and recreation; recycling collection station, private and public; utility, major and minor; heliport; kennel, boarding/breeding/training; night club; pawn shop; sexually oriented business; tavern and drinking establishment; wireless communication facility; cemetery; golf course; marine facility, recreational; and all industrial, manufacturing and extractive uses. Parcel 4 has been further restricted to only those uses permitted in the “NR” Neighborhood Retail district, the “GO”

General Office district, animal care, limited, and recreational and entertainment, indoor. Additional features to minimize the impact on the residential properties to the north, south and west include prohibiting overhead doors and drive-through or in-car service within 100 feet of a single-family lot in any parcel and from facing south, west or north on Parcel 4.

Maximum building coverage would be 30 percent of the land area. Maximum gross floor area would be 35 percent. Building setbacks are 35 feet on arterial streets and the south and west property lines. Buildings would have uniform architectural compatibility and shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 25 feet in height, lowered to 15 feet within 100 feet of residential use. Window display signs will be limited to 25 percent of the window area. Screening walls would be located on the south and west property lines, with some flexibility for substituting landscape screening and berm for double-façade buildings abutting the drainage reserve.

Monument signage would be one sign on 21st Street North and one sign on 143rd Street East at a maximum height of 25 feet and sign face area of 150 square feet. Remaining monument signs would be a maximum height of 20 feet and sign face area of 150 square feet, except reduced to 10 feet in height and 100 square feet in sign face area for Parcel 4. The monument signs would be spaced 150 feet apart except that between the taller (25-foot) signs and adjacent signs may be allowed at 100-foot spacing. Flashing signs (except time, temperature, public service messages) moving, portable, offsite signs except advertising the Krug South Subdivision, and billboards, banners and pennants would be prohibited.

Access would be limited to one major full-movement opening onto 21st Street North and two right-in/right-out openings, and two major full-movement openings onto 143rd Street East.

The site currently is in agricultural use and is part of the Krug South Addition plat filed for this property plus the land to the south and southwest. This plat proposes approximately 160 residential lots plus this commercial tract. The property to the southeast is zoned "SF-20" Single-family Residential and to the northeast is zoned "RR" Rural Residential; current development to the southeast and northeast consists of farmsteads, agricultural tracts and large suburban tracts. A church, a small lake and a single-family subdivision, Chestnut Ridge, are located to the north/northwest on property zoned SF-5. Reed's Cove, a single-family residential subdivision is located west of the creek that borders the Krug South Addition.

Analysis: At the MAPC meeting held December 7, 2006, MAPC voted (12-1) to approve subject to staff recommendation, including the staff recommendation to limit the easternmost access opening on 21st Street North to right-in/right-out only. The Traffic Engineer explained that this segment of 21st is under design as a city project. With undeveloped land, he felt it was important to adhere to the City's Access Management Policy. Prior to the meetings, staff had received several letters of opposition from residents in the subdivision north 21st Street North. At the meeting, one resident spoke on behalf of the neighborhood. She expressed concerns about existing traffic congestion on 21st Street North and urged adequate turn space be provided at entrances. She said concerning the rezoning, they held numerous community meetings to discuss the issues of the commercial property and its impact on their neighborhood. She said

they were appreciative that Ritchie, who also was their developer, was willing to meet with them and discuss their concerns. She said the community was willing to support the rezoning in return for Ritchie's written offer to provide a landscaping plan to help buffer the commercial property from their neighborhood.

The MAPC recommendation is that the application be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-44) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-302), subject to the following conditions:
  - 1. Transportation improvements:
    - a. Revise access on 21st Street North to conform to Access Management Policy with one full movement and with eastern and western entrances on 21st Street North limited to right-in/right-out only.
    - b. Provide petition(s) to guarantee construction of left turn center lanes to all major entrances (one on 21st and two on 143rd Street East) and decel lanes into all four entrances.
  - 2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  - 3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  - 4. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  - 5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-302) includes special conditions for development on this property.
  - 6. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

No protest petitions have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to platting within one year and approve the CUP; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; 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.)

**Agenda Item No. 36.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0030

TO: Mayor and City Council Members

SUBJECT: SUB 2006-88 -- Plat of Southwest Passage Addition located on the south side of Pawnee and east of 135th Street West. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

---

Staff Recommendation: Approve the plat.

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

Background: This site, consisting of 37 lots on 26.41 acres, is located within Wichita's city limits. This site is zoned "SF-5" Single-family Residential District.

Analysis; Petitions, 100 percent, and a Certificate of Petitions have been submitted for street, sanitary sewer and water improvements. A Restrictive Covenant was submitted providing for the ownership and maintenance responsibilities of the proposed reserves being platted. A Restrictive Covenant was also submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

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

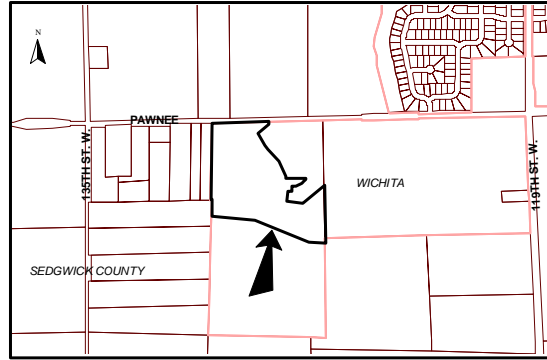
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petitions 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.



**Agenda Item No. 37.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0031

TO: Mayor and City Council Members

SUBJECT: SUB 2004-93 -- Plat of Mesa Verde Addition, located south of 37th Street North and on the east side of Meridian. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

---

Staff Recommendation: Approve the plat.

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

Background: This site, consisting of 43 lots on 10 acres, is located within Wichita's city limits. The site is zoned "SF-5" Single-family Residential District.

Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for sewer, water, paving and drainage improvements. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements, a Restrictive Covenant was submitted outlining restrictions for lot-owner use of these easements. Restrictive Covenants were also submitted to provide for the ownership and maintenance responsibilities of the proposed reserves and to provide four off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street.

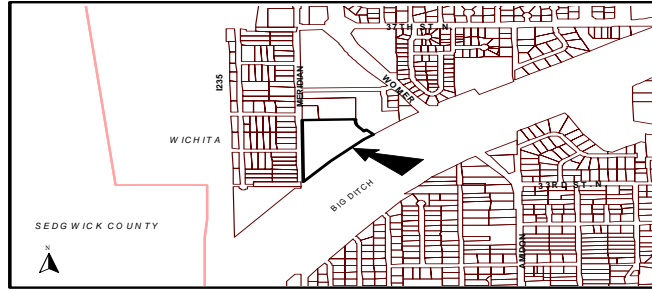
This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petitions 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.



**Agenda Item No. 38.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0032

TO: Wichita Airport Authority

SUBJECT: Airline Use Agreements – Supplemental Agreements

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreements.

Background: The Wichita Airport Authority has a uniform lease and use agreement with the passenger carrying airlines serving Wichita Mid-Continent Airport. Supplemental Agreements are included for the following airlines: AirTran, America West, American, American Eagle, Atlantic Southeast, Chautauqua, ExpressJet d/b/a Continental Express, Mesa, Northwest, Pinnacle d/b/a Northwest Airlink, Skywest, and United Airlines. The term of the current agreement expired December 31, 2006.

Analysis: It is the normal practice of the Wichita Airport Authority to enter into contractual agreements with the passenger carrying airlines serving Wichita Mid-Continent Airport in order to establish a business relationship and a basis for rentals, fees, and charges. It is now necessary to renew that agreement, effective January 1, 2007. It is recommended that the agreement be renewed for one year through December 31, 2007.

Financial Considerations: The passenger carrying airlines serving Wichita Mid-Continent Airport have agreed to pay for approximately one-third of the maintenance, operation, and debt service associated with the airfield, and for approximately one-half of the cost for operation, maintenance and debt service for the terminal building. The ensuing rates and charges are determined pursuant to DOT Policy, Federal Code, U. S. Supreme Court rulings, and negotiations. The estimated annual revenue for the coming year is approximately \$4 Million. Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through extending agreements which allow the Airport to continue its operation on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the

Supplemental Agreements; and authorize the necessary signatures.

Attachments: Twelve distribution copies of the standard supplemental agreement.

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AIR TRAN AIRWAYS, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AIR TRAN AIRWAYS, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated May 7, 2002, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 7, 2002, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated December 21, 2004, for the purpose of extending the term of the agreement and modifying the exhibits;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.

As provided in Section 3.1.B, Authority and Airline may, from time to time, by written agreement, add space to or delete space from the Airline Premises. Airline anticipates relocating from existing ticket counter, office and bag makeup space to the new areas reflected on Exhibit B-1, dated December 20, 2006, attached hereto and incorporated herein. Upon occupancy of the new space, Airline shall notify the Director of Airports of such occupancy. At that time, the Revised Exhibit B-1, dated April 9, 2003 for this respective space, shall be superseded, and the December 20, 2006 exhibit shall be in effect.

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_  
By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
"Authority"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: AIR TRAN AIRWAYS, INC.

By \_\_\_\_\_  
By \_\_\_\_\_  
"Airline"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AMERICA WEST AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AMERICA WEST AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated December 21, 2004, which extended the term of the Agreement and modified the exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.4.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No.3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.5.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.6.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_ By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
"Authority"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: AMERICA WEST AIRLINES, INC.

By \_\_\_\_\_ By \_\_\_\_\_  
"Airline"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FIVE

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AMERICAN AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FIVE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AMERICAN AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated October 19, 2004, which reduced the leased premises; and Supplemental Agreement No. Four dated December 21, 2004, which extended the term of the agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Five for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.7.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 4, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.8.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.9.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_ By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
“Authority”

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: AMERICAN AIRLINES, INC.

By \_\_\_\_\_ By \_\_\_\_\_  
“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FIVE

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AMERICAN EAGLE, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FIVE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AMERICAN EAGLE, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated October 19, 2004, which increased the leased premises; and Supplemental Agreement No. Four dated December 21, 2004 which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Five for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.10.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 4, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.11.

As provided in Section 3.1.B, Authority and Airline may, from time to time, by written agreement, add space to the Airline Premises. Commencing January 1, 2007, Airline shall lease Gate 5 Office area, comprising 604 sq.ft., as reflected on Exhibit B-1, dated December 12, 2006, attached hereto and incorporated herein.

Exhibit B-1, Gates 4 & 5 Operations, containing 2,242 sq.ft. and 83 sq.ft. respectively, dated April 4, 2000, is hereby superseded by Exhibit B-1, Gates 3 & 4 Operations, dated December 11, 2006, containing 1,637 sq.ft., effective January 1, 2007. The exhibit is attached hereto and incorporated herein.

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.12.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this supplemental agreement the day and year first above written.

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_ By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
“Authority”

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: AMERICAN EAGLE, INC.

By \_\_\_\_\_ By \_\_\_\_\_  
“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_

Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FIVE

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

ATLANTIC SOUTHEAST AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FIVE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and ATLANTIC SOUTHEAST AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000 for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. Three dated March 2, 2004, which increased the leased premises; and Supplemental Agreement No. Four dated December 21, 2004 which extended the term of the agreement and modified the exhibits within the agreement;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

13.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 4, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

14.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

15.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY

WICHITA, KANSAS

By direction of the Wichita Airport Authority

By \_\_\_\_\_

By \_\_\_\_\_

Karen Sublett, City Clerk

Carlos Mayans, President

“Authority”

By \_\_\_\_\_

Victor D. White, Director of Airports

ATTEST:

ATLANTIC SOUTHEAST AIRLINES, INC.

By \_\_\_\_\_  
By \_\_\_\_\_

“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

CHAUTAUQUA AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as “AUTHORITY”, and CHAUTAUQUA AIRLINES, INC., hereinafter referred to as “AIRLINE”.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated May 7, 2002, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 7, 2002, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and

modified exhibits within the Agreement; and Supplemental Agreement No. Three, dated December 21, 2004, which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.16.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.17.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.18.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_

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

Carlos Mayans, President

“Authority”

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: CHAUTAUQUA AIRINES, INC.

By \_\_\_\_\_  
By \_\_\_\_\_ “Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER SIX

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

EXPRESSJET AIRLINES, INC. D/B/A CONTINENTAL EXPRESS

THIS SUPPLEMENTAL AGREEMENT NUMBER FIVE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as “AUTHORITY”, and EXPRESSJET AIRLINES, INC. D/B/A CONTINENTAL EXPRESS, hereinafter referred to as “AIRLINE”.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. Three dated June 8, 2004, which increased the leased premises; and Supplemental Agreement No. Four dated December 21, 2004 which extended the term and modified exhibits within the Agreement; and Supplemental Agreement No. Five dated August 1, 2006 which increased the leased premises; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Six for the purpose of extending the term of the agreement and modifying the exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.  
Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 4 shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.  
Section 3.1.A of article III, Airline Premises, shall be modified to include the following languages:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.  
It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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



WICHITA AIRPORT AUTHORITY

AND

MESA AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and MESA AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated December 21, 2004 which extended the term of the Agreement and modified exhibits within the Agreement and;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.19.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No.3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.20.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.21.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_  
By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
"Authority"

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: MESA AIRLINES, INC.

By \_\_\_\_\_  
By \_\_\_\_\_  
"Airline"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

NORTHWEST AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and NORTHWEST AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated December 21, 2004 which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.22.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.23.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.24.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_  
By \_\_\_\_\_  
Karen Sublett, City Clerk Carlos Mayans, President  
“Authority”

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: NORTHWEST AIRINES, INC.

By \_\_\_\_\_  
By \_\_\_\_\_

“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

PINNACLE AIRLINES, INC. D/B/A NORTHWEST AIRLINK

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as “AUTHORITY”, and PINNACLE AIRLINES, INC. D/B/A NORTHWEST AIRLINK, hereinafter referred to as “AIRLINE”.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated December 21, 2004 which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.25.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for -one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.26.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.27.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY

WICHITA, KANSAS

By direction of the Wichita Airport Authority

By \_\_\_\_\_

By \_\_\_\_\_

Karen Sublett, City Clerk

Carlos Mayans, President

“Authority”

By \_\_\_\_\_

Victor D. White, Director of Airports

ATTEST:

PINNACLE AIRLINES, INC.  
D/B/A NORTHWEST AIRLINK

By \_\_\_\_\_  
By \_\_\_\_\_  
"Airline"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FOUR

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

SKYWEST AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FOUR, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and SKYWEST AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated November 6, 2001, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated November 6, 2001, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No.

Three dated December 21, 2004, which extended the term of the agreement and modified the exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Four for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.28.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.29.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.30.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_

By \_\_\_\_\_

Karen Sublett, City Clerk

“Authority”

Carlos Mayans, President

By \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST: SKYWEST AIRINES, INC.

By \_\_\_\_\_  
By \_\_\_\_\_  
"Airline"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

SUPPLEMENTAL AGREEMENT NUMBER FIVE

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

UNITED AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER FIVE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and UNITED AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling

public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. Three dated October 7, 2003, which reflects revised contract language and modifies space; and Supplemental Agreement No. Four which extends the term of the Agreement and modifies the exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Five for the purpose of extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.31.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. 3, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided.”

2.32.

Section 3.1.A. of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.33.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority



**Agenda Item No. 39.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0033

TO: Wichita Airport Authority  
SUBJECT: Airparts Company – S. A. No. 11  
INITIATED BY: Department of Airports  
AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreement.

Background: Airparts is desirous of extending its current agreement for one additional year for the use of an office/ warehouse facility located at 1991 Airport Road on Wichita Mid-Continent Airport. Airparts has occupied the space since January 1, 1996.

Analysis: Airparts occupies 2,504 square feet of the subject building, which has a total area of approximately 12,135 square feet. Rockwell Collins occupies the remainder of the facility. An appraisal has been conducted by the Martens Companies to determine the fair market rental value of this facility.

Financial Considerations: Total annual rent will be \$10,952.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements which allow the Airport to continue its operation on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement, and authorize the necessary signatures.

Attachments: Two original signature copies and 12 distribution copies of the sublease agreement.

SUPPLEMENTAL AGREEMENT NO. 11 By and Between THE WICHITA AIRPORT AUTHORITY and AIRPARTS COMPANY, INC. Facility Rental – 1991 Airport Road Wichita Mid Continent Airport THIS SUPPLEMENTAL AGREEMENT NO. 11 made and entered into this January 9, 2007, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the "LESSOR"; and AIRPARTS COMPANY, INC. hereinafter referred to as the "LESSEE". WITNESSETH: WHEREAS, the parties hereto have heretofore

entered into an Agreement dated December 18, 1995 for use of the facility located at 1991 Airport Road for aviation related purposes in connection with its business of distribution and retailing of aircraft parts; WHEREAS, the original agreement has been modified by Supplement Agreement Nos. 1 through 10, with the most recent supplement dated January 10, 2006; and WHEREAS, the Lessor and Lessee are now desirous of entering into this Supplemental Agreement No. 11 for the purpose of adjusting the rental amounts and extending the Agreement for one year. NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows: 1. The term of this extension shall be for a one-year period from January 1, 2007 through December 31, 2007.2. Facility rental during the term of this Supplemental Agreement shall be \$7,611.60 per year for a monthly rental of \$634.30. In addition to paying the foregoing facility rental, Lessee agrees to pay land rental for the leased premises, containing approximately 12,175 square feet. Basic land rental during the term of this Agreement shall be as follows:

	Period	Rate	Month	01/01/07 – 04/30/07	\$2655
	\$269.37	05/01/07 – 12/31/07	\$2788	\$282.873.	

It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement shall remain in full force and effect. IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written. ATTEST: THE WICHITA AIRPORT AUTHORITY WICHITA, KANSAS By direction of the Wichita Airport Authority By

By \_\_\_\_\_ Karen Sublett, City Clerk Carlos Mayans, President "LESSOR" By Victor D. White, Director of Airports ATTEST:

AIRPARTS COMPANY, INC. By \_\_\_\_\_ By \_\_\_\_\_ Title \_\_\_\_\_ Title \_\_\_\_\_

"LESSEE" APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_ Director of Law

**Agenda Item No. 40.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0034

TO: Wichita Airport Authority  
SUBJECT: Sublease Agreement – AON Service Corporation  
INITIATED BY: Department of Airports  
AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the sublease agreement.

Background: The Wichita Airport Authority currently has an agreement with AON Service Corporation for use of a facility located at 1995 Midfield Road on Wichita Mid-Continent Airport. The term of the agreement is through August 31, 2011.

Analysis: AON Service Corporation and AOPA Insurance Agency have been and are currently located in this facility. The agreement between the WAA and AON Service Corporation requires approval of any subleases. A sublease agreement has been submitted by AON Service Corporation to sublease a portion of the building to AOPA Insurance Agency.

Financial Considerations: There is no financial impact to the Wichita Airport Authority.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted by utilizing existing facilities to the fullest extent.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the sublease agreement and authorize necessary signatures.

Attachments: Three original signature copies and 12 distribution copies of the sublease agreement.

**Agenda Item No. 41.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0035

TO: Wichita Airport Authority

SUBJECT: Airline Use Agreement – Delta Airlines

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Agreement and Supplemental Agreement No. 1 to the Agreement.

Background: Delta re-entered the Wichita market in September 2006, with one roundtrip per day between Wichita and Atlanta, using MD88 aircraft.

Analysis: A use agreement is required for Delta Airlines to operate as a signatory passenger airline, and is offered under the same terms and conditions as those offered to other passenger-carrying airlines. At Delta's request, bankruptcy language is included in a supplemental agreement.

Financial Considerations: The use agreement establishes the basis for consistently calculating the rates that apply to signatory passenger airlines at Wichita Mid-Continent Airport. The current landing fee rate is \$2.10 per thousand pounds of maximum gross landed weight. A security deposit equal to two month's fees is required of each airline.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through extending agreements which allow the Airport to continue its operation on a self-sustaining basis.

Legal Considerations: The Law Department has approved the Airline Lease and Use Agreement and Supplemental Agreement as to form.

Recommendations/Actions: It is recommended the Wichita Airport Authority approve the Agreement and Supplemental No. 1 to the Agreement, and authorize the necessary signatures.

Attachments: Two original signature copies and twelve distribution copies of both the Agreement and Supplemental Agreement No. 1.

**AIRLINE AIRPORT USE AND LEASE AGREEMENT**

BY AND BETWEEN

WICHITA AIRPORT AUTHORITY

AND

DELTA AIRLINES, INC.

FOR

WICHITA MID-CONTINENT AIRPORT

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## AIRLINE AIRPORT USE AND LEASE AGREEMENT

BETWEEN

WICHITA AIRPORT AUTHORITY

AND

DELTA AIRLINES, INC.

THIS AGREEMENT, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, Wichita, Kansas (hereinafter referred to as "Authority") and DELTA AIRLINES, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware (hereinafter referred to as "Airline") acting by and through its designated officers pursuant to its bylaws or a resolution of its Board of Directors;

WITNESSETH:

WHEREAS, Authority owns and operates the Wichita Mid-Continent Airport (hereinafter referred to as "Airport"); and

WHEREAS, Authority has the right to lease and license the use of property on Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, Airline is a corporation primarily engaged in the business of air transportation by aircraft for the carriage of persons, property, and mail; and

WHEREAS, Airline desires to use certain premises and facilities, and to exercise certain rights and privileges at Airport in connection with the operation of its Air Transportation System, and Authority is willing to agree to such use, rights and privileges as set forth herein; and

WHEREAS, the intent of the parties hereto is to enter into an agreement which will more definitively specify the rights and obligations of the parties with respect to the operation of Airport by Authority and the use and occupancy of Airport by Airline, and this Agreement is responsive to and in accordance with that intent;

NOW, THEREFORE, Authority and Airline for, and in consideration of, the covenants and mutual agreements hereinafter contained, do hereby covenant and agree as follows:

## ARTICLE I DEFINITIONS

### Section 1.1 - Definitions

The following words, terms and phrases wherever used in this Agreement shall, for the purposes of this Agreement, have the following meanings:

Air Transportation Company shall mean a company engaged in the business of scheduled or nonscheduled commercial transportation by air of persons, property, mail, and/or cargo.

Agreement shall mean this Airline Airport Use and Lease Agreement between Authority and Airline, as the same may be amended from time to time.

Aircraft Parking Apron shall mean that part of Ramp Area immediately adjacent to Terminal that is used for the parking of aircraft and support vehicles and the loading and unloading of passengers, baggage, and other mail or cargo, the boundaries of which are shown in Exhibit "B" attached hereto.

Airfield shall mean those portions of Airport provided for the landing, take-off and taxiing of aircraft, including without limitation approach and turning zones, aviation or other easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection therewith.

Airline Premises shall mean Exclusive Use Premises, Preferential Use Premises and Joint Use Premises as hereinafter defined.

Airport shall mean the Wichita Mid-Continent Airport owned and operated by The Wichita Airport Authority, the current boundaries of which are shown on Exhibit "A" attached hereto.

Airport System shall mean Wichita Mid-Continent Airport and Colonel James Jabara Airport.

Air Transportation System shall mean that system operated by Airline for the commercial transportation of persons, property and mail by air.

Bond Resolution shall mean any bond resolution(s) of the Authority authorizing the issuance of any Bonds or other financing obligations with respect to the Airport System, as such may be

supplemented or amended from time to time.

Bonds shall mean any bonds or other financing instrument or obligation of the Authority, other than Subordinated Indebtedness, issued for the purposes of improving the Airport System pursuant to any Bond Resolution.

Capital Charges shall mean (i) Debt Service, (ii) amortization requirements for projects funded by Authority in Airline Cost Centers, and (iii) the cost of any other single capital item made to improve, maintain, or develop the Airport System which is not included in (i) or (ii) above.

Code Share Airline shall mean a Scheduled Air Carrier providing regularly scheduled air service at the Airport under a common airline code with a Host Airline.

Debt Service shall mean the required amounts to be deposited within the principal and interest accounts created by the Bond Resolution, and such other fund(s) which may be established for payment of Other Indebtedness or Subordinated Indebtedness during any period for the payment, when due, of principal of, interest on, and other fees and amounts associated with such debt.

Debt Service Coverage shall mean, for any Fiscal Year, the amount equal to twenty-five percent (25%) of Debt Service, as defined in the Bond Resolution, for all series of Bonds plus such other amount as may be established by any financing agreement with respect to Other Indebtedness or Subordinated Indebtedness.

Debt Service Reserve Fund(s) shall mean the fund or funds established in the Debt Service Fund pursuant to the Bond Resolution or any other financing document for the deposit of funds necessary to satisfy any Debt Service Reserve Requirement.

Debt Service Reserve Fund Requirement shall mean the reserve requirement as defined in the Bond Resolution for all series of Bonds, and any reserve requirements established for Subordinated Indebtedness or Other Indebtedness.

Director shall mean the Director or Acting Director of Airports, and shall include such person or persons as may from time to time be authorized in writing by the Director to act for the Director with respect to any or all matters pertaining to this Agreement.

Enplaned Passengers shall mean all (i) originating; (ii) on-line transfer; and (iii) off-line transfer revenue passengers boarded at the Airport.

Exclusive Use Premises shall mean Terminal space leased to Airline for its exclusive use as shown on Exhibits "B" and "C" attached hereto, as such may be amended from time to time.

Fiscal Year shall mean the then current annual accounting period of Authority for its general accounting purposes which, at the time of entering into this Agreement, is the period of twelve (12) consecutive calendar months ending with the last day of December of any year.

Gate Position shall mean Airline's passenger gate(s), including Airline's Aircraft Parking Apron, holdroom, passenger loading bridge(s), if any, and appurtenant furnishings in and about the Terminal that are reasonably necessary for the use thereof; provided, however, Gate Position shall specifically exclude any space leased by Airline under the Terminal concourses.

Host Airline shall mean a Signatory Airline accommodating a Code Share Airline within its Airline Premises.

Joint Use Premises shall mean those Terminal areas assigned to two or more Scheduled Air Carriers, as shown on Exhibits "B" and "C" attached hereto.

Maximum Gross Landed Weight shall mean the maximum gross certificated landing weight in one thousand pound units for which each aircraft operated by Airline is certified by the Federal Aviation Administration ("FAA"), or any successor agency thereto.

Non-Revenue Landing shall mean any aircraft landing by Airline at Airport for which Airline receives no revenue, and shall include irregular and occasional ferry, test, courtesy, inspection, or other similar flights.

Operation and Maintenance Expenses (O&M Expenses) shall mean, for any period, all expenses accrued by Authority in accordance with generally accepted accounting practices for airports of similar characteristics for the operation, maintenance, administration and ordinary current repairs of the Airport System in order to maintain and operate the Airport System in a reasonable and prudent manner.

Operation and Maintenance Reserve Requirement (O&M Reserve Requirement) shall mean a reserve created and maintained sufficient to pay three months of budgeted O&M Expenses.

Other Debt Service shall mean any principal, interest, and premium, either paid or accrued, on Other Indebtedness of the Authority relating to improvements to the Airport System.

Other Indebtedness shall mean any debt incurred by Authority for Airport System purposes which is outstanding and not authenticated and delivered under and pursuant to any Bond Resolution or any Subordinated Bond Resolution.

Preferential Use Premises shall mean Aircraft Parking Apron(s), hold room(s) and Authority owned passenger loading bridge(s), if any, assigned to Airline, as set forth in Section 3.1, and to which Airline shall have preferential use, defined herein as the unrestricted higher and continuous priority over all other users, subject to the provisions of Article XVI herein. The Director may, with notice appropriate under the circumstances, authorize another Air Transportation Company pursuant to Article XVI to utilize Airline's hold rooms, loading bridges, and Aircraft Parking Apron when such use does not conflict with Airline's scheduled flight activities, including a period of forty-five (45) minutes after any of Airline's scheduled departure times and forty-five (45) minutes prior to any of Airline's scheduled arrival times and during Airline's aircraft parking overnight, or for the scheduled flight activities of an airline with

which Airline has a Code Share Airline agreement, approved subleases, or handling agreements.

Ramp Area shall mean the aircraft parking and maneuvering areas adjacent to Terminal, and shall include within its boundaries all Aircraft Parking Aprons.

Requesting Airline shall mean a Scheduled Air Carrier desiring to provide new or expanded commercial passenger air transportation service to and from Airport, and which is unable to obtain adequate Aircraft Parking Apron and/or Terminal space from Authority.

Revenue Landing shall mean an aircraft landing by Airline at Airport in conjunction with a flight for which Airline makes a charge or for which revenue is derived for the transportation by air of persons, property or mail, but Revenue Landings shall not include any landing of an aircraft which, after having taken off from Airport and without making a landing at any other airport, returns to land at Airport because of meteorological conditions, mechanical or operating causes, or any other reason of emergency or precaution.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Code Share Airlines, or wholly owned subsidiaries of Host Airlines providing scheduled air transportation to and from Airport, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines, including Airline and Code Share Airlines or wholly owned subsidiaries of such airlines, providing scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron. Code Share Airlines shall also execute a similar agreement to this Agreement, but without the requirement to meet the minimum facilities requirement set forth in this paragraph so long as the Host Carrier meets such requirements.

Special Purpose Facilities shall mean any capital improvements paid from other than Airport revenues and located or to be located on any property included under the definition of the Airport.

Subordinated Indebtedness shall mean any bonds or other financing instrument or obligation subordinate to the Bonds, issued pursuant to a Subordinated Bond Resolution.

Subordinated Bond Resolution shall mean a Resolution of the Authority authorizing the issuance by the Authority of Subordinated Indebtedness, as such may be supplemented or amended from time to time.

Terminal shall mean the airline terminal building owned and operated by Authority at Airport, as shown on Exhibit "A" hereof.

U.S. Implicit Price Deflator Index shall mean the then most recently issued year-to-date United States Gross National Product Implicit Price Deflator Index issued by the United States Department of Commerce, or, if such index shall be discontinued, a successor index designated by the United States Government.

## Section 1.2 – Construction

1.2.A. Additional words and phrases used in this Agreement but not defined herein shall have their usual and customary meaning.

1.2.B. Unless the context clearly indicates otherwise, words used in the singular include the plural, and words used in the plural include the singular.

## ARTICLE II TERM

### Section 2.1 - Initial Term

The effective term of this Agreement shall commence September 1, 2006 and expire at midnight on December 31, 2006, subject to earlier termination as herein provided.

The effective term of this Agreement shall be for one year and two months, commencing November 1, 2003, and expiring at midnight on December 31, 2004, subject to earlier termination as herein provided.

### Section 2.2 - Renewal Option

Airline agrees to meet with the Authority and other Signatory Airlines, not later than ten (10) months prior to the expiration of this Agreement, to determine whether this Agreement should be extended, or whether a new agreement should be negotiated.

## ARTICLE III PREMISES

### Section 3.1 - Airline Premises

3.1.A. Authority does hereby lease and demise to Airline, and Airline does hereby lease and accept from Authority, Exclusive Use Premises, Preferential Use Premises, and Joint Use Premises, as set forth on Exhibits "B" and "C".

3.1.B. Authority and Airline may, from time to time, by written agreement, add to or delete space from Airline Premises. Authority shall not permit deletion of space unless needed by Airport for its own use or for lease to another tenant requesting such space. Exhibits "B" and "C" shall be revised as of the effective date of such additions or deletions to reflect

agreed upon additions or deletions of space.

3.1.C. Notwithstanding the above Paragraph 3.1.B., Authority shall also have the right upon 90 days advance written notice or such other timeframe which may be reasonable and agreed to by Airline and Authority to relocate Airline to comparable, alternative premises that are ready for beneficial occupancy if such relocation is necessary to ensure the efficient use of all Terminal areas, with due recognition of the specific needs of each carrier, including Airline, operating at the Airport. In the event Airline is relocated, in whole or in part, appropriate changes to Exhibits "B" and "C" shall be made. Authority or the air transportation company being accommodated shall pay all costs of any such relocation, and Airline shall provide receipts or other evidence of any relocation expenses

3.1.D. All space added to, or deleted from, Airline Premises pursuant to this Section 3.1 shall be subject to all the terms, conditions, and other provisions of this Agreement and Airline shall pay to Authority all rentals, fees and charges applicable to such additional Airline Premises in accordance with the terms of this Agreement.

3.1.E.(1) The Authority and Airlines recognize that the use of certain Joint Use Space as set forth in Exhibits "B" and "C" of the Agreement require ingress and egress through Airline Preferential Use Premises. Airline shall make ingress and egress to such Joint Use Space available to passengers, other Airline personnel, and Authority personnel when reasonably required for the efficient and convenient movement of passengers, personnel, and objects. In recognizing the right to such use by others, the parties agree that the Airline shall retain the reasonable and unrestricted higher and continuous priority over other users on its Preferential Use Premises.

3.1.E.(2) During the ingress and egress of Airline Preferential Use Premises by passengers, other Airline personnel and Authority personnel pursuant to this Section, Airline shall be relieved of its obligation under this Agreement to indemnify and save harmless Authority, its agents and employees, its successors and assigns, with regard to any claim for damages or personal injury arising out of or in connection with said passenger, other Airline personnel and Authority's personnel using Airline's Preferential Use Premises unless such damage or personal injury is proximately caused by the negligence of Airline, its agents, employees, licensee, or those under its control who have come upon Airline Preferential Use Premises in connection with Airline's occupancy hereunder.

### Section 3.2 - Employee Parking

Authority shall make available or cause to be developed an area or areas at the Airport as common parking facilities for personnel employed at the Terminal, including Airline personnel, subject to applicable charges for such parking facilities as set forth in Paragraph 6.4.A. herein.

### Section 3.3 - Authority Fuel Facilities

Airline shall have the right to utilize the fueling facilities, equipment, and appurtenances,

including the tank farm owned by the Authority, for the receiving, storing, and dispensing of aviation fuel, subject to (i) reasonable rules and regulations established by the Director; (ii) the payment of charges for such use as set forth in Paragraph 6.4.B. of this Agreement; (iii) the terms of existing agreements between the Authority and any designee operating the Authority's facilities; and (iv) the execution of a separate agreement with Authority if Airline directly utilizes the Authority fuel facilities without engaging the services of Authority or its designee.

## ARTICLE IV USE OF AIRPORT AND RELATED FACILITIES

### Section 4.1 - Airline Rights and Privileges

Airline shall have the right, in addition to all rights granted elsewhere in this Agreement, to use areas of Airport as designated in this Agreement for the following purposes:

4.1.A. The operation of its Air Transportation System for the carriage of persons, property and mail, including all activities reasonably necessary to such operations.

4.1.B. The landing, taking off, flying over, taxiing, towing, parking, loading and unloading, conditioning and servicing of aircraft of Airline; and, in areas designated by Authority, the extended parking, servicing, loading or unloading, storage or maintenance of Airline's aircraft, subject to availability of space and to such reasonable charges and regulations as Authority may determine for areas not part of Airline Premises. Such rights shall extend to the aircraft or other equipment of any other aircraft operator with which Airline has an agreement in accordance with Article XV.

4.1.C. The sale of air transportation tickets and services, the processing of passengers and their baggage for air travel, and the sale, handling, and providing of mail, freight, and express services.

4.1.D. The training at Airport of personnel in the employ of or to be employed by Airline, and the testing of aircraft and other equipment being utilized on the Airport in the operation of its Air Transportation System, provided that such training and testing is incidental to the use of Airport in the operation by Airline of its Air Transportation System, does not include flight training between the hours of 10:00 p.m. and 7:00 a.m., and will not unreasonably hamper or interfere with the use of Airport and its facilities by others entitled to use of the same. In the event the number of training and testing flights by Airline exceeds ten (10) percent of Revenue Landings by Airline in any one calendar month, then Airline shall pay for such excess flights landing fee charges calculated using the then current rates established in this Agreement for Revenue Landings.

4.1.E. The sale, disposition or exchange of Airline's aircraft, engines, accessories, gasoline, oil, grease, lubricants, fuel and other equipment, or supplies, subject to any limitations contained herein, and provided that such rights shall not be construed as authorizing

the conduct of a separate business by Airline, but shall only permit Airline to perform such functions as are incidental to the operation of its Air Transportation System. Airline shall not sell aviation fuels or propellants except (i) to a wholly owned subsidiary company, parent company, or a successor company; (ii) for use in aircraft of others which are being used solely in the operations of Airline; or (iii) to others when a comparable grade and type of fuel desired by others is not available at Airport except from Airline.

4.1.F. The purchase at the Airport or elsewhere, of fuels, lubricants and any other supplies and services, from any person or company, subject to paragraph 4.1.E. and to the Authority's right to require that each provider of services and/or supplies to Airline secures a permit from Authority to conduct such activity at the Airport, pays required fees, and abides by all reasonable rules and regulations established by Authority. No discriminatory limitations or restrictions shall be imposed by Authority that interfere with such purchases; provided, however, nothing herein shall be construed to permit Airline to store aviation fuels at the Airport. The granting of the right to store aviation fuels shall be subject to the execution of a separate agreement between Airline and Authority.

4.1.G. The servicing by Airline, or its suppliers, of aircraft and other equipment being utilized at the Airport on Airline's preferentially leased Aircraft Parking Aprons or such other locations as may be designated by the Director.

4.1.H. The loading and unloading of persons, property, and mail by motor vehicles or other means of conveyance as Airline may desire or require in the operation of its Air Transportation System, at locations designated by Authority. Airline may designate the particular carrier or carriers which are legally authorized to conduct such services in the City of Wichita and which may transport Airline's employees, property, and mail to, from, and on Airport; provided, however, Authority reserves the right to require such carrier or carriers to secure a permit from Authority to conduct such activity at Airport and to abide by all reasonable rules and regulations established by Authority.

4.1.I. The installation and maintenance at its sole cost and expense of identifying signs in Airline's Exclusive Use Premises. The general type and design of such signs shall be harmonious and in keeping with the pattern and decor of the Terminal areas; provided, however, that Authority shall permit Airline to install on the walls behind ticket counters leased by Airline, if any, identifying and company logo signs customarily installed by Airline in such areas at comparable airport facilities. All such signs of whatever number, size, design, color, nature or location shall require the written approval of Director, not to be unreasonably withheld, prior to their installation.

4.1.J. The installation, maintenance and operation of such radio, communication, computer, meteorological and aerial navigation equipment and facilities, in, on and about the Airline Premises as may be necessary or convenient in the opinion of Airline for operation of its Air Transportation System; provided, however, that the location and installation of such equipment and facilities shall require the prior written approval of Director, not to be unreasonably withheld, and further provided that the placement and type of installations

authorized hereunder shall not interfere with Airport navigational aids or with similar rights granted to other tenants or governmental agencies. In the event of such interference, the Director may require removal, relocation, or modification at the sole cost of Airline to eliminate such interference.

4.1.K. Such rights of way as may reasonably be required by Airline for communications, computer equipment, teletype, telephone, interphone, pneumatic tubes, conveyer systems and power and other transmission lines in and between the Terminal and other areas of Airport. The location of such rights of way shall be designated by Director.

4.1.L. The installation of personal property, including furniture, furnishings, supplies, machinery and equipment, in Airline Premises as Airline may deem necessary or prudent for the operation of its Air Transportation System, with title to such personal property to remain with Airline in accordance with the terms of this Agreement.

4.1.M. The construction of modifications, finishes and improvements in Airline Premises as Airline may deem necessary or prudent for the proper operation of its Air Transportation System, in accordance with Article IX of this Agreement.

4.1.N. Ingress to and egress from the Airport and Airline Premises for Airline's officers, employees, agents, invitees, passengers, suppliers of materials, furnishers of services, aircraft, equipment, vehicles, machinery and other property. Such rights shall be subject to FAR Part 107, and the Authority's right to establish rules and regulations governing (i) the general public, including Airline's passengers, and (ii) access to non-public areas at the Airport by Airline's employees, suppliers of materials and furnisher of services; provided, however, any such rules and regulations of the Authority shall not unreasonably interfere with the operation of Airline's Air Transportation System. Further, Authority reserves the right to, from time to time, temporarily or permanently restrict the use of any roadway or other area at the Airport. In the event of such restrictions, and if necessary, Authority shall ensure the availability of a reasonable equivalent means of ingress and egress.

4.1.O. The installation of a limited number of soft drink vending machines and snack vending machines, subject to the prior written approval of Director, in the non-public, Exclusive Use Premises of Airline for the exclusive use of Airline's employees and agents.

4.1.P. The rights and privileges granted to Airline pursuant to this Article IV may be exercised on behalf of Airline by other Signatory Airlines or contractors authorized by Authority to provide such services at the Airport, subject to the prior written approval of Authority and further subject to all laws, rules, regulations and fees and charges as may be applicable to the activities undertaken.

4.1.Q. Airline may, on behalf of any other Air Transportation Company or any Code Share Airline, exercise any of the rights granted Airline herein, so long as Airline is concurrently exercising those same rights in the operation of Airline's own Air Transportation System at the Airport. This right is subject to other provisions of this Agreement with respect to

Authority rules and regulations.

#### Section 4.2 - Exclusions and Reservations

4.2.A. Authority reserves the right to install or cause to be installed advertising and revenue generating devices, including vending machines, in Joint Use Premises; provided, however, that such installation shall not unreasonably interfere with Airline's operations authorized hereunder or substantially diminish the square footage contained in Airline Premises. Authority further reserves the right to install pay telephones in any part of Terminal. Authority shall be entitled to all income generated by such telephones and devices and to reasonable access upon Airline Premises to install or service such telephones and devices; provided, however, Authority shall coordinate with Airline as to the location of such devices and consent of Airlines shall not be unreasonably withheld.

4.2.B. Director may prohibit the use of the Landing Area by any aircraft operated or controlled by Airline which exceeds the design strength or capability of the Landing Area as described in the current Federal Aviation Administration approved Airport Layout Plan or other engineering evaluations performed subsequent to the then current Airport Layout Plan.

4.2.C. Airline shall use its best efforts to promptly remove any of its disabled aircraft from runways, taxiways, aprons and Aircraft Parking Apron (the latter only if needed by Authority for operational purposes in accordance with Article XVI) and shall place any such disabled aircraft only in such storage areas as may be designated by Authority and may store such disabled aircraft only upon such terms and conditions as may be established by Authority. In the event Airline shall fail to remove any of its disabled aircraft as expeditiously as possible, Authority may, but shall not be obligated to, cause the removal of such disabled aircraft at Airline's cost.

4.2.D. Airline shall not do or permit to be done anything that may interfere with the effectiveness or accessibility of the drainage, sewerage, water, communications, or fire protection systems or any other part of the utility, electrical, or other systems installed or located from time to time at Airport.

4.2.E. Airline shall not, within its reasonable control, do or permit to be done anything either by act or failure to act that shall cause the cancellation or violate the provisions of any policy of insurance for Airport, or any part thereof, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Airline shall do or permit to be done anything either by act or failure to act that shall cause an increase in the premiums for insurance for Airport, or any part thereof, then Airline shall immediately upon demand by Director pay the amount of such increase. If such Airline act or failure to act shall cause cancellation of any policy, then Airline shall immediately upon notification by Director take such action as is necessary to cause reinstatement of said insurance.

4.2.F. The rights and privileges granted to Airline under this Article to contract with third parties for obtaining services and materials are subject to restrictive agreements, franchises, licenses, and other rights previously granted by Authority to fixed base operators, ground transportation carriers and other providers of services and materials. Copies of such agreements are available for inspection by Airline at the office of the Director.

4.2.G. Except as provided in Section 4.1.O. herein or as may subsequently be provided in a separate agreement, Airline shall not maintain or operate in the Terminal or elsewhere at Airport a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling food and beverages to the public or to its employees and passengers, nor shall Airline in any manner otherwise provide for the sale of food and beverages at Airport; provided, however, that nothing in this Paragraph 4.2.G. shall prohibit Airline from providing customary in-flight catering services to its passengers and flight crews for consumption aloft. Airline may by separate agreement containing terms and conditions determined satisfactory by Director engage in the sale of food or beverage at any "V.I.P. room" or similar private club at the Airport, provided however, that Airline shall then pay a concession fee to Authority in addition to the rental charge for the space occupied by such club.

4.2.H. Authority reserves the right to establish rules and regulations governing access of the general public, including Airline's passengers, to public areas in the Terminal; provided, however, any such rules and regulations shall not unreasonably interfere with the operation of Airline's Air Transportation System, or alter the access rights provided for elsewhere in this Agreement.

4.2.I. The Authority and the Signatory Airlines agree to consult with each other and mutually agree at what location(s) passenger screening required by FAR Part 108, shall occur in the Terminal, and such screening must occur in these designated location(s). Such screening location(s) must be maintained by Airline, by itself or in conjunction with other Signatory Airlines, or a designee, in a clean and sightly manner, and the general décor and signage shall be in keeping with the overall quality of other Terminal public areas. Passenger screening shall be conducted in a professional-like manner, and the Signatory Airlines, or their designee, if any, shall not restrict access to areas beyond the screening location(s) without the prior written permission of the Director.

4.2.J. The rights granted by this Agreement shall not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of Airport.

4.2.K. Any and all rights and privileges not granted to Airline in this Agreement are hereby reserved for and to Authority.

#### Section 4.3 – Curbside Check-In

Airline, either alone or in conjunction with other Scheduled Air Carriers or through a nominee, may provide curbside check-in. Authority will consider a vendor arrangement, in the event one or more Signatory Airlines execute a written agreement to pay for the cost of facilities and

services related to curbside check-in.

## ARTICLE V MAINTENANCE AND OPERATION OF AIRPORT

### Section 5.1 - General

5.1.A. Authority agrees that it (i) will with reasonable diligence prudently develop, improve, and at all times reasonably maintain and operate Airport with adequate qualified personnel and keep Airport in reasonably good repair including, without limitation, the Terminal (except as set forth in Paragraphs 5.1.B. and 5.1.C.), Landing Area, Ramp Area, and all appurtenances, facilities and services now or hereafter connected therewith as the same relate to Airline's Air Transportation System; (ii) will use its best efforts to keep Airport and its aerial approaches free from obstruction and interference for the safe and proper use thereof by Airline; and (iii) will develop, maintain and operate Airport in all respects in a manner at least equal to comparable United States airports of substantially similar size, use and activity except for conditions beyond the control of Authority. Notwithstanding the above, Authority shall not be responsible for snow and debris removal within the building safety line in the Terminal area. Authority shall not be liable to Airline for temporary failure to furnish all or any of such services to be provided by Authority, whether due to mechanical breakdown or for any other causes beyond the reasonable control of Authority.

5.1.B. Airline will at all times maintain in a neat, orderly, sanitary, and presentable condition, and will provide custodial services in designated areas of Airline Exclusive Use Premises and Passenger Holdrooms in accordance with the maintenance and operation responsibilities provided for herein. Airline shall cause to be removed from such spaces designated herein, at Airline's own expense, all waste, garbage and rubbish and agrees not to deposit same on any part of Airport, except that Airline may deposit same temporarily in its Exclusive Use Premises or in space designated by Authority in connection with collection for removal. Should Airline refuse or neglect to maintain designated areas as herein provided, Authority, upon notice to Airline providing a reasonable amount of time for Airline to remedy such problem, shall have the right to perform such maintenance on behalf of and for Airline. Any costs for such maintenance shall be paid for by Airline no later than twenty (20) days following demand by Director for such payment at Authority's costs plus twenty (20) percent.

5.1.C. Responsibilities for maintenance, cleaning and operation of facilities shall be as set forth on Exhibit "D".

## ARTICLE VI RENTALS, FEES, AND CHARGES

Airline shall pay Authority rentals for use of Airline Premises, and fees and charges for the other rights, licenses, and privileges granted hereunder during the term of this Agreement, and shall

file periodic reports as specified herein.

#### Section 6.1 - Landing Fee Charges

6.1.A. Airline shall pay to Authority within twenty (20) days following the end of each calendar month, without demand or invoicing, landing fee charges for Revenue Landings for the preceding month at the rate and in the amount calculated in accordance with Exhibit "G".

6.1.B. Airline shall include with its payment for landing fee charges a copy of its applicable Monthly Landed Weight/Fee Report (Exhibit "F"), showing the basis for its landing fee charges.

6.1.C. Airline shall pay to Authority within (20) days following the end of each calendar month, without demand or invoicing, landing fees charged for Revenue Landings for the preceding month for all non-signatory commercial operators handled by the Airline, calculated in accordance with Authority's Schedule of Fees and Charges.

6.1.D. Airline shall include with payment for non-signatory commercial operators a copy of the applicable Monthly Landed Weight/Fee Report (Exhibit "F"), showing the basis for the landing fee charges.

#### Section 6.2 - Rentals for Exclusive Use Premises, and Joint Use Premises

6.2.A. Airline shall pay to Authority in advance, on the first day of each month, without demand or invoicing rentals for Airline's Exclusive Use Premises at the rates and in the amounts calculated in accordance with Exhibit "G".

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority no later than twenty (20) days following receipt by Airline of billing therefor and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Scheduled Air Carriers using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carrier's Enplaned Passengers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the

direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in the event a Scheduled Air Carrier ceases to be a user of a particular category and area of Joint Use Premises.

#### Section 6.3 - Rentals for Preferential Use Premises

Airline shall pay to Authority in advance, on the first day of each month, without demand or invoicing, rentals for Preferential Use Premises, calculated in accordance with Exhibit "G".

#### Section 6.4 - Other Charges

Other charges payable by Airline, which shall be paid by Airline to Authority within twenty (20) days following receipt by Airline of billing therefor, in addition to those specified elsewhere in this Agreement, shall be as follows:

6.4.A. Employee Parking Charges. Should Airline elect to furnish free parking for its employees, Airline shall pay to Authority, or its designee, in advance on the first day of each month, or such other time as may be mutually agreed upon between Airline and Authority or its designee, without demand or invoicing, charges as are reasonably established by Authority for the use of employee parking areas designated in Section 3.2, with such charges to be related to the number of employees actually using employee parking areas.

6.4.B. Fuel Facility Charges. In the event Airline purchases or otherwise obtains fuels or lubricants pumped or processed through facilities, equipment, or appurtenances owned or operated by Authority or its designee, including the tank farm owned by Authority, then in such event Airline shall pay charges as determined by Authority or its designee for such facilities, equipment, appurtenances or services. Such charges shall be based upon Authority's actual costs associated with such facilities, equipment, appurtenances, or services, including the tank farm.

6.4.C. Miscellaneous. Charges for items or activities such as badges, extraordinary electrical usage and ramp permit fees shall be assessed by Authority and paid by Airline. To the extent practical, the Authority shall directly meter electrical usage.

#### Section 6.5 - Partial Month Charges

In the event the beginning or termination date with respect to any of the premises and facilities leased hereunder falls on any date other than the first and last days, respectively, of a calendar month, the applicable rentals, fees and charges for that month shall be paid for said month on a pro rata basis according to the number of days actually occupied during that month.

#### Section 6.6 - Late Payments

In the event Airline fails to make payment within twenty (20) days of the dates due as set forth in this Article VI, then Airline shall pay to Authority a monthly service charge from the date each payment was originally due equal to twelve (12%) percent per annum on any such overdue amount, and if Airline fails to make payment within ten (10) days after written notice from Authority to Airline that such payments are late. Airline shall also pay reasonable administrative costs and attorneys' fees incurred by Authority in attempting to obtain payment if Airline fails to make payment within thirty (30) days after written notice referenced above.

#### Section 6.7 - Information to be Supplied by Airline

6.7.A. Not later than five (5) working days after the end of each month, Airline shall file with Authority a written report on forms provided by Authority (Exhibit "E") for activity conducted by Airline during said month.

6.7.B. Not later than five (5) working days after the end of each month, separate reports shall be filed by Airline with Authority for any aircraft flights, scheduled or nonscheduled, handled by Airline for other aircraft operators not having an agreement with Authority that provides for the handled aircraft operator to submit its own reports to Authority.

6.7.C. Upon Authority's receipt of activity data submitted by all Scheduled Air Carriers for the preceding month, Authority shall submit to Airline a composite statistical report for the preceding month. Said statistical report shall be used by Authority in calculating rentals for Joint Use Premises, and other rentals, fees and charges based upon such activity data.

6.7.D. In the event Airline fails to submit the reports required by this Section 6.7 for the then current month by the tenth (10th) day of the succeeding month, Authority shall base its current rentals, fees and charges upon the most recent data transmitted by Airline to Authority, with such charges to be adjusted as necessary on the next succeeding payment date. If statistical data to be submitted by Airline continues to be unavailable in the next succeeding month, Authority shall develop estimates as to Airline's monthly activity for use in the calculation of Airline's rentals, fees and charges.

6.7.E. Airline shall at all times maintain and keep books, ledgers, accounts or other records at the Airport or at its headquarters offices reflecting the traffic statistics to be reported hereunder. Such books, ledgers, accounts and records shall be available for examination by Authority or its duly authorized representative during all reasonable business hours. If such books, ledgers, accounts or other records are not maintained at the Airport, Airline shall promptly furnish the Authority or its duly authorized representative with all information reasonably requested.

6.7.F. The acceptance by Authority of any Airline payment shall not preclude Authority from verifying the accuracy of Airline's reports on which Airline's rentals, fees and charges are based, and shall not be construed as a waiver of interest penalty due, if any.

## Section 6.8 - Security for Payment

6.8.A. To provide security for the rentals, fees and charges due hereunder, Airline shall comply with either of the following two options within fourteen (14) days following the execution of this Agreement.

6.8.A.(1) Post with the Authority a surety bond, to be maintained throughout the term hereof. Such bond shall be issued by a sound indemnity company and shall be in a form and content satisfactory to Authority.

6.8.A.(2) Deliver to Authority an irrevocable letter of credit drawn in favor of Authority upon a bank satisfactory to Authority. Said irrevocable letter of credit shall be kept in force throughout the term of this Agreement and shall contain terms and conditions satisfactory to Authority.

6.8.B. For purposes of this Section 6.8, any surety bond posted by Airline, or irrevocable letter of credit provided by Airline, shall be conditioned on the satisfactory performance of all terms, conditions and covenants contained herein with respect to rentals, fees and charges during the term hereof.

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director.

## ARTICLE VII

### ADJUSTMENT OF RATES FOR RENTALS, FEES, AND CHARGES

#### Section 7.1. – General

7.1.A. Rates for rentals, fees and charges shall be reviewed annually and may be adjusted in conformance with Exhibit "G" effective upon the first day of each new Fiscal Year, and at any time that unaudited monthly Airport financial data indicates that total rentals, fees and charges payable pursuant to the then current rate schedules are estimated and anticipated by Authority to vary by more than ten (10) percent from the total rentals, fees and charges that would be payable based upon the use of actual financial data to date for that Fiscal Year; provided, however, that Authority shall meet with Signatory Airlines prior to the making of any interim adjustments, to explain the reasons therefor, and what efforts the Authority has made, if any, to avoid the necessity of making such interim adjustments.

7.1.B. As soon as audited financial data for a Fiscal Year are available, rates for rentals, fees and charges for that preceding Fiscal Year shall be recalculated using audited financial data and the methods set forth in Exhibit "G". Except as set forth in Paragraph 7.1.E.,

any difference(s) between the actual rentals, fees and charges paid by Signatory Airlines during the preceding Fiscal Year, and the rentals, fees and charges that would have been paid by Signatory Airlines using said recalculated rates, shall be applied by Authority as direct credits against (or recovered through additional charges to) invoices over the remaining months of the current Fiscal Year.

7.1.C. Adjustments to rentals, fees and charges pursuant to this Article VII shall apply without the necessity of formal amendment of this Agreement. In accordance with Section 7.2 herein, a statement showing the calculation of the new rates for rentals, fees and charges as shown on Exhibit "G" shall be prepared by Authority and transmitted to Airline. Said statement shall then be deemed part of this Agreement.

7.1.D. If adjustment of rentals, fees and charges is not completed by Authority on or prior to the end of any Fiscal Year, the rentals, fees and charges then in existence shall continue to be paid by Airline until adjustment is concluded. At the time such adjustment is concluded, and except as set forth in Paragraph 7.1.E., appropriate payments by Airline (credits to Airline) shall be made to adjust rentals, fees and charges paid to date in said Fiscal Year to the amounts that would have been paid had the new rates been effective at the beginning of said Fiscal Year.

7.1.E. Notwithstanding the provisions of Paragraphs 7.1.B., and 7.1.D. with respect to any credits that may become due to Airline, Authority shall have the right to first apply any such credits against any amounts then due to Authority from Airline, whether disputed or otherwise.

#### Section 7.2 - Method of Adjustment

7.2.A. On or about September 1 of each Fiscal Year, Airline shall provide to Authority an estimate of its landed weight for the ensuing Fiscal Year. Authority shall then, on or about September 15 of each Fiscal Year (or approximately one hundred five (105) days prior to the end of the then current Fiscal Year), notify Airline of the schedule of rates for rentals, fees and charges proposed for the ensuing Fiscal Year. Said rates shall be determined and presented to Airline substantially in conformance with the methods and format described in Exhibit "G".

7.2.B. If requested by a majority in number of Signatory Airlines, Director shall, within forty-five (45) days after the forwarding of the proposed schedule of rates for rentals, fees and charges, meet collectively with the Signatory Airlines at a mutually convenient time and place for the purpose of discussing said rates for rentals, fees and charges. In advance of said meeting, Authority agrees to make available to Signatory Airlines any reasonably requested additional information relating to the determination of the proposed rates. Authority agrees to fully consider the comments and recommendations of Signatory Airlines prior to finalizing its schedule of rates for rentals, fees and charges for the ensuing period.

7.2.C. Following said meeting, and prior to the end of the then current Fiscal Year, Authority shall notify Airline of the rates to be established for the ensuing period.

### Section 7.3 - Annual Operating Budget

7.3.A. On or about September 1 of each Fiscal Year, Authority staff shall provide Airline a copy of its proposed operating budget for the ensuing Fiscal Year.

7.3.B. Director agrees to discuss said proposed budget, at the request of a majority in number of the Signatory Airlines or at the request of the Chairperson of the Airport Airline Affairs Committee, at the rates and charges meeting required pursuant to Paragraph 7.2.B. In advance of said meeting, Authority agrees to make available to Signatory Airlines any reasonably requested additional information relating to the proposed operating budget. Authority agrees to fully consider the comments and recommendations of Signatory Airlines prior to finalizing its operating budget.

7.3.C. Following said meeting and the adoption by the Authority of the operating budget for the ensuing Fiscal Year and upon Airline's request, Authority shall provide Airline a copy of the adopted operating budget.

### Section 7.4 - Authority Covenants

7.4.A. Authority covenants that for purposes of keeping its books of account and allocating revenues and expenses, it will observe sound business principles for effective and prudent control of operation, maintenance and administration expenses.

7.4.B. Authority shall operate Airport in a manner so as to produce revenues from concessionaires, tenants and other users of Airport in amounts which would be produced by a reasonably prudent operator of an airport of substantially similar size, use and activity, with due regard for the interests of the public.

7.4.C. Authority shall not include the cost of any service provided by any governmental agency other than Authority as an expense in the calculation of rentals, fees and charges payable by Airline unless a direct charge is paid by Authority to the governmental agency providing such service.

7.4.D. Authority, in determining rates for rentals, fees and charges for Air Transportation Companies not signatory to an agreement substantially similar to this Agreement, shall take into account the differing extent of the obligations of Signatory Airlines and such other Air Transportation Companies.

7.4.E. Authority shall exclude amortization or depreciation charges on improvements to the extent the costs of such improvements are funded by public grants.

7.4.F. Authority shall apply all rentals, fees and charges, concession revenues and any other amounts collected solely to defray the costs of operating and expanding the Airport system, except as may otherwise be required by law.

ARTICLE VIII  
NO ADDITIONAL CHARGES

Section 8.1 - No Other Charges

Except as provided in this Agreement, the rentals, fees and charges payable by Airline to Authority hereunder shall not be increased by Authority without the consent of Airline. Authority shall not, without the consent of Airline, add any new rent, fee or charge payable by Airline to Authority for any of the privileges granted to Airline or space leased by Airline hereunder; provided, however, nothing herein contained shall prevent Authority from charging rent or levying fees or charges in a manner consistent with the terms of this Agreement for any additional space furnished to and accepted by Airline, or for any additional service provided or privileges granted to and accepted by Airline, if said space furnished, service provided or privilege granted is not a part of the space leased, services provided or privileges specified herein. Authority shall not be prevented from charging in a manner consistent with the terms of this Agreement for any space or service which Authority is required to furnish Airline under any federal, state or local law, ordinance, or regulation, if said space or service is not a part of the space leased or services provided herein. Notwithstanding the above, should Airline engage in any activity not specifically provided for herein for which fees are paid to Authority by others conducting similar activities, then Authority reserves the right to charge Airline comparable fees unless otherwise provided for herein.

Section 8.2 - Passenger Facility Charges

Airport shall have the right, pursuant to FAR Part 158, to collect and expend passenger facility charges (PFCs).

ARTICLE IX  
AIRPORT IMPROVEMENTS

Section 9.1 - General

The parties hereto recognize that capital expenditures to preserve, protect, enhance, expand, or otherwise improve Airport or any part thereof, may be required during the term of this Agreement. Any such capital expenditures shall be subject to the provisions of this Article IX.

Section 9.2 - Improvements and Development by Authority

9.2.A. Authority shall consult with the Signatory Airlines at least annually prior to the beginning of a Fiscal Year and thereafter during the Fiscal Year, as may be appropriate, regarding Authority's capital improvement plans. Authority shall give appropriate consideration to the comments and suggestions of the Signatory Airlines with respect to such proposed capital

improvements.

9.2.B. On or before October 15 of each Fiscal Year, and at other times prior to the Authority undertaking capital improvements, Authority shall provide a report to the Signatory Airlines regarding its capital improvement plans. The report shall include (i) a description of each proposed capital improvement, together with any available cost estimates and any available preliminary drawings, (ii) the proposed means and terms of any required financing and the resultant annual debt service, if any, and (iii) the estimated impact of the proposed capital improvements on Signatory Airline rentals, fees, and charges.

9.2.C. If requested by three (3) or more of the Signatory Airlines, Director shall schedule, within a reasonable time, but no sooner than fifteen (15) days and no later than thirty (30) days after distribution of the report, a meeting with the Signatory Airlines to discuss the proposed capital improvements. Authority shall consider Signatory Airline comments prior to finalizing its capital improvement plans, but in any event, Authority shall have the right to proceed as it, in its sole discretion, believes appropriate.

### Section 9.3 - Alterations and Improvements by Airline

9.3.A. Whenever consistent with this Agreement, Airline shall have the right to construct and install, at its sole expense, improvements in its Airline Premises as Airline deems to be necessary for its operations; provided, however, that the plans and specifications, location, and construction schedule for such improvements shall be approved by Director in writing prior to the commencement of any and all such construction or installation. Additionally, prior to the commencement of any such improvements, Airline shall obtain insurance and/or other protection of such types and in such amounts as reasonably deemed necessary by Director and shall submit evidence that such insurance has been obtained to Director. Any work associated with such construction or installation shall not interfere with the operation of the Terminal or Ramp Area. Airline shall deliver to Director reproducible "as built", in electronic form, of Airline improvements and additions no later than thirty (30) days following the substantial completion of any such improvements and additions.

9.3.B. Any construction or installation shall be at the sole risk of Airline and shall be in accordance with all applicable state and local codes and laws and subject to inspection by Director.

9.3.C. All improvements made to Airline Premises and additions and alterations thereto made by Airline shall immediately become the property of Authority; provided, however, that any trade fixtures, signs and other personal property of Airline not permanently affixed to Airline Premises shall remain the property of Airline unless otherwise specified according to the provisions of Article XIV.

9.3.D. Airline shall require contractors to furnish satisfactory evidence of statutory Workers' Compensation insurance, comprehensive general liability insurance, comprehensive automobile insurance, and physical damage insurance, on a Builder's Risk form

with the interest of Authority endorsed thereon, in such amounts and in such manner as Director may reasonably require. Director may require additional insurance for any alterations or improvements approved hereunder, in such limits as Director reasonably determines to be necessary.

9.3.E. Any removal by Airline of property installed by Airline under the terms of this Agreement shall be accomplished pursuant to Article XIV and shall require the written consent of Director prior to such removal, which shall not be unreasonably withheld.

## ARTICLE X DAMAGE OR DESTRUCTION

### Section 10.1 - Partial Damage

If any part of Airline Premises, or adjacent facilities directly and substantially affecting the use of Airline Premises, shall be partially damaged by fire or other casualty, but said circumstances do not render Airline Premises untenable as reasonably determined by Authority, the same shall be repaired to usable condition with due diligence by Authority as hereinafter provided. There shall be no rental abatement whatsoever.

### Section 10.2 - Substantial Damage

If any part of Airline Premises, or adjacent facilities directly and substantially affecting the use of Airline Premises, shall be so extensively damaged by fire or other casualty, as to render any portion of said Airline Premises untenable but capable of being repaired, as reasonably determined by Authority, the same shall be repaired to usable condition with due diligence by Authority as hereinafter provided. In such case, the rentals payable hereunder with respect to Airline's affected Airline Premises shall be paid up to the time of such damage and shall thereafter be abated equitably in proportion as the part of the area rendered untenable bears to total Airline Premises until such time as such affected Airline Premises shall be restored adequately for Airline's use. Authority shall use its best efforts to provide Airline with suitable alternate facilities to continue its operation while repairs are being completed, at a rental rate not to exceed that provided in this Agreement for comparable space.

### Section 10.3 - Damage Not Repairable

10.3.A. If any part of Airline Premises, or adjacent facilities directly and substantially affecting the use of Airline Premises, shall be damaged by fire or other casualty, and is so extensively damaged as to render any portion of said Airline Premises incapable of being repaired as reasonably determined by Authority, Authority shall notify Airline within a period of ninety (90) days after the date of such damage of its decision whether to reconstruct or replace said space; provided, however, Authority shall be under no obligation to replace or reconstruct such premises. The rentals payable hereunder with respect to affected Airline Premises shall be paid up to the time of such damage and thereafter shall cease until such time as

replacement or reconstructed space shall be available for use by Airline.

10.3.B. In the event Authority elects to reconstruct or replace affected Airline Premises, Authority shall use its best efforts to provide Airline with suitable alternate facilities to continue its operation while reconstruction or replacement is being completed at a rental rate not to exceed that provided for in this Agreement for comparable space; provided, however, if such damaged space shall not have been replaced or reconstructed, or Authority is not diligently pursuing such replacement or reconstruction, within six (6) months after the date of such damage or destruction, Airline shall have the right, upon giving Authority thirty (30) days advance written notice, to cancel that portion of this Agreement relating to the affected Airline Premises, but the Agreement shall remain in effect with respect to the remainder of said Airline Premises.

10.3.C. In the event Authority elects to not reconstruct or replace affected Airline Premises, Authority shall meet and consult with Airline on ways and means to permanently provide Airline with adequate replacement space for affected Airline Premises; provided, however, Airline shall have the right, upon giving Authority thirty (30) days advance written notice, to cancel that portion of this Agreement relating to the affected Airline Premises, but the Agreement shall remain in full force and effect with respect to the remainder of said Airline Premises.

#### Section 10.4 – General

10.4.A. Notwithstanding the provisions of this Article X, in the event that due to the negligence or willful act or omission of Airline, its employees acting within the course or scope of their employment, its agents, licensees, or those under its control, Airline Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of rent during the restoration or replacement of said Airline Premises and Airline shall have no option to cancel this Agreement under the provisions of this Article X. To the extent that the costs of repairs shall exceed the amount of any insurance proceeds payable to Authority by reason of such damage or destruction, Airline shall pay the amount of such additional costs to Authority.

10.4.B. Authority shall maintain levels of insurance reasonably required as determined by Authority; provided, however, that Authority's obligations to repair, reconstruct, or replace affected premises under the provisions of this Article X shall in any event be limited to restoring affected Airline Premises to substantially the same condition that existed prior to any such damage and shall further be limited to the extent of insurance proceeds available to Authority for such repair, reconstruction, or replacement; provided further that Authority shall in no way be responsible for the restoration or replacement of any equipment, furnishings, property, signs, or other items owned by Airline in accordance with this Agreement.

## ARTICLE XI INDEMNIFICATION AND INSURANCE

### Section 11.1 – Indemnification

11.1.A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its agents, employees, licensees, successors and assigns, or those under its control.

11.1.C To the fullest extent permitted by law, Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents, and employees, its successors and assigns, individually or collectively, from and against any claim, action, loss, damage, injury, liability, and the reasonable cost and expenses (including, but not limited to, reasonable attorney's fees, disbursements, court costs, and expert fees; unless defended by Airline) of any environmental claim arising out of or resulting from Airline's use and occupancy of Airline Premises or use of the Airport, including, but not limited to any claim for (i) discharge of pollutants, hazardous materials, hazardous substances or solid waste, hazardous wastes or toxic materials at or on the Airport, including the air, surface water, ground water, or soil from any source, including underground storage tanks, (ii) generation, handling, treatment, storage, disposal, or transportation of solid, gaseous, or liquid waste at the Airport or at any other site, facility or location, (iii) electromagnetic or other radiation or noise, (iv) exposure of any person to any hazardous material, (v) manufacture, processing, distribution, use, or storage of any hazardous material, (vi) the release or threatened release of any contamination or hazardous material to, from or through the Airport, or (vii) any of the foregoing, related to, caused by or arising from Airline's Airport-related activities, but with respect to non-Airport property, including the air, surface water, ground water, or soil. Notwithstanding the above, Airline shall not be liable for any environmental claim solely and directly attributable to a pre-existing condition on any Airport Area not caused or previously occupied by Airline or any corporate predecessor to Airline at any prior time. Airline shall not be liable for any environmental claim arising out of or resulting from the Authority's conduct.

11.1.D The provisions of this Section 11.1 shall survive the expiration or termination of this Agreement, with respect to occurrences during the term of this Agreement.

## Section 11.2 – Insurance

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than \$100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of \$25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than \$50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than \$5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

## Section 11.3 - Subrogation of Insurance

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

11.3.B. Airline hereby waives any and all rights of recovery against Authority for or arising out of damage to or destruction of any property of Airline from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Authority, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

## ARTICLE XII

### CANCELLATION BY AUTHORITY: EVENTS OF DEFAULT BY AIRLINE

#### Section 12.1 - Events of Default by Airline

12.1.A. Upon the occurrence of any one of the following events of default, Authority may issue a written notice of default after providing Airline the cure period noted:

12.1.A.(1) The conduct of any business or performance of any acts at Airport not specifically authorized herein or by other agreements between Authority and Airline, and said business or acts do not cease within thirty (30) days of receipt of Authority's written notice to cease said business or acts.

12.1.A.(2) The failure to cure a default in the performance of any of the terms, covenants and conditions required herein (except Contract Security requirements, insurance requirements, and payment of rentals, fees, and charges) within thirty (30) days of receipt of written notice by Authority.

12.1.A.(3) If by reason of the nature of such default referred to in Paragraph (2) above, the same cannot be remedied within thirty (30) days following receipt by Airline of written demand from Authority, and Airline fails to commence the remedying of such default, or having so commenced, shall fail thereafter to continue with diligence the curing thereof; provided, however, Airline's required performance under this Paragraph (3) shall be conditioned by the Force Majeure provisions of Section 18.16. Airline shall have the burden of proof to demonstrate (i) that the default cannot be cured within thirty (30) days, (ii) that it is proceeding with diligence to cure said default, and (iii) that such default will be cured within a reasonable period of time.

12.1.B. Upon the occurrence of any one of the following events of default, Authority may immediately issue written notice of default:

12.1.B.(1) The failure by Airline to pay any part of the rentals, fees, and charges due hereunder and the continued failure to pay said amounts in full within ten (10) days of the date of Authority's written notice of payments past due. Provided, however, if a dispute arises between Authority and Airline with respect to any obligation or alleged obligation of Airline to make payments to Authority, payments under protest by Airline of the amount due shall not waive any of Airline's rights to contest the validity or amount of such payment. In the event any court or other body having jurisdiction determines all or any part of the protested payment shall not be due, then Authority shall promptly reimburse Airline any amount determined as not due. Further, throughout the duration of any appeal or contest of any fees or charges by Airline, Airline will not be held in default under the provisions outlined herein. Authority shall use due diligence in attempting to collect any past due rentals, fees, and charges from any Scheduled Air Carrier providing air service at the Airport, including Airline.

12.1.B.(2) The failure by Airline to provide and keep in force Contract Security in accordance with Section 6.8.

12.1.B.(3) The failure by Airline to provide and keep in force insurance coverage in accordance with Section 11.2.

12.1.B.(4) The appointment of a trustee, custodian, or receiver of all or a substantial portion of Airline's assets.

12.1.B.(5) The divestiture of Airline's estate herein by operation of law, by dissolution, or by liquidation.

12.1.B.(6) The insolvency of Airline; or if Airline shall take the benefit of any present or future insolvency statute, shall make a general assignment for the benefit of creditors, or shall seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof.

12.1.B.(7) The voluntary discontinuance for a period of at least thirty (30) consecutive days by Airline of its operations at the Airport unless otherwise approved by Authority, in advance, in writing.

#### Section 12.2 - Continuing Responsibilities of Airline

Notwithstanding the occurrence of any event of default, Airline shall remain liable to Authority for all rentals, fees, and charges payable hereunder and for all preceding breaches of any covenant of this Agreement. Furthermore, unless Authority elects to cancel this Agreement, Airline shall remain liable for and promptly pay all rentals, fees, and charges accruing hereunder until the expiration of this Agreement as set forth in Article II or until this Agreement is cancelled by Airline pursuant to Article XIII.

#### Section 12.3 - Remedies of Authority for Airline's Default

Upon the occurrence of any event enumerated in Paragraphs 12.1.A. or 12.1.B., the following remedies shall be available to Authority:

12.3.A Authority may cancel this Agreement, effective upon the date specified in the notice of cancellation. For events enumerated in Paragraph 12.1.A., such date shall be not less than thirty (30) days from said notice. Upon such date, Airline shall have no further rights hereunder and Authority shall have the right to take immediate possession of Airline's Airline Premises.

12.3.B Authority may reenter the Airline Premises and may remove all Airline persons and property from same upon the date of reentry specified in Authority's written notice of reentry to Airline. For events enumerated in Paragraph 12.1.A., reentry shall not be less than thirty (30) days of the date of notice of reentry. Upon any removal of Airline property by Authority hereunder, Airline property may be stored at a public warehouse or elsewhere at Airline's sole cost and expense.

12.3.C Authority may relet Airline Premises and any improvements thereon or any part thereof at such rentals, fees, and charges and upon such other terms and conditions as Authority, in its reasonable judgment, may deem advisable, with the right to make alterations, repairs or improvements on said Airline Premises. In reletting the Airline Premises, Authority shall be obligated to make a good faith effort to obtain terms no less favorable to Authority than those contained herein and otherwise seek to mitigate any damages it may suffer as a result of Airline's default.

12.3.D In the event that Authority relets Airline Premises, rentals, fees, and charges received by Authority from such reletting shall be applied: (i) to the payment of any indebtedness other than rentals, fees, and charges due hereunder from Airline to Authority; (ii) to the payment of any cost of such reletting; and (iii) to the payment of rentals, fees, and charges due and unpaid hereunder. The residue, if any, shall be held by Authority and applied in payment of future rentals, fees, and charges as the same may become due and payable hereunder. If that portion of such rentals, fees, and charges received from such reletting and applied to the payment of rentals, fees, and charges hereunder is less than the rentals, fees, and charges payable during applicable periods by Airline hereunder, then Airline shall pay such deficiency to Authority. Airline shall also pay to Authority, as soon as ascertained, any costs and expenses incurred by Authority in such reletting not covered by the rentals, fees, and charges received from such reletting.

12.3.E No reentry or reletting of Airline Premises by Authority shall be construed as an election on Authority's part to cancel this Agreement unless a written notice of cancellation is given to Airline.

12.3.F Airline shall pay to Authority all other costs incurred by Authority in the exercise of any remedy in this Article XII, including, but not limited to, reasonable attorney's fees, disbursements, court costs, and expert fees.

12.3.G Authority may exercise any other legal or equitable remedy, including but not limited to the remedies hereinafter specified.

#### Section 12.4 - Remedies Under Federal Bankruptcy Laws

Notwithstanding the foregoing, upon the filing by or against Airline of any proceeding under Federal bankruptcy laws, if Airline has defaulted in the performance of any provision of this Agreement within the six (6) months preceding such filing, Authority shall have the right to cancel this Agreement, in addition to other remedies provided under provisions of the Federal Bankruptcy Rules and Regulations and Federal Judgeship Act of 1984, or any successor statute, as such may be subsequently amended, supplemented, or replaced. Such cancellation shall be by written notice to Airline within sixty (60) days from the date of Airline's initial filing in bankruptcy court.

## ARTICLE XIII

### CANCELLATION BY AIRLINE: EVENTS OF DEFAULT BY AUTHORITY

#### Section 13.1. - Events of Default by Authority

Each of the following events shall constitute an "Event of Default by Authority":

13.1.A. Authority fails after receipt of written notice from Airline to keep, perform or observe any term, covenant or condition herein contained to be kept, performed, or observed by Authority and such failure continues for thirty (30) days, or if by its nature such Event of Default by Authority cannot be cured within such thirty (30) day period, Authority fails to commence to cure or remove such Event of Default by Authority within said thirty (30) days and to cure or remove the same as promptly as reasonably practicable.

13.1.B. Authority closes Airport to flights in general or to the flights of Airline, for reasons other than weather, acts of God or other reasons beyond its control, and fails to reopen Airport to such flights within sixty (60) days of such closure.

13.1.C. The Airport is permanently closed as an air carrier airport by act of any federal, state or local government agency having competent jurisdiction.

13.1.D. Airline is unable to use Airport for a period of at least sixty (60) days due to any law or any order, rule or regulation of any appropriate governmental authority having jurisdiction over the operations of Airport, or any court of competent jurisdiction issues an injunction in any way preventing or restraining the use of Airport or any part thereof for Airport purposes, and such injunction remains in force for a period of at least sixty (60) days.

13.1.E. The United States Government or any authorized agency of the same (by executive order or otherwise) assumes the operation, control or use of Airport and its facilities in such a manner as to substantially restrict Airline from conducting its operations, and such restriction shall continue for a period of at least sixty (60) days.

#### Section 13.2 - Remedies of Airline for Authority's Defaults

Upon the occurrence of an Event of Default by Authority and after appropriate notice by Airline to Authority, Airline shall have the right to terminate this Agreement and all rentals, fees and charges payable by Airline under this Agreement shall terminate. In the event that Airline's operations at Airport should be restricted substantially by action of any governmental agency having jurisdiction thereof, then Airline shall, in addition to the rights of termination herein granted, have the right to a suspension of this Agreement, or part thereof, and abatement of an equitable proportion of the payments due hereunder, from the time of giving written notice of such election until such restrictions shall have been remedied and normal operations restored.

## ARTICLE XIV

## SURRENDER OF AIRLINE PREMISES

### Section 14.1 - Surrender and Delivery

Promptly upon the termination of this Agreement, by lapse of time, or otherwise, Airline shall at once peaceably surrender and deliver to Authority Airline Premises and all improvements thereon to which Authority is entitled hereunder.

### Section 14.2 - Removal of Property

14.2.A. Airline shall have the right at any time during the term of this Agreement to remove from Airport its aircraft, tools, loading bridges, equipment, trade fixtures, and other personal property, title to which shall remain in Airline unless otherwise set forth in this Agreement, and shall remove such aircraft, tools, loading bridges, equipment, trade fixtures, and other personal property within fifteen (15) days following termination of this Agreement, whether by expiration of time or otherwise as provided herein, subject, however, to any valid lien which Authority may have thereon for unpaid rentals, fees and charges. Airline shall not abandon any portion of its property without the written consent of Authority. Any and all property not removed by Airline within thirty (30) days following termination of this Agreement shall, at the option of Authority, become the property of Authority at no cost to Authority. All Authority property damaged by or as a result of the removal of Airline property shall be restored by Airline to the condition existing before such damage at Airline's expense.

14.2.B. Notwithstanding the above, in the event that Airline desires to sell any loading bridge or baggage equipment to Authority or a successor tenant upon the termination of this Agreement, or at any other time during the term of this Agreement, then in such event:

14.2.B.(1) Upon the prior written approval of the Director, Airline shall have the right to leave such property in place for a period not exceeding ninety (90) days following the termination of this Agreement, or the deletion, pursuant to Section 3.1, of the space on which such property is located, pending the successful completion of such a sale. During such period, Authority shall have the right to permit the use of such property by other Air Transportation Companies, without payment by Authority to Airline; provided, however, Airline shall have the right to seek payment for such use(s) directly from any such other Air Transportation Companies. In the event no such sale is completed such property must be removed immediately upon the expiration of the 90-day period.

14.2.B(2) Authority shall have the right of first refusal to purchase said property at the highest bona fide competing offer or market value.

### Section 14.3 - Holding Over

Should Airline use Airline Premises without the written consent Authority after this Agreement has terminated, Airline shall be deemed a tenant at sufferance during the period of such use and shall pay rentals, fees and charges established by the Authority for non-signatory airlines during

such period. In such event, Authority shall have the right to all remedies provided under applicable laws.

## ARTICLE XV ASSIGNMENT, SUBLETTING AND HANDLING AGREEMENTS

### Section 15.1 - Assignment and Subletting by Airline

15.1.A.(1) Airline shall not sell, convey, transfer, mortgage, pledge, or assign this Agreement, or any part thereof, or any rights created thereby or the leasing thereunder in any manner whatsoever or sublet Airline Premises or any part thereof or any of the privileges recited herein without the prior written consent of the Director, which consent shall not be unreasonably withhold. However, Airline shall have the right to assign all or any part of its rights and interests under this Agreement to any affiliated Air Transportation Company (i.e., affiliated through common ownership and/or a Code Share Airline) or to any successor to its business through merger or consolidation. Consent of Authority for such assignment shall not be required; provided, however, due notice of any such assignment shall be given to the Director at least thirty (30) days prior to such assignment hereunder.

15.1.A.(2) In the event Airline, using large jet-loader aircraft, intends to assign all or part of its Airline Premises to an affiliate or Code Share Airline using smaller aircraft that cannot be served by a loading bridge, then in such an event Director may re-assign gate positions as appropriate to ensure the highest and best use of loading bridge gates and ramp safety.

15.1.A.(3) Any such successor corporation no later than thirty (30) days after the date of such merger, consolidation or succession shall acknowledge by a writing satisfactory in form and content to Authority that it has assumed all obligations of Airline and will fully honor all the terms and conditions set forth in this Agreement.

15.1.B. Airline shall not, without the prior written consent of Director, sublease Airline Premises. The parties hereto agree that Director may reasonably withhold such consent if Authority has substantially similar space available but unleased or if Authority can make such space available for lease within a reasonable time. In making such decision, the Director shall consider the full needs and plans of any Air Transportation Company seeking to sublease space from Airline, including whether said operator desires to be handled by Airline. Exclusive or preferential use of Airline's Exclusive Use Premises, or any part thereof, or preferential use of Airline's Preferential Use Premises, or any part thereof, by anyone other than Airline shall be considered a sublease.

15.1.C. In the event Airline requests permission to sublease, the request shall be accompanied by a copy of the proposed sublease agreement, if prepared. In the event such proposed sublease agreement has not been prepared, a written summary of the material terms and conditions to be contained in such sublease agreement shall be included with Airline's request for tentative approval by Director. The area or space to be subleased and the rental to be charged

shall be specified and all other information reasonably requested by Authority pertaining to said sublease shall be promptly provided. If Airline is currently in default with respect to the payment of rentals, fees and charges due herein, any such sublease agreement shall provide for the direct payment to Authority by sublessee of rentals, fees and charges due Authority pursuant to this Agreement. A fully executed copy of such sublease shall be submitted to Director for final review no later than thirty (30) days following occupancy of Airline Premises, or any portion thereof, by the sublessee.

15.1.D. In the event the rentals, fees and charges for subleased premises exceed the rentals, fees and charges payable by Airline for said premises pursuant to this Agreement, Airline shall pay to Authority the excess of the rentals, fees and charges received from the sublessee over that specified to be paid by Airline herein, provided that Airline may charge a reasonable fee for administrative costs, not to exceed fifteen (15) percent of the specified sublease rental, and such fifteen (15) percent shall not be considered excess rentals, fees, and charges. Airline shall also have the right to charge a reasonable fee to others for the use of Airline's capital equipment and to charge for use of utilities and other services being paid for by Airline.

#### Section 15.2 - Handling Agreements

In the event Airline agrees to ground handle any portion of the operations of another Scheduled Air Carrier or of a Requesting Airline, Airline shall provide Authority advance written notice of such proposed activities, including a description of the type and extent of services to be provided. Notwithstanding the provisions of the foregoing sentence, Airline shall not commence to ground handle another Scheduled Air Carrier or a Requesting Airline without the prior written permission of the Director if such Scheduled Air Carrier or Requesting Airline does not have in force an operating agreement with Authority.

#### Section 15.3 – Miscellaneous

15.3.A. No sublease or temporary use agreement shall release Airline from its obligations to pay the rentals, fees and charges provided herein. Notwithstanding the above, others by prior arrangements with Airline and subject to Authority's prior written consent, may use Airline Premises on a temporary basis pursuant to and in accordance with the provisions of Article XVI.

15.3.B. No assignment, transfer, conveyance, sublease, or granting a nonexclusive license by Airline shall relieve in any manner Airline of its responsibility for payment of rent and performance of all other obligations provided in this Agreement, without specific written consent of the Director to such relief. The Director shall consider all relevant factors, including the financial strength of the proposed assignee in determining whether to grant such relief.

### ARTICLE XVI

## ACCOMMODATION OF A REQUESTING AIRLINE

### Section 16.1 - Declaration of Intent

The parties hereto acknowledge the objective of Authority to offer to all airlines desiring to serve Airport access to Airport and to provide adequate Gate Positions and space in the Terminal. Recognizing that physical and financial limitations may preclude timely expansion of the Terminal and Aircraft Parking Apron areas to meet the stated requests of Airline or other airlines for additional facilities, Authority hereby states its intent to accommodate such requests, if necessary, through sharing, from time to time, of Gate Positions and other Terminal facilities.

### Section 16.2 - Accommodation of Requesting Airlines

16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Scheduled Air Carriers or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

16.2.A.(2) Airline's obligation hereunder shall be subject to execution of a written agreement between Airline and such Requesting Airline, including indemnification of Airline by Requesting Airline, setting forth mutually agreed to terms and conditions governing such use which shall include a charge by Airline for its costs plus a reasonable administrative charge not to exceed fifteen (15) percent.

16.2.A.(3) Airline agrees to make reasonable efforts to facilitate the temporary accommodation of Requesting Airline's operations, including use of ticket counter area, use of Airline's baggage facilities and use of other portions of Airline Premises and facilities reasonably available to accommodate Requesting Airline, if (1) Airline has adequate capabilities, capacity, facilities and personnel therefor, after taking into account Airline's own requirements and contractual obligations, the compatibility of said Requesting Airline's proposed operations with those of Airline, and the need for labor harmony, and (2) said Requesting Airline enters into a written agreement with Airline therefor, which agreement shall be approved in writing by Authority prior to the effective date thereof.

16.2.A.(4) In the event Requesting Airline materially defaults under the provisions of its written agreement with Airline, then in such event Airline shall no longer be required to accommodate Requesting Airline.

16.2.B. Subject to the provisions of Section 15.1, nothing contained in this Article XVI shall prevent or prohibit Airline from electing to enter into an agreement with other air carriers authorized to operate at Airport and desiring to use Airline Premises as provided in Article XV herein.

16.2.C. During the period of use of Airline Premises by a Requesting Airline at Authority's request pursuant to this Article XVI, Airline shall be relieved of its obligation under this Agreement to indemnify and save harmless Authority, its agents and employees, its successors and assigns, with regard to any claim for damages or personal injury arising out of or in connection with said accommodated Requesting Airline's use of Airline Premises unless such damage or personal injury is proximately caused by the negligence of Airline, its agents, employees, licensees, or those under its control who have come upon Airline Premises in connection with Airline's occupancy hereunder. Authority shall require such Requesting Airline to indemnify Authority and Airline in the manner and to the extent required of Airline pursuant to Article XI.

## ARTICLE XVII GOVERNMENT INCLUSION

### Section 17.1 - Federal and Other Governmental Authority Funds

17.1.A. This Agreement shall be subordinate to the provisions of any existing or future agreements between Authority and the United States Government, or other governmental authority, relative to the operation or maintenance of Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds or other governmental authority funds for the development of Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States or other governmental authority of other civil airports receiving such funds. Authority agrees to provide Airline written notice in advance of the execution of such agreements of any provisions which would modify the terms of the Agreement.

17.1.B. Authority shall not permit revenue diversion from the Airport, as such diversion is defined in the Federal Aviation Administration Act of 1994 and the Federal DOT's 1999 policy implementing the provisions of the 1994 Act.

### Section 17.2 – Nondiscrimination

17.2.A. Airline, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the 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, Airline shall maintain and operate such facilities and services in compliance with all 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.

17.2.B. Airline, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree 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 Airport; (2) in the construction of any improvements, on, over, or under Airline Premises 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; and (3) Airline shall use Airport 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.

17.2.C. Airline shall use Airport in compliance with all requirements imposed by or pursuant to 14 CFR Part 152 and Title VI of the Civil Rights Act of 1964, and as said Title and Regulations may be amended, and 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. Airline 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. Airline assures that it will require that its covered suborganizations provide assurances to Airline 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.

17.2.D. Airline shall comply with the laws of the State of Kansas and City of Wichita prohibiting discrimination on the basis of race, color, sex, religion, national origin, age, or handicap, and as such laws may be amended or unless a waiver has been granted by the United States Government.

17.2.E. Should Airline authorize another person, with Authority's prior written consent, to provide services or benefits upon Airline Premises, Airline shall obtain from such person a written agreement to comply with Paragraphs 17.2.A. through 17.2.D. If requested, Airline shall furnish a copy of such agreement to Authority prior to said authorization.

17.2.F. In the event the breach of any of the above nondiscrimination covenants shall constitute an Event of Default by Airline, Authority shall have the right to terminate this Agreement and to reenter and repossess the Airline Premises and the facilities thereon and hold the same as if this Agreement had never been made or issued. The right granted to Authority by the foregoing sentence shall not be effective until applicable procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

## ARTICLE XVIII MISCELLANEOUS PROVISIONS

### Section 18.1 - Rights Non-Exclusive

Notwithstanding anything herein contained that may be or appear to the contrary, the rights, privileges and licenses granted under this Agreement, except in the Exclusive Use Premises, are "non-exclusive", and 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, as such may be amended.

### Section 18.2 - Airport Security

Airline and Authority shall comply with all applicable regulations relating to Airport security and shall cooperate in controlling the Airline Premises so as to prevent or deter unauthorized persons from obtaining access to the air operations area of Airport.

### Section 18.3 - Avigation Rights

18.3.A. Authority reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of Airport, including Airline Premises, for navigation or flight in said airspace for landing on, taking off from, or operating on Airport, 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, using said airspace or landing at, taking off from, or operating on or about Airport.

18.3.B. Authority reserves the right to take any action it considers necessary to protect the aerial approaches of Airport against obstructions, including the right to prevent Airline from erecting, or permitting to be erected, any building or other structure on Airport which, in the opinion of Authority, would limit the usefulness of Airport or constitute a hazard to aircraft.

### Section 18.4 - Height Limitations

Airline expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on Airline Premises to such a height so as to comply with Federal Aviation Regulations, Part 77, as such may be amended or replaced from time to time.

### Section 18.5 - National Emergency

During time of war or national emergency Authority shall have the right to enter into an agreement with the United States Government for use of part or all of the Landing Area, the publicly-owned air navigation facilities and/or other areas or facilities of 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 United States Government, shall be suspended.

#### Section 18.6 - Compliance With Law

18.6.A. Airline, its agents and employees, shall observe and comply with all applicable rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by Authority or the City of Wichita with respect to the operation of Airport, and shall also be subject to any and all applicable current and future laws, statutes, rules, regulations or orders of any governmental authority lawfully exercising authority over Airport or Airline's operations conducted hereunder: provided, however;

18.6.A.(1) Any new rules, regulations, orders or restrictions enacted by Authority during the term of this Agreement shall not be inconsistent with the terms, provisions, rights and privileges granted hereunder, unless enacted in compliance with the lawful rules, regulations, ordinances, laws or orders of other governmental authorities having jurisdiction over the operation of the Airport.

18.6.A.(2) Airline may, at its own risk, costs and expense and at no cost to Authority, and without being considered to be in breach of this Agreement, contest by appropriate judicial or administrative proceedings the applicability or the legal or constitutional validity of such rules, regulations, ordinances, laws or orders.

18.6.B. Authority shall not be liable to Airline for any diminution or deprivation of its rights hereunder due to the exercise of any such authority as provided for in this Section 18.6, nor shall Airline be entitled to terminate this Agreement by reason thereof unless the exercise of such authority shall so interfere with Airline'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, or permit Airline to cancel this Agreement pursuant to the provisions of Article XIII.

#### Section 18.7 - Agent for Service of Process

It is expressly understood and agreed that if Airline is not a resident of the State of Kansas, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation not licensed to do business in Kansas, then in any such event, Airline designates the Secretary of State, State of Kansas, its agent for the purpose of service of process in any court action between it and Authority arising out of or based upon this Agreement, and the service shall be made as provided by the laws of the State of Kansas for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that, if for any reason, service of such process is not possible, then as an alternative method of service of process, Airline may be personally served with such process out of this State by the registered mailing of such complaint and process to Airline at the address set forth herein. Any such service out of this State shall constitute valid service upon Airline as of the date of mailing to respond thereto.

#### Section 18.8 - Nonliability of Agents and Employees

No member, officer, agent, director, or employee of Authority or Airline shall be charged personally or held contractually liable by or to the other party under the terms or provisions of this

Agreement or because of any breach thereof or because of its execution or attempted execution.

#### Section 18.9 - Partnership or Agency

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. It is understood and agreed that neither the method of computation of rentals, fees and charges, nor any other provisions contained herein, nor any acts of the parties hereto, creates a relationship other than the relationship of Authority and Airline.

#### Section 18.10 - Taxes, Assessments, and Licenses

Airline shall at its own expense obtain all permits, licenses, approvals and certificates and pay all taxes, assessments, fees and charges required by any regulation or any law of the City of Wichita, County of Sedgwick, State of Kansas, the United States, or other governmental body with regard to the business to be conducted by Airline on Airport or within its Airline Premises pursuant to the terms of this Agreement; provided, however, that Airline may, at its own risk, costs and expense and at no cost to Authority, contest by appropriate judicial or administrative proceedings the applicability or amounts of any such taxes, assessments, fees and charges.

#### Section 18.11 - Approval by Authority

Whenever this Agreement calls for approval by Authority, such approval shall be evidenced by the written approval of the Director or his designee. Any approval required by either party to this Agreement shall not be unreasonably withheld or delayed.

#### Section 18.12 – Most Favored Nation

Each Air Transportation Company using the Airport shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities and equipment, subject to reasonable classifications such as tenants or nontenants and Signatory Airlines and nonsignatory airlines. Classification or status as tenant or Signatory Airline shall not be unreasonably withheld by the Airport, provided Air Transportation Company assumes obligations substantially similar to those already imposed on Air Transportation Companies in such classifications or status.

#### Section 18.13 - Compliance by Other Tenants

Authority shall whenever possible make reasonable efforts to obtain uniform compliance with its

rules and regulations; provided, however, Authority shall not be liable to Airline for any violation or non-observance of such rules and regulations by any tenant, concessionaire or other Air Transportation Company at Airport.

#### Section 18.14 - Quiet Enjoyment

Authority agrees that on payment of the rentals, fees and charges due hereunder, and performance of the covenants and agreements on the part of Airline to be performed hereunder, Airline shall peaceably have and enjoy Airline Premises and all the rights and privileges of Airport, its appurtenances and facilities.

#### Section 18.15 - Authority's Right of Entry

Any authorized representative of Authority shall have the right to enter upon any premises and facilities of Airport at any reasonable time for the purpose of inspection or for any purpose incident to the performance of its obligations hereunder or in the exercise of any of its governmental functions. Authority shall use its best efforts to avoid disruption of Airline's operation.

#### Section 18.16 - Force Majeure

Except as herein provided, neither Authority nor Airline shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations other than the payment of rentals, fees and charges hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of God, acts of a public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible or which are not within its control. Under no circumstances shall the occurrence of any event provided for in this Section 18.16 excuse Airline from paying the rentals, fees and charges payable to Authority by Airline pursuant to the terms of this Agreement during the term of this Agreement.

#### Section 18.17 – Notices

Notices required herein may be given by registered or certified mail by depositing the same in the the United States mail, postage prepaid. Any such notice so mailed shall be presumed to have been received by the addressee seventy-two (72) hours after deposit of same in the mail. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices to Authority shall be addressed as follows:

Wichita Airport Authority  
2173 Air Cargo Road  
Wichita Mid-Continent Airport  
Wichita, Kansas 67209

Notices to Airline shall be addressed as follows:

Delta Airlines, Inc.  
Department 877  
1030 Delta Boulevard  
Atlanta, GA 30362

If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

#### Section 18.18 - Place of Payment

All payments required of Airline by this Agreement shall be made at the office of The Wichita Airport Authority, 2173 Air Cargo Road, Wichita Mid-Continent Airport, Wichita, Kansas 67209, or to such other address as may be substituted therefor.

#### Section 18.19 - Nonwaiver of Rights

No waiver of default by either party of any of the terms, covenants, and conditions herein to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

#### Section 18.20 - Governing Law

This Agreement is to be read and construed in accordance with the laws of the State of Kansas and ordinances of the City of Wichita. The parties hereto agree that any court of proper jurisdiction sitting in Sedgwick County, Kansas shall be the proper forum for any actions brought hereunder.

#### Section 18.21 – Severability

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, by any court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby unless continued enforcement thereof would unreasonably prejudice the rights of either party to perform and/or enjoy the rights provided under this contract, in which case the party so prejudiced may terminate this Agreement upon thirty (30) days' written notice.

#### Section 18.22 - Other Agreements

Nothing contained in this Agreement shall be deemed or construed to nullify, restrict or modify in any manner the provisions of any other lease or contract between Authority and Airline authorizing the use of Airport, its facilities and appurtenances upon payment of rentals, fees and

charges therein provided.

#### Section 18.23 – Gender

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

#### Section 18.24 - Headings and Titles

The headings of the articles of this Agreement 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 provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.

#### Section 18.25 - Incorporation of Exhibits

All exhibits referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

#### Section 18.26 - Entire Agreement

18.26.A. It is understood and agreed that this instrument contains the entire agreement between the parties hereto. It is further understood and agreed by Airline that Authority and Authority's agents have made no representations or promises with respect to this Agreement or the making of this Agreement, except as in this Agreement expressly set forth, and that no claim or liability or cause for termination shall be asserted by Airline against Authority for, and Authority shall not be liable by reason of, the breach of any representations or promises not expressly stated in this Agreement, any other written or parol agreement with Authority being expressly waived by Airline.

18.26.B. The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

#### Section 18.27 – Amendment

Except as provided herein, no amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.

### Section 18.28 – Savings

This Agreement is the result of extensive negotiations between the parties and shall not be construed against Authority by reason of the preparation of this Agreement by Authority.

### Section 18.29 - Successors and Assigns Bound

All of the covenants, conditions and agreements contained herein shall extend to and be binding upon the legal representatives, successors and assigns of the respective parties hereto.

### Section 18.30 – Subordination to Bond Resolution

18.30.A This Agreement and all rights of Airline hereunder are expressly subject and subordinate to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by Authority to secure Bond financing. This Agreement is subject and subordinate to the terms, covenants, and conditions of any Bond Resolution.

18.30.B In conflicts between this Agreement and a Bond Resolution, the Bond Resolution shall govern.

18.30.C All definitional terms that are not specifically defined herein shall have the meanings set forth in the Bond Resolution.

### Section 18.31 – Performance

The parties expressly agree that time is of the essence in this Agreement. Failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other party, without liability, of any obligation to accept such performance.

### Section 18.32 - Capacity to Execute

18.32.A. Authority and Airline each warrant and represent to one another that this Agreement constitutes a legal, valid and binding obligation of that party.

18.32.B. The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for whom they are acting herein.

IN WITNESS THEREOF, Authority has caused these presents to be executed by the Wichita Airport Authority, by direction of the City Council, attested to by the City of Wichita Clerk and the seal of the Wichita Airport Authority affixed hereunto, and Airline has caused these presents to be signed by its proper corporate officers and its corporate seal hereunto affixed and attested to as of the day and year first above written.



AIRLINE TERMINAL SPACE

Ticket Counter Total	Hold Rooms (Type 2)	Offices (Type 3)	VIP/Club (Type 3)	Operations (Type 4)	Bag Make-Up (Type 4)
Air Wisconsin	-	-	-	-	-
-	- s.f.				
AirTran	217		1,689	431	150
626	3,113 s.f.				
America West	217		1,468	431	1,291
627	4,034 s.f.				
American	-		-	-	-
-	- s.f.				
American Eagle		200		494	-
2,325	1,752		6,995 s.f.		
Atlantic Southeast		434		1,102	-
-	1,093		4,318 s.f.		
Chautauqua	-		-	-	-
-	- s.f.				
Comair	-		-	-	-
-	- s.f.				
ExpressJet (CO)				1,470	-
203	-		1,673 s.f.		
Mesa			-	-	-
-	-		- s.f.		
Mesaba	-		-	-	-
-	- s.f.				
Northwest	259		1,964	487	1,396
762	4,868 s.f.				
Pinnacle	-		-	-	-
-	- s.f.				
Skywest	-		-	-	-
-	- s.f.				
United	335		1,467	1,145	-
668	3,615 s.f.				
Vacant	998		7,334	5,126	18,419
	3,016		34,893 s.f.		
	2,660		9,216	-	23,784
8,544			63,509 s.f.		

AIRLINE JOINT USE SPACE

	Concourses Total (Type 2)	Bag Claim (Type 2)	Elevators (Type 4)	Inbound Baggage/ (Type 5)	Tug Lane (Type 5)	Stairwells
Joint Use		7,917		7,808	1,205	4,374
22,965	s.f.					1,661

SUMMARY OF TERMINAL AREAS Page 1 of 2 EXHIBIT "C"

EXHIBIT "C"  
SUMMARY OF TERMINAL AREAS  
TERMINAL SPACE SUMMARY

Airline Use Area	Joint Use Mechanical/Utility Space	Concession Space Space	Commercial Space Total	Public
Airline Space	63,509	22,965	-	-
-	86,474	s.f.	-	-
Other Rentable 12,028 (a)	-	-	20,912	5,558
Subtotal Rentable Space 12,028	-	38,498	s.f.	-
	-	63,509	22,965	20,912
	-	124,972	s.f.	5,558
Other Areas	-	-	-	16,885 (b)
				40,006

	5,245	62,136	s.f.		
Total Terminal Area	63,509	22,965	20,912	22,443	
52,034	5,245	187,108	s.f.		

- (a) For purposes of this agreement, the public concourse area between Gates 1 & 2 and 7 & 8 is considered rentable.
- (b) For purposes of this agreement, a portion of the commercial area on the second floor is considered unusable.

Exhibit "D"

RESPONSIBILITY OF AUTHORITY AND AIRLINE FOR MAINTENANCE AND OPERATION OF TERMINAL AREAS

Airline Exclusive Use	Airline Preferential Use					Other		
Ticket Counter	Offices	Bag Make-Up	Unenclosed	Covered	Apron	Opts	Areas	Other
Holdroom	Apron							
Air Conditioning	Maintenance	Chilled Air	Distribution	WW	WW	WW		
N/AN/A	WW	WW	N/AN/A					
Electrical	Bulb & Tube Replacement	Power	Maintenance & Repair			AWW	AWW	
AWW	AWW	AWW	AWW	N/AN/AN/A				
Heating	Maintenance	Warm Air	Distribution	WW	WW	WW	N/AN/A	
WW	WW	N/AN/A						
Water-Maintenance	Distribution	Fixtures	WW	WW	WW	WW	WW	WW
N/AN/A								
General Maintenance & Repair	Other than Structure (incl. doors)			Structure*				
Exterior	AWW	AWW	AWW	AWW	AWW	WWW		
Sewage & Plumbing	Distribution	Fixtures	WA	WA	WA	WW	WA	

	N/AN/A WW									
Public Address System		W	W	W	W	W	W	N/A		
Custodial Service**	A	A	A	N/A	A	W	N/A			
Window Cleaning	Exterior		Interior	AA	AA	AA	N/AN/A	AA	WW	
	N/AN/A									
Snow & Ice Removal	Walkways		Other	N/AN/A		N/AN/A	N/AN/A	N/AN/A	AW	
	AN/A	N/AN/A	AW							
Pest Extermination	W	W	W	W	W	W	W			
Flooding	W	W	W	W	W	W	W			

Notes:

A = Airline

W = Wichita Airport Authority

N/A = Not Available or Not Applicable

\*Structure is defined as anything, which has a structural load-bearing function. This may include load-bearing walls, and horizontal and vertical beams and bracings, but may not include non-load bearing walls, ceilings, doors and door frames.

\*\*Custodial Services includes routine vacuum, trash removal, carpet extraction, steam cleaning and other specialty cleaning.

PUBLIC AND JOINT USE AREAS - Both areas will be maintained by the Wichita Airport Authority.

EXHIBIT "E"

MONTHLY STATISTICAL REPORT

(To be submitted within 5 working days following the end of each month)

SUBMIT TO:

The Wichita Airport Authority  
 Wichita Mid-Continent Airport  
 2173 Air Cargo Road  
 Wichita, KS 67209

FOR THE MONTH OF \_\_\_\_\_, \_\_\_\_\_

AIRLINE NAME \_\_\_\_\_

(A separate Exhibit should be submitted for each airline.)

1. PASSENGERS

	Enplaned	Deplaned	Total	
Revenue	_____	_____	_____	_____

Non-Revenue \_\_\_\_\_  
 Total =====

2. CARGO & MAIL (Pounds)

	Enplaned	Deplaned	Total
Cargo*	_____	_____	_____
Mail	_____	_____	_____
Total	=====	=====	=====

\* Cargo includes freight plus express.

I certify that the above information is correct to the best of my knowledge and belief.

Signature:                      Title:

Printed Name:                  Date:

EXHIBIT "F"

MONTHLY LANDED WEIGHT/FEE REPORT

(To be submitted within 5 days following the end of each month)

SUBMIT TO:

The Wichita Airport Authority  
 Wichita Mid-Continent Airport  
 2173 Air Cargo Road  
 Wichita, KS 67209

FOR THE MONTH OF \_\_\_\_\_, \_\_\_\_\_

AIRLINE NAME \_\_\_\_\_

(A separate Exhibit should be submitted for each airline.)

3. AIRCRAFT LANDINGS

A. Landings NOT Subject to Landing Fees:

Aircraft Type	FAA Certified Maximum Gross Landing Weight	Number of Landings
Total Landed Weight		
Training & Testing*		
Return Landings	_____	_____
Total	=====	

\* Training and Testing flights in excess of 10 percent of Revenue Landings by Airline in any one calendar month shall be included under Landings Subject to Landing Fees, pursuant to Section 4.1.D of the Agreement.

EXHIBIT "F"

1. AIRCRAFT LANDINGS (continued)

B. Landings Subject to Landing Fees:

Aircraft Type	FAA Certified Maximum Gross Landing Weight	Number of Landings
Total Landed Weight		
Revenue Landings		
Training & Testing*		
Other Non-Revenue Landings	_____	_____
Total	=====	
Divided by	1,000	
Landed Weight (lbs):	_____	
Multiplied by the Landing Fee Rate of \$	_____	

Total Landing Fee Charges: \$=====

\* Training and Testing flights in excess of 10 percent of Revenue Landings by Airline in any one calendar month shall be included under Landings Subject to Landing Fees, pursuant to Section 4.1.D of the Agreement.

EXHIBIT "F"

2. TERMINAL USE CHARGES

Unleased Gate Use	Unleased Loading Bridge Use
Number of Times Used	_____
Current Fee \$	\$ _____
Total Terminal Use Charges	\$===== \$=====

3. AIRCRAFT PARKING CHARGES (other than at leased gates)

Parking Occurrences	Total Hours in Excess of 24 Hours Each Occurrence
Quantity	_____
Current Fee \$	\$ _____
Total Parking Charges	\$===== \$=====

4. MISCELLANEOUS

Auto Gas  
Quantity \_\_\_\_\_  
Current Fee \$ \_\_\_\_\_  
Total Miscellaneous Charges \$=====

The undersigned certifies that the above information, according to the books and records of the Airline, is correct and that he/she is a corporate officer of Airline or has been authorized to provide the above information by a corporate officer.

Signature: Title:

Printed Name: Date:

EXHIBIT "G"

ADJUSTMENT OF RATES FOR RENTALS, FEES, AND CHARGES

Section G.1 - Adjustment of Signatory Airline Rates

Signatory Airline rates for Terminal rentals, landing fees, and apron fees shall be adjusted as set forth in Article VII and this Exhibit G. Tables G-1 through G-3 set forth the method to be used in calculating the Signatory Airline average Terminal rental rate and the landing fees rate. The apron fees rate for Aircraft Parking Aprons shall be established as set forth in Section G.3.

Section G.2 - Airline Rentals, Fees, and Charges

G.2.A. Airline's Terminal rentals in each period shall be determined as the sum of:

G.2.A.(1) The product of the appropriate differential Terminal rental rates for the period and the amount of each type of Airline's Exclusive Use Premises and Preferential Use Premises.

G.2.A.(2) Airline's share of rentals for Joint Use Premises. Rentals for Joint Use Premises shall be calculated as the product of the appropriate differential Terminal rental rates for the period and the amount of each category of Joint Use Premises. Airline's share of rentals for Joint Use Premises shall be determined as set forth in Section 6.2.B. of this Agreement.

G.2.B. Airline's apron fees in each period shall be determined as the product of the apron fees rate for the period and the number of aircraft passenger loading gates leased by Airline.

G.2.C. Airline’s landing fees in each period shall be determined as the product of the landing fees rate for the period and airline’s landed weight for the period. Airline’s landed weight for each period shall be determined as the sum of the Maximum Gross Landing Weight of each of Airline’s aircraft multiplied by the number of Revenue Landings by each of said aircraft at Airport during the period. Training and Testing flight landings not exceeding 10% of Revenue landings as well as return landings as defined within the term Revenue Landings shall be excluded from landing fee calculations.

Section G.3 - Signatory Airline Apron Fees Rate

The annual Signatory Airline apron fees rate shall initially be \$14,400 per aircraft passenger loading gate, with said rate to be adjusted annually in accordance with changes in the U.S. Implicit Price Deflator Index.

Section G.4 - Differential Terminal Rates

G.4.A. Premises leased by Signatory Airlines in the Terminal shall be classified according to types of space for the purpose of establishing differential rental rates by location and function as set forth below:

Types of Space_	Location/Function	Weighted Value
1	Ticket Counter	1.00
2	Holdrooms; Concourses; Bag Claim	0.90
3	Offices; VIP/Club Space	0.80
4	Bag Make-Up; Operations Space, Elevators	0.70
5	Inbound Bag; Tug Lane, Stairwells	0.50

G.4.B. The amount of each type of space shall be as set forth in Exhibit “C”, as such shall be amended from time to time pursuant to this Agreement. A summary of each type of space as shown on Exhibit “C” is set forth below:

Type of Space	Type 1	Type 2	Type 3	Type 4	Type 5	Total	
Airline Exclusive Use and Preferential Use							
AirTran	217	1,689	431	776	0	3,113	s.f.
America West	217	1,468	431	1,918	0	4,034	s.f.
American Eagle		200	2,224	494	4,077	0	6,995 s.f.
Atlantic Southeast		434	1,689	1,102	1,093	0	4,318 s.f.
Continental Express		0	1,470	0	203	0	1,673 s.f.
Northwest	259	1,964	487	2,158	0	4,868	s.f.
United	335	1,467	1,145	668	0	3,615	s.f.

Vacant	998	7,334	5,126	21,435	0	34,893	s.f
Sub-Total	2,660	19,305	9,216	32,328	0	63,509	s.f.
Airline Joint Use	0	15,725	0	1,205	6,035	22,965	s.f.
Total Airline Space	2,660	35,030	9,216	33,533	6,035	86,474	s.f.

G.4.C. Using the above space totals, as such may be amended from time to time pursuant to this Agreement, the average Terminal rental rate in each period shall be converted to differential Terminal rental rates by weighting the amount of Type 1 through 5 space for all Signatory Airlines by the relative factors set forth in Paragraph G.4.A. to obtain a weighted equivalent amount of space. The total amount of Signatory Airline Terminal rentals for Type 1 through 5 space shall be next determined as the product of the average Terminal rate for the period multiplied by the total amount of said Signatory Airline space, and divided by the weighted equivalent space to determine the rate for the Type 1 (premium) space. Rates for Types 2 through 5 space shall then be determined by multiplying the relative factors for these types of space by the Type 1 premium rate.

#### Section G.5 - Signatory Airline Rates For The Current Rate Setting Period

G.5.A. For the period extending from January 1, 2006 to December 31, 2006, Signatory Airline Terminal rental rates shall be as follows:

Type of Space_	Location/Function	Annual Rate per Sq. Ft.
1	Ticket Counter	\$43.66
2	Holdrooms; Concourses; Bag Claim	\$39.29
3	Offices; VIP/Club Space	\$34.93
4	Bag Make-Up; Operations Space, Elevators	\$30.56
5	Inbound Bag; Tug Lane, Stairwells	\$21.83

These rates are based upon an average Signatory Airline Terminal rental rate of \$34.36 per square foot, as calculated in Table G-1.

G.5.B. For the period set forth in Paragraph G.5.A, the annual Signatory Airline apron fees rate shall be \$14,400 per aircraft passenger loading gate leased by Airline.

G.5.C. For the period set forth in Paragraph G.5.A, the Signatory Airline landing fees rate shall be \$2.11 per 1,000 pounds of Maximum Gross Landing Weight.

#### Section G.6 - Explanation of Table G-1 Line Items

G.6.A Direct O&M Expenses. These expenses are incurred for operation and maintenance of the Airport and are attributable to direct cost centers.

G.6.B Indirect O&M Expenses. These expenses are associated with the operation and maintenance of the Airport, but cannot be associated with specific revenue-producing activities, and are allocated to the direct cost centers for rate setting purposes.

G.6.C Capital Charges. These charges include Capital Charges as defined in Section 1.1.

G.6.D Debt Service Coverage. In the event general purpose revenue bonds are issued for Airport System improvements or projects, coverage equal to twenty-five percent (25%) of Debt Service assignable to the Terminal and Airfield cost centers (including amounts allocable from indirect cost centers) would be included as a rate-base element.

G.6.E Special Fund/Accounts. In the event a general purpose Airport System revenue bond financing occurs, allocable portions of any special funds or accounts would be included as rate-base elements, as follows:

G.6.E.(1) Debt Service Reserve Fund deficiencies – allocated 100 percent to landing fees calculation.

G.6.E.(2) O&M Reserve deficiencies – allocated to direct cost centers in proportion to direct and allocated indirect operation and maintenance expenses in each.

G.6.E.(3) Renewal and replacement fund replenishment – to be funded through coverage funds if sufficient; otherwise included in Terminal rental and landing fees rate-bases in proportion to the revenue bond Debt Service in each.

G.6.F Apron Fees. Apron fees shall be credited against the Airfield landing fees requirement.

G.6.G Other Landing Fees. Cargo Airline landing fee and landing fees collected from any Air Transportation Companies other than Signatory Airlines.

G.6.H Other Airfield Offsets. Revenues received as fuel flowage fees, in-flight catering concession fees, and any other miscellaneous Airfield revenues, shall be credited against the airfield landing fees requirement.

G.6.I Security Reimbursements. Revenues received as reimbursement for security expenses shall be credited against the Terminal rental requirement.

G.6.J Average Terminal Rental Rate. The adjusted Terminal rental requirement shall be divided by usable Terminal area (gross area per Exhibit “C” less mechanical/utility space) to calculate the required average Terminal rental rate in each period.

G.6.K Landing Fees Rate. The adjusted Airfield landing fees requirement shall be divided by Signatory Airline landed weight to calculate the required Signatory Airline landing

fees rate in each period.

#### Section G.7 - Airport Cost Centers

Airport cost centers used in the determination of rates for rentals, fees, and charges shall include, but not necessarily be limited to, those described in Paragraphs G.7.A. and G.7.B below.

##### G.7.A. Direct Cost Centers.

01 - Airfield - Areas provided for the landing, takeoff, and taxiing of aircraft; aircraft parking; approach and clear zones; and aviation easements.

02 - Terminal - Terminal building and concourses, including areas below concourses. Airport expenses associated with security screening and the public address system shall be included in the Terminal cost center.

03 - Other Airline - Air cargo buildings and associated apron areas; airline maintenance buildings; building space occupied by Air Midwest; and any other miscellaneous Airline facilities not included in the Terminal cost center.

04 - Ground Transportation - All landside roadways, rental car facilities and areas, and auto parking facilities and areas.

05 - General Aviation - United Beechcraft and Yingling Aircraft, including associated aircraft storage and auto parking facilities.

06 - Commercial & Other Aviation - All other leased facilities and properties including Cessna, Gates Learjet, Hilton Hotel, and other miscellaneous commercial enterprises.

07 - Government - FAA activities, including Tower and Flight Service Station; U.S. Post Office; and U.S. Weather Service.

08 - Jabara - All activities and facilities at Colonel James Jabara Airport.

##### G.8.B Indirect Cost Centers.

09 - Administration - Administration activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

10 - Building Maintenance - Maintenance activities and facilities which are dedicated to buildings and which cannot be directly assigned to other direct or indirect cost centers.

11 - Field Maintenance - Maintenance activities and facilities which are dedicated to airside and landside other than buildings and which cannot be directly assigned to other direct or indirect cost centers.

12 - Custodial - Janitorial activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

13 - Engineering - Activities and facilities associated with project development and grant administration which cannot be directly assigned to other direct or indirect cost centers.

14 - Safety - ARFF and medical activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

15 - Systems & Services - Special services and utilities which cannot be directly assigned to other direct or indirect cost centers.

### Section G.8 - Indirect Cost Center Allocations

Expenses for each indirect cost center shall be allocated to the direct cost centers as set forth in Paragraphs G.8.A. through G.8D. below.

G.8.A. Custodial (12) - Expenses for Custodial (12), which represent Terminal custodial/janitorial expenses, shall be allocated 100 percent to the Terminal (02) cost center.

G.8.B. Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13) - Expenses for Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13) shall be allocated as follows:

Direct Cost Center (13)	Admini- stration (09)	Building Maint. (10)	Field Maint. (11)	Engineering (13)	(10)	(11)
	(%)	(%)	(%)	(%)		(%)
Airfield (01)	20.0	-			50.0	25.0
Terminal (02)	35.0	75.0	5.0	30.0		
Other Airline (03)	5.0	5.0	5.0		5.0	
Ground Transport (04)	10.0	5.0	10.0		5.0	
General Aviation (05)	10.0	5.0	15.0		5.0	
Comm & Otr Avtn (06)	5.0	5.0	5.0		5.0	
Government (07)	5.0	-	5.0	5.0		
Jabara (08)	10.0	5.0	100.0	100.0		

G.8.C Safety (14) - Expenses for Safety (14) shall be allocated to each direct cost center based on the following allocation percentages:

Direct Cost Center	Percentage
--------------------	------------

Airfield (01)	70.0%
Terminal (02)	5.0
Other Airline (03)	5.0
Ground Transportation (04)	5.0
General Aviation (05)	5.0
Commercial & Other Aviation (06)	5.0
Government (07)	5.0
Jabara (08)	— —
	100.0%

G.8.D. Systems and Services (15) - Expenses for Systems and Services (15) shall be allocated in proportion to the direct assignments of Systems and Services expenses to the direct cost centers. Based on 2000 actual data, the assignment percentages used to estimate the rates for the rate setting period indicated in Section G.5 are as follows:

Direct Cost Center	Percentage
Airfield (01)	16.0%
Terminal (02)	63.0
Other Airline (03)	1.0
Ground Transportation (04)	4.0
General Aviation (05)	0.0
Commercial & Other Aviation (06)	0.0
Government (07)	16.0
Jabara (08)	0.0
	100.0%

SUPPLEMENTAL AGREEMENT NUMBER ONE

AIRLINE AIRPORT USE AND LEASE AGREEMENT  
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

DELTA AIRLINES

THIS SUPPLEMENTAL AGREEMENT NUMBER ONE, made and entered into this January 9, 2007, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and DELTA AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto are entering into an Airline Airport Use and Lease Agreement dated January 9, 2007, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. One for the purpose of extending the term of the agreement and including bankruptcy language;

NOW, THEREFORE, the parties further agree as follows:

1.

Section 2.1 – Initial Term, shall be revised as follows:

The effective term of this extended Agreement shall be for one year, commencing January 1, 2007, and expiring at midnight on December 31, 2007, subject to earlier termination as herein provided."

2.

Section 3.1.A of article III, Airline Premises, shall be modified to include the following languages:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement.

3.

Article XII, Cancellation by Authority: Events of Default by Airline, Section 12.1, Events of Default of Airline, shall be modified to include the following language:

"The parties acknowledge that Airline is a debtor and debtor-in-possession under Chapter 11 of the U. S. Bankruptcy Code in a case filed in the United States Bankruptcy Court for the Southern District of New York, Chapter 11 Case No. 05-17923 (ASH) (the "Case"). The Authority acknowledges and agrees that the commencement and pendency of the Case does not constitute an event of default under this Agreement and does not trigger the Authority's rights

under this Article.”

4.

It is understood and agreed that all other terms and conditions of the existing Agreement between the parties hereto shall remain in full force and effect.

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

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By \_\_\_\_\_

By \_\_\_\_\_

Karen Sublett, City Clerk

Carlos Mayans, President

“Authority”

By \_\_\_\_\_

Victor D. White, Director of Airports

ATTEST: DELTA AIRLINES, INC.

By \_\_\_\_\_

By \_\_\_\_\_

“Airline”

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_

Director of Law

**Agenda Item No. 42.**

City of Wichita  
City Council Meeting  
January 9, 2007

Agenda Report No. 07-0036

TO: Wichita Airport Authority

SUBJECT: 2007 Schedule of Fees and Charges and Resolution for use of  
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Adopt the Schedule and the Resolution.

Background: Annually the Wichita Airport Authority (WAA) adopts a Schedule of Fees and Charges and a Resolution to establish certain rates for aviation users of Mid-Continent Airport. The fees are calculated to maintain adequate revenue streams that will cover budgeted operating and capital costs incurred to support the related functions.

Analysis: The landing fee and terminal space rent rate calculations are in accordance with the methodology established in the airline/airport use agreement and its application to the adopted budget. Other aviation use fees are set to reflect market price. Rates are established through resolution for those entities that do not hold agreements with the WAA at a higher rate to reflect the lack of fixed commitment. The proposed rates have been reviewed and approved by the Wichita Airport Advisory Board. Representatives from the signatory passenger carriers at Mid-Continent have also reviewed the rates and have agreed to those which apply to their operations.

Financial Considerations: The landing fee and average terminal rates calculated for 2007 are very comparable with 2006 with a 1% decrease and 2% increase, respectively. The rates included in the Schedule of Fees and Charges are expected to produce over \$5.5 million in revenues in 2007. The rate setting methodology for 75% of those revenues is determined by lease agreements. The remainder of the use rates proposed are the same as 2006. All of the use rates can be altered at any time should that be necessary to recover costs. Rates will be retroactive to January 1, 2007.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through establishment of a rate structure which allows the Airport to continue its operation on a self-sustaining basis.

Legal Considerations: Rates have been developed in accordance with Federal rates and charges regulations. The Resolution has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority adopt the Schedule of Fees and Charges and the Resolution of the Wichita Airport Authority implementing a schedule of fees and charges for passenger airlines, all to be retroactively effective to January 1, 2007.

Attachments: Twelve distribution copies each of the Schedule and the Resolution.

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

A RESOLUTION OF THE WICHITA AIRPORT AUTHORITY  
ADOPTING AND IMPLEMENTING A SCHEDULE OF FEES AND CHARGES  
FOR PASSENGER AIRLINES

WHEREAS, the Wichita Airport Authority ("Authority") is the owner and operator of Wichita Mid Continent Airport and Colonel James Jabara Airport ("Airports"); and

WHEREAS, the Authority is a body corporate and politic, organized and existing under the laws of the State of Kansas and the authority of K.S.A. 3-162, et seq., and vested with all powers, authority, and control over the Airports as codified in Code of the City of Wichita §2.12.1048; and

WHEREAS, the Airports are financed and managed under policies and practices designed to assure that they will always be self-supporting and will not require the expenditure of local tax funds for their operation, which policies require that the costs and expenses for facilities be paid by the users of such facilities who enjoy the commercial opportunities that such facilities create, and that such users also pay fees for such opportunities appropriate to and commensurate with the type and volume of business potential under leases, concession agreements, or permits; and

WHEREAS, in order to pay for expenses incurred in the construction, operation and maintenance of Mid Continent Airport passenger terminal and to fund airfield improvements and capital projects of the Airports, to preserve such property and to promote and preserve the public health, safety and welfare, to enhance the Airports as public transportation facilities, and to protect established sources of revenue to the Airports; and

WHEREAS, the Authority considers it necessary, appropriate and reasonable to establish and fix appropriate fees, rates, and charges for passenger terminal users and airline aircraft operating on the Airport to meet the expenditures associated with the operation of these cost centers; and

WHEREAS, the Authority finds that the fees and charges established and fixed herein are

reasonable and uniform for the class of privileges and services enjoyed by the passenger terminal users and airline aircraft operating on the Airport.

NOW, THEREFORE, BE IT RESOLVED BY THE WICHITA AIRPORT AUTHORITY:

SECTION 1. Fees and charges for scheduled passenger airlines are established as follows:

Landing fee per 1,000 lbs./MGLW \$2.63

Terminal Space Rental per square foot per year:

Ticket Counter \$49.47

Holdrooms; Concourses; Bag Claim \$44.52

Offices; VIP/Club Space \$39.58

Bag Make-Up; Operations Space, Elevators \$34.63

Inbound Bag; Tug Lane, Stairwells \$24.73

Apron rate per linear foot per year \$57.53

Use of Unleased Terminal Gate \$75.00/flight

Use of Loading Bridge \$82.50/flight

Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate

(a) 0 - 24 hours \$62.50

(b) Over 24 hours \$3.75/hour

SECTION 2. Fees and charges for non-scheduled passenger airlines are established as follows:

Landing fees, per 1,000 lbs./MGLW \$3.15

Terminal Space Rental per square foot per year:

Ticket Counter \$49.47

Holdrooms; Concourses; Bag Claim \$44.52

Offices; VIP/Club Space \$39.58

Bag Make-Up; Operations Space, Elevators \$34.63

Inbound Bag; Tug Lane, Stairwells \$24.73

Apron rate per linear foot per year \$57.53

Use of Unleased Terminal Gate \$90.00/flight

Use of Loading Bridge        \$99.00/flight

Aircraft parking on terminal apron other than at an exclusively leased gate  
or when paying for use of an unleased gate

(a) 0 - 24 hours        \$75.00

(b) Over 24 hours        \$4.50/hour

Fuel Flowage Fee        \$0.12/gallon

SECTION 3. In addition to the fees and charges set forth above, passenger airlines shall pay such other fees and charges as shall be adopted by the Authority from time to time, including but not limited to the following:

- o Use of law enforcement officer
- o Freight charge
- o Vendor permits
- o Solid and liquid waste disposal
- o Aircraft apron parking infringement
- o Security alarm violations
- o Security badges
- o Airfield vehicle ramp permits
- o Electrical usage

In addition, passenger airlines shall be subject to insurance requirements and other rules and regulations adopted by the Authority from time to time.

SECTION 4. Scheduled passenger airlines that are party to a current Airline Airport Use and Lease Agreement with the Wichita Airport Authority are not subject to this Resolution.

SECTION 5. Effective Date. This Resolution shall be retroactively effective to January 1, 2007, upon its adoption by the Wichita Airport Authority.

SECTION 6. Savings Clause. In the event any phrase, clause, sentence, paragraph, or paragraphs of this Resolution is declared invalid for any reason, the remainder of this Resolution shall not be invalidated, but shall remain in full force and effect, all parts of this Resolution being declared separable and independent of all others.

ADOPTED this \_\_\_\_\_, 2007.

ATTEST:

WICHITA AIRPORT AUTHORITY

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_  
\_\_\_\_\_

Title

APPROVED AS TO FORM: \_\_\_\_\_ Date:

\_\_\_\_\_

Director of Law

### SCHEDULES OF FEES AND CHARGES

### FOR THE USE OF WICHITA MID CONTINENT AIRPORT

Schedule 1 - Signatory Scheduled Passenger Air Carriers

Schedule 2 – Non-Signatory Scheduled Passenger Air Carriers

Schedule 3 – Non-Signatory Non-Scheduled Passenger Air Carriers

Schedule 4 - Signatory All-Cargo Carriers

Schedule 5 – Non-Signatory All-Cargo Carriers

Schedule 6 - Non Signatory Commercial Aircraft Operators

Schedule 7 - Non Commercial Aircraft Operators and Military

### SCHEDULE 1

Signatory Scheduled Passenger Air Carriers

A Signatory Scheduled Passenger Air Carrier is defined as any company, organization or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Has a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function on a regularly scheduled basis to or from Wichita Mid Continent Airport.

#### AIRPORT FEES AND CHARGES

Landing fee per 1,000 lbs./MGLW \$2.10

Terminal Space Rental per square foot per year:

Ticket Counter	\$44.71
Holdrooms; Concourses; Bag Claim	\$40.24
Offices; VIP/Club Space	\$35.77
Bag Make-Up; Operations Space, Elevators	\$31.30
Inbound Bag; Tug Lane, Stairwells	\$22.35

Passenger Loading Gate Apron Fee \$14,400/year

Use of Unleased Terminal Gate \$60.00/flight

Use of Loading Bridge \$66.00/flight

Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate

(a) 0 - 24 hours \$50.00

(b) Over 24 hours \$3.00/hour

Fuel Farm Fee As defined in Use Agreement

#### SCHEDULE 2

Non-Signatory Scheduled Passenger Air Carriers

A Non-Signatory Scheduled Passenger Air Carrier is defined as any company, organization or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function on a regularly scheduled basis to or from Wichita Mid Continent Airport.

### AIRPORT FEES AND CHARGES

Landing fee per 1,000 lbs./MGLW \$2.63

Terminal Space Rental per square foot per year:

Ticket Counter	\$49.47
Holdrooms; Concourses; Bag Claim	\$44.52
Offices; VIP/Club Space	\$39.58
Bag Make-Up; Operations Space, Elevators	\$34.63
Inbound Bag; Tug Lane, Stairwells	\$24.73

Apron rate per linear foot per year \$57.53

Use of Unleased Terminal Gate \$75.00/flight

Use of Loading Bridge \$82.50/flight

Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate

(a) 0 - 24 hours \$62.50

(b) Over 24 hours \$3.75/hour

Fuel Farm Fee As defined.

### SCHEDULE 3

Non-Signatory Non-Scheduled Passenger Air Carriers

A Non-Signatory Non-Scheduled Passenger Air Carrier is defined as any company, organization

or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function to or from Wichita Mid Continent Airport.

#### AIRPORT FEES AND CHARGES

Landing fees, per 1,000 lbs./MGLW \$3.15

Terminal Space Rental per square foot per year:

Ticket Counter	\$49.47
Holdrooms; Concourses; Bag Claim	\$44.52
Offices; VIP/Club Space	\$39.58
Bag Make-Up; Operations Space, Elevators	\$34.63
Inbound Bag; Tug Lane, Stairwells	\$24.73

Apron rate per linear foot per year \$57.53

Use of Unleased Terminal Gate \$90.00/flight

Use of Loading Bridge \$99.00/flight

Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate

(a) 0 - 24 hours \$75.00

(b) Over 24 hours \$4.50/hour

Fuel Flowage Fee \$0.12/gallon

Law Enforcement Officer screening support when required (One hour minimum) \$36.00/hour

#### SCHEDULE 4

Signatory All-Cargo Carriers

A Signatory All-Cargo Carrier is defined as any company, organization or individual engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or 135;
2. Has a current primary lease with The Wichita Airport Authority or a sublease which has been approved by The Wichita Airport Authority, either leasing facilities or leasing ground, if same are available, and has executed and complied with a Use Agreement as offered by The Wichita Airport Authority. This includes companies that are engaged in providing feeder service exclusively to one host all-cargo company that has complied with the lease requirements of this schedule.
3. Handles for hire cargo as a major business function to or from Wichita Mid-Continent Airport.

#### AIRPORT FEES AND CHARGES

Landing Fee, per 1,000 lbs./MGLW	\$2.10
Fuel Flowage Fee	\$0.03/gallon
Freight Charge (Enplaned & Deplaned)	\$0.10/cwt
Cargo Apron Aircraft Parking Charge	
(a) 0 - 2 hours; 0 - 12,500 lbs.	Free
(b) 2 - 24 hours; 0 - 12,500 lbs.	\$25.00
(c) 0 - 24 hours; over 12,500 lbs.	\$50.00
(d) Over 24 hours	\$3.00/hour

#### SCHEDULE 5

##### Non-Signatory All-Cargo Carriers

A Non-Signatory All-Cargo Carrier is defined as any company, organization or individual

engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or 135;
2. Does not have a current primary lease with The Wichita Airport Authority or a sublease which has been approved by The Wichita Airport Authority, either leasing facilities or leasing ground, if same are available, and has executed and complied with a Use Agreement as offered by The Wichita Airport Authority.
3. Handles for hire cargo as a major business function to or from Wichita Mid-Continent Airport.

#### AIRPORT FEES AND CHARGES

Landing Fee, per 1,000 lbs./MGLW	\$3.15
Fuel Flowage Fee	\$0.12/gallon
Freight Charge (Enplaned & Deplaned)	\$0.15/cwt
Cargo Apron Aircraft Parking Charge	
(a) 0 2 hours; 0 12,500 lbs.	Free
(b) 2 24 hours; 0 12,500 lbs.	\$37.50
(c) 0 24 hours; over 12,500 lbs.	\$75.00
(d) Over 24 hours	\$4.50/hour

#### SCHEDULE 6

##### Non Signatory Commercial Aircraft Operators

A Non Signatory Commercial Aircraft Operator is defined as any company, organization or individual engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or

135;

2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;

3. Is involved in any commercial (for hire) activity on Wichita Mid-Continent Airport not covered by other schedules.

#### AIRPORT FEES AND CHARGES

Landing Fee per 1,000 lbs./MGLW \$3.15

Fuel Flowage Fee \$0.12/gallon

Use of a Terminal Gate \$90.00/flight

Use of Loading Bridge \$99.00/flight

Law Enforcement Officer screening support  
when required (One hour minimum) \$36.00/hour

Freight Charge (Enplaned and Deplaned) \$0.15/cwt

Aircraft Parking Charge (other than at leased facilities)

(a) 0 24 hours;  
0 12,500 lbs. \$37.50  
over 12,500 lbs. \$75.00

(b) Over 24 hours \$4.50/hr.

#### SCHEDULE 7

Non Commercial Aircraft Operators and Military

A Non Commercial Aircraft Operator is defined as any company, organization or individual engaged in air transportation, and who

1. Is operating under FAR Part 91 and is not involved in any commercial (for hire) activity on Wichita Mid Continent Airport.

2. Is military or acting on behalf of the military (defined as under the jurisdiction

and control of the Armed Forces of the United States or the National Guard).

#### AIRPORT FEES AND CHARGES

Landing Fee	None	
Fuel Flowage Fee		\$0.12/gallon
Use of a Terminal Gate		\$90.00/flight
Use of Loading Bridge		\$99.00/flight
Law Enforcement Officer screening support when required (One hour minimum)		\$36.00/hour
Aircraft Parking (other than at leased facilities)		
(a) 0 - 24 hours		
0 - 12,500 lbs.		\$37.50
over 12,500 lbs.		\$75.00
(b) Over 24 hours		\$4.50/hour