FINAL

CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. June 9, 2009

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the regular meeting on June 2, 2009

AWARDS AND PROCLAMATIONS

-- Wagonmasters Challenge

Wagonmasters to Challenge Mayor Brewer

-- Awards:

Fire House Awards

I. PUBLIC AGENDA

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

None

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Vietnam Community Memorial in Veteran's Park. (District VI)

   RECOMMENDED ACTION: Staff recommends that the memorial donation be approved by the City Council as it was presented on April 15, 2009 to the Design Council. Private funds are being raised to fulfill their commitment to partner with the Park Board to complete this project.

2. Special Assessment Financing Program for Façade Improvements – Program Modifications.

   RECOMMENDED ACTION: Approve the proposed modifications to the Façade Improvement Program policies and procedures.

3. Repair or Removal of Dangerous Structures - 2001 East 21st Street North. (District I)

   RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) the structure is kept secure; (2) the premise is routinely mowed and kept clean and free of debris; and (3) the service station premise is secured in a manner to deter unauthorized access onto the gas station premise.

4. U.S. Department of Housing and Urban Development Consolidated Plan.
   (Deferred June 2, 2009)

   RECOMMENDED ACTION: Approve the 2009-2013 Consolidated Plan and the One Year Action Plan for submission to the U.S. Department of Housing and Urban Development (HUD) and authorize the necessary signatures.

5. Consideration of Boathouse Request for Proposals. (District I)

   RECOMMENDED ACTION: Support the Koch proposal for reuse of the Boathouse facility and authorize Staff to enter into negotiations with Mr. Koch's representatives for a lease agreement.

III. NEW COUNCIL BUSINESS

1. Wichita Employees' Retirement System, Proposed Revisions of City Code Sections 2.28.070, 2.28.121, 2.28.400, 2.28.410 and 2.28.430, and Repealing the originals of said Sections and Section 2.28.420.

   RECOMMENDED ACTION: Approve the first reading of the Ordinance revising City Code Sections 2.28.070, 2.28.121, 2.28.400, 2.28.410 and 2.28.430, and repealing the originals of said sections and Section 2.28.420.

2. Police and Fire Retirement System Proposed Revisions of Charter Ordinance Sections 1 through 41, inclusive.

   RECOMMENDED ACTION: Approve the first reading of the Charter Ordinance revising Sections 1 through 41, inclusive.

3. Federal Edward Byrne Memorial Justice Assistance Grant E-Citation Program.

   RECOMMENDED ACTION: Approve the grant application.

4. Federal Recovery Act Edward Byrne Memorial Justice Assistance Grant Crime Analyst Program.

   RECOMMENDED ACTION: Approve the grant application.

5. Heartland Preparedness Center. (District I)

   RECOMMENDED ACTION: Adopt the Resolution, approve the Contract and Agreement, and authorize the necessary signatures.

6. 17th Street and Hillside Intersection Improvement. (District I)

   RECOMMENDED ACTION: Approve the increased budget, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

7. Meridian Street Improvement, between 47th Street South and 31st Street South. (District IV)

   RECOMMENDED ACTION: Approve the increased budget and place the amending ordinance on first reading.

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

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

9. FP800102 Outsourcing Print Shop and Mail Room Services.

   RECOMMENDED ACTION: Approve the contract with QuikPrint from July 1, 2009 through December 31, 2010 with an option to renew for four (4) successive one (1) year terms.

10. FP800102 Option I: Outsourcing Water Bills.

    RECOMMENDED ACTION: Approve outsourcing to High Cotton for Option 1, printing and mailing of the water bills.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

IV. NON-CONSENT PLANNING AGENDA

None

V. CONSENT PLANNING AGENDA (ITEMS 1 AND 2)

1. *SUB 2008-29 - Plat of Broad Street Industrial Park Addition located west of West Street and south of MacArthur Road. (District IV)

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

2. *VAC2009-00012 - Request to vacate a portion of a platted setback; generally located on the north side of Hale Avenue, between Country Acres and Denmark Avenues, north of Central Avenue, west of Ridge Road. (District V)

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

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA (ITEMS 1 AND 2)

1. *Terminal East Data Center - Supplemental Agreement - Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the budget and supplemental agreement, and authorize the necessary signatures.

2. *Bevan Rabell - Supplemental Agreement No. 4.

   RECOMMENDED ACTION: Approve Supplemental Agreement No. 4 and authorize necessary signatures.

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. Approval of travel expenses for Mayor Carl Brewer to attend NLC Summer Board Meeting, July 9-11, 2009, Denver, Colorado.

   RECOMMENDED ACTION: Approve the expenditures.

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 14A)

1. Report of Board of Bids and Contracts dated June 8, 2009.
   a. Report of Board of Bids and Contracts.

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

2. Applications for Licenses to Retail Cereal Malt Beverages:

Special Event	2009	
Wichita Pride,Inc./Pride Festival 2009	Patrick T Munz	601 East Douglas (Naftzger Park)

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

3. Preliminary Estimates:
   a. List of Preliminary Estimates (See Attached)

   RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:
   a. Petition for Sanitary Sewer in Second East 54 Addition, south of Kellogg, west of 127th Street East. (District II)

   RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

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

   RECOMMENDED ACTION: Approve and file.

6. Agreements/Contracts:
   a. City of Wichita Employees' Deferred Compensation Plan Consulting Services Agreement.

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

7. Property Acquisitions:
   a. Partial Acquisition of 11219 East Harry for the Greenwich: Harry to Kellogg Improvement Project. (District II)
   b. Partial Acquisition of 11201 East Osie for the Greenwich: Harry to Kellogg Improvement Project. (District II)
   c. Acquisition of a Portion of 1811 North Hillside for the Improvement of the Intersection of Hillside and 17th Street. (District I)

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

8. May 2009 Monthly Contracts and Agreements Report to Council.

   RECOMMENDED ACTION: Receive and file.

9. Delinquent Account Collection Services.

   RECOMMENDED ACTION: Authorize the expenditure; approve the Contract with Professional Finance Company, Inc.; and authorize the necessary signatures.

10. Bond Counsel Engagement Letter for Via Christi Financing. (Districts II, III, V, and VI)

    RECOMMENDED ACTION: Approve the Engagement Letter and authorize the City Attorney to sign.

11. Abatement of Dangerous and Unsafe Structures. (Districts I,III, IV and VI)

    RECOMMENDED ACTION: Approve the proposed assessments and place the ordinances on first reading.

12. Bike Path along the I-135 and K-96 Freeways to McAdams Park. (District I)

    RECOMMENDED ACTION: Approve the increased budget, adopt the amending resolution, and authorize the signing of State/Federal agreements as required.

13. Delinquent Sewer and Storm Water Charges.

    RECOMMENDED ACTION: Approve the proposed assessments; place the ordinance on first reading; and authorize the necessary signatures.

14. Second Reading Ordinances: (First Read June 2, 2009)
    a. List of Second Reading Ordinances (See Attached)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

Agenda Item No. II-1.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Vietnam Community Memorial in Veteran's Park. (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Unfinished Business

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Recommendation: Staff recommends that the memorial donation be approved by the City Council as it was presented on April 15, 2009 to the Design Council. Private funds are being raised to fulfill their commitment to partner with the Park Board to complete this project.

Background: On August 14, 2006, members of the Wichita Vietnamese Community presented a concept plan to the Park Board to create a memorial in Veteran's Park. The motion passed 7-0 to develop a memorial at this location. Though the memorial was approved, another meeting on September 11, 2006 was held to receive additional feedback and information from the citizens concerned about the memorial. Additional comments from the public were made the following day during the public agenda session for a City Council meeting on September 12, 2006.

On January 16, 2008 the concept plan was presented to Design Council for initial feedback. At that time, Design Council made the motion that the design be approved with the exception that the Wichita Vietnamese Community hire professional design assistance for refinement. Subsequently, the plan was taken back to Design Council for final review and was approved on April 15, 2009.

Analysis: The proposed memorial has been reviewed and approved by the Park Board and Design Council. The schedule for actual development is not yet known, pending fundraising for the memorial. However, the Wichita Vietnamese Community has provided due diligence with city staff and others for approval. Staff recommends that the memorial donation be approved as it was presented on April 15, 2009 to Design Council.

Financial Considerations: None. Development for this project will be provided with private funding. Staff recommends that a maintenance agreement for the memorial be provided by the Wichita Vietnamese Community.

Goal Impact: The memorial will provide citizens a memorial to honor and recognize both American and South Vietnamese soldiers who worked together during the Vietnam War. Veteran's Park provides a quality of life venue for many citizens.

Legal Considerations: The Law Department has reviewed the Memorial Donation as to form.

Recommendations/Actions: Staff recommends that the memorial donation be approved by the City Council as it was presented on April 15, 2009 to the Design Council. Private funds are being raised to fulfill their commitment to partner with the Park Board to complete this project.

Attachment: 1). Site Plan and Details for the Vietnamese Community Memorial 2). 08-14-2006 Park Board Minutes 3). 09-11-2006 Park Board Minutes

BOARD OF PARK COMMISSIONERS
REGULAR MEETING
Park and Recreation Department
455 N. Main St, Wichita, KS
Tuesday August 14, 2006
3:30 p.m.

Present: Dennis Brunner, Glen Dey, Doug Leeper, Janet Miller, Andy Solter, Mick Tranbarger, Nalini Johnson

Also Present: Mr. Doug Kupper, Director of Parks and Recreation; Mr. Larry Hoetmer, Architect, Park and Recreation Department; Mr. Scott Wadle, Planning Department; President Chinh Nguyen and Members of the Wichita Vietnamese Community Association Group; Ken Miller and Kirk Miller, Ken Miller Engineering.

President Miller called the meeting to order at 3:33 p.m.

PUBLIC AGENDA

President Miller asked if there were any public agenda items. No items.

AGENDA SUMMARY FROM REGULAR PARK BORAD MEETING

Item 1. Approval of Meeting Minutes from August 3 and July 17.

President Miller suggested to the board that, since they were given the Aug 3 Special Meeting Minutes at today's meeting, the Board wait to approve the minutes until all members were able to read and make any changes. The Board was informed by Mr. Kupper that the minutes from the July 17 meeting were still being transcribed and would be ready at the next meeting. All Board members agreed and the delay of approval for the minutes was approved.

Item 2. Move Item's 6 and 7 to the Beginning of the Agenda

Ms. Miller made the motion to move agenda item 6 up to the first item of discussion. Mr. Leeper then requested that they also move item 7 up to follow item 6 since each of these agenda topics involved individuals waiting to speak. Mr. Leeper made the motion to move item 7 up to follow agenda item 6. These items were voted on and approved to become the first two agenda items.

Item 3. Add a Memorial in Honor of South Vietnamese and American Soldiers to Veteran's Park.

Debbie Nguyen, City of Wichita employee, acted as a translator for the Vietnamese Community Association in support of adding a memorial to Veteran's Park honoring both South Vietnamese and American soldiers who fought in the Vietnam War. Ms. Nguyen related that the Vietnamese group has the approval from the Vietnamese community to build the memorial. Mr. Kupper asked Mr. C.

Nguyen from the Vietnamese Community Association what his ideas and plans were and why they felt that they were important to Veteran's Park. Mr. Q. Nguyen, Architect for the Vietnamese Community Association, spoke and said that they chose Veteran's Park because it is a memorial; it is there to honor fallen soldiers and is easy to visit by the public. He said that in the future they would like to hold a yearly memorial ceremony at the park. Mr. Q. Nguyen showed the Board two proposed designs of the memorial. Mr. Kupper said that the space available at the park would ultimately decide the design of the memorial. Mr. Q. Nguyen commented that they are willing to work with any amount of space they are given and he added that the scale of the layout has not yet been determined. Mr. Solter asked if the Vietnamese group had a preferred design to which Mr. Q. Nguyen replied that they preferred the first picture he showed of the larger memorial. President Miller looked at the design and asked if the large poles in the picture were flagpoles to which Mr. Q. Nguyen replied that they were and that the flags flown would be from South Vietnam, America, and Kansas.

Ms. Johnson looked at the design and asked what the item was in the center of the memorial. Mr. Q. Nguyen responded that it was a large bowl to be used for burning incense during the memorial ceremonies. Mr. Kupper asked if the bowl could be removed after each event to which Mr. Q. Nguyen replied that it would be cemented in. Mr. Q. Nguyen said that their preferred design was the first one, which was also more expensive to build. Ms. Johnson asked what type of material they were planning to use for the foundation and structure. She was then informed that they would like to use concrete. Ms. Miller asked if this memorial would recognize all soldiers from both North and South Vietnam. Mr. Q. Nguyen replied that it would only honor those soldiers from the South. She replied that the question seemed self explanatory, but that she had to ask for the record. She then asked where the money would come from to maintain the memorial after it was built. Mr. Kupper commented that whoever donates the money for the memorial is responsible for the upkeep and maintenance of the structure and that the City of Wichita is only responsible for the grounds maintenance. He went on to say that the City also takes care of graffiti if it occurs, but that any cracks in the cement or the replacement of flags would be the responsibility of the Vietnamese Community Association

Mr. Leeper spoke and said that he feels there needed to be a rule ensuring the pot for the incense is cemented down and that the flags are secured to the poles so they can prevent against theft. Ms. Nguyen then asked the Board if there had been any damage to the other memorials in the past to which Mr. Kupper replied that there had been vandalism before. Ms. Miller asked if the flag poles could be equipped with cords that were on the inside of the pole so that they are not accessible to the public. Mr. Kupper said that was a good idea and that they needed to add a prerequisite that stated that those types of poles be installed.

Ms. Johnson asked the board if they felt that skateboarding would be encouraged at the memorial. Mr. Kupper informed her that the City guards against that at all of the memorials. He went on to question Mr. Lee how long it would take them to raise the funds to begin building the memorial. Mr. Lee informed the Board that they already had the money and that they are ready to begin building immediately.

Ms. Miller returned the discussion to the Board by asking them what they felt they needed to vote on today. Mr. Kupper told her that the first step would be to have the Vietnamese Community Association finish their design and then send the proposal to the City Council for approval. He said he would like to see the concept of the memorial either approved or disapproved with the stipulation that the Vietnamese Community Association submits the final layout to him for design approval, before they begin building. Dr. Dey asked what exactly it was that the Design Council would be

approving when it is presented to them. Mr. Kupper replied that he did not know but that they could possibly be voting on the type of material to be used.

Motion:
Mr. Leeper made the motion to accept the memorial on the condition that the final layout and design be bought back to Mr. Kupper for final review of size, scope and color. Mr. Solter seconded the motion. The Board approved the motion 7-0.

Item 4. Approval of Arkansas River/Gypsum Creek Bike Path

Mr. Ken Miller from Ken Miller Engineering spoke to the board concerning the Arkansas River/Gypsum Creek Bike Path. He said that about 1 year ago his organization received a bike path project from the City of Wichita, which has gained approval by the Kansas Department of Transportation (KDOT) for alignment of the bike path. He provided the Board with handouts on the path's trail. He said that the goal was to look at the alignment and right of way constraints and that in its current alignment we would have cost overruns. He said his team went through five different concepts and that the DAB approved the final concept. He then held up a map that showed two paths: the first path was outlined in blue and was the recommended route and the other path was outlined in green and was the alternate devised path. The blue path's projected route takes it under the interstate and under Hydraulic St. Mr. Kupper asked if the Park Department was responsible for designing the park space to which Mr. Miller replied no.

Mr. Miller continued to outline the bike path following it on the South side of Chapin but said that if this purposed route is too costly, they will use an alternate route going alongside the junkyard. The path would then cross the bridge on the South side. He added that there will be three rest areas along the route and that the path would run along the turnpike and up to the existing bike path where it will cross onto the bridge through the park and over to the recreation center. Ms. Johnson asked if the new path would have a switchback to which Mr. Miller replied that adding one would be expensive and that their attempt is to use the existing bike path. Mr. Solter asked what the advantage of adding the new path would be. Mr. Miller informed the Board that the alternate routes would continue to escalate costs. Currently the costs were at 80/20, with the City paying 20% and the State paying 80%. He said that they want to put a trail head at both ends, two rest areas, mile markers, new signs and eventually plants trees along the path. President Miller questioned where the trail heads would be located to which Mr. Miller replied that one was at the Plainview Community Center, another at Garvey Park and possibly one at Chapin. Mr. Leeper asked Mr. Miller if he was a cyclist to whom he replied he was not and was only hired by the city to complete the project. Ms. Miller summed up for the Board that the bike path plan would be for 10 years; an 80/20 split and she questioned where the extra money would come from for maintenance. He said that there would be 4.8 miles of additional edging that would have to be completed by maintenance crews. Ms. Miller questioned if the Board would need to ask for more money for maintenance per mile.

Ms. Miller then asked what type of material would be used to create the new path. Mr. Kupper responded that concrete would be preferred. Ms. Miller asked if Mr. Kupper would prefer that concrete be used as opposed to a different substance. Mr. Kupper added that formerly no sub-base was used which caused the asphalt to split. He said that they now use a sub-base along with asphalt, which reduces buckling and heaving. Mr. Kupper went on to inform the Board that the staff was originally opposed to the path alignment because it was too close to the riverbank. Mr. Kupper went on to explain that due to the landfill, the river bank was ugly and debris was being exposed. Ms. Johnson spoke and said that after

looking at the new proposed path, that the green route has good access to residential pathways but that she would like to ensure that the residential areas have plenty of entrances. She added that she would like to see more connections to people along the path so that they do not have to drive to the access points. Mr. Kupper replied that WAMPO could identify new linkages. He said that ultimately the goal is to build a path so that the public can travel 1/3 of the city.

Mr. Larry Ross, 346 N. Bluff, spoke from the audience and said that he would like to see someone with a cycling background on the approval board. He relayed to the Board that the path needs more signs pointing them in the correct directions. He went on to say that when crossing bridges that the railing currently in use is too narrow and dangerous. He also said that he would like the surface of the path to be concrete as it is better and will not wear out.

Ms. Miller asked Mr. Kupper about the difference in cost between asphalt and concrete to which he replied that both have gone up in price but the cost difference would be 20% cheaper for asphalt. He said that asphalt stays alive on highways due to the oil from cars, but on bike paths that oil does not exist and does not have the constant weight. He said that asphalt must be rejuvenated. He also mentioned that concrete has a tendency to crack and shrink and costs more to repair. Mr. Kupper replied that by using more sub-base on the path, the asphalt would last longer.

Ms. Miller noted that she would like to see a new map that outlined optional places for residential connectors. Mr. Miller then asked if the Board could go back to KDOT and request more funding for the project to which Dr. Dey responded that we should aim high in our cost estimate because we can always lower it. Mr. Leeper informed the board that it would be hard for him to vote on this motion without seeing true costs of the difference between the usages of asphalt over concrete. He also suggested that before taking the recommendation to the City Council that they provide a better map of the path. Mr. Hoetmer replied that he felt concrete would be the most beneficial way for the Board to vote. Mr. Scott Wadle said that downtown the path switches from asphalt to concrete and that if we wanted examples that we should look at those two areas.

> **Motion:**
> **Mr. Andy Solter made the motion to approve the blue route on the map with the exception of Section C, which should shift back to the current path for cost reasons. Turn radiuses to accommodate needs of users should also be examined. The Board requests maintenance funding for the path be approved and that the path be made of concrete except where asphalt is necessary to meet the budget. WAMPO also needs to provide residential access points and grade separations of the path. Dennis Leeper seconded the motion. The Board unanimously approved the motion.**

Item 5. Delay of Remaining Agenda Items

Ms. Miller made the motion that, except for the topic of the Park Board Retreat and the Director's Update, the remaining items on the agenda be moved to the next regular meeting. Mr. Dennis Leeper seconded the motion. The Board unanimously approved the motion.

Item 6. Park Board Retreat

Ms. Miller then addressed the topic of the upcoming Park Board Retreat. The Board agreed that the meeting would be held on September 15, 2006 from 9:00 a.m. until 2:00 p.m. The location of the meeting would be determined at a later time.

Item 7. Special Motion to Deny Tax Credits to MPI Kansas Development Adjacent to Grove Park.

Dr. Dey made a motion that was seconded by Mr. Solter to add to the Park Board's agenda a discussion of MPI Kansas LLC's request for tax credits. Upon a vote of the Board, the motion passed unanimously.

Dr. Dey began by saying that he wanted to bring this off-agenda item to the Board concerning MPI Kansas, LLC and their attempts to build houses adjacent to Grove Park. Brunner asked how this item came to the Board and Dey responded that MPI Kansas, LLC had asked them directly.

Dr. Dey outlined the history of this building area as having been an area where homes in the past were bulldozed. Dr. Dey related to the Board that when these homes were destroyed, old chemicals and other such items could have been left in the basements. It is not known what kind of items or what degree of contamination could be there. Dr. Dey went on to say that MPI initially went to the DAB to request additional tax credits and was turned down. Dr. Dey said that the foundations MPI is planning to build the homes on are slabs and he is afraid they are going to crack in extreme temperatures with partial sections of the slabs poured over previous debris-filled basements. Dr. Dey said that MPI is prepared to continue building the houses their way, as a private property, if they are denied tax credits.

Dr. Dey then related how the storm water will drain in two places and run off into the park. Pictures were shown of excavated drainage channels. Mr. Solter commented that MPI is indeed moving ahead with building the homes. He asked what the City Inspection Office says about foundation requirements. Dr. Dey related that there is a dilemma because some people have turned MPI down, but no one has actually sat down and decided what to do.

Ms. Miller asked where the storm water drains. Mr. Kupper replied that the water drains into Chisholm Creek from which Dr. Dey commented that there is no way to know what type of toxic chemicals from the bulldozed houses could be running through the park. Mrs. Miller asked what exactly the Park Board could do about the matter. Dr. Dey questioned if indeed MPI was preparing to go to the City Council now. Mr. Scott Wadle informed him that MPI still wanted tax credits and they are going before the City Council to ask, as they make the final decision.

Mr. Leeper then spoke and said that he does indeed see a need to worry about contamination. Dr. Dey recounted the fact that back in the 1940s the housing area was zoned but the houses were bulldozed because there was no neighborhood organization. Ms. Johnson indicated that the City's storm water manual was in the process of being updated and recommended that the Park Board receive a presentation on that topic as soon as possible. Ms. Miller made a comment that the Board could draft a motion related to environmental uncertainties of drainage into the park. Ms. Johnson said that the Park Board did indeed have standing on this issue because the adjacent park is affected by the drainage from the proposed development. Therefore the Park Board became an affected party. She added that there needed to be a broader policy regarding similar matters. Ms. Miller then made the motion to make a recommendation to the City Council. Andy Solter seconded the motion.

Discussion continued on the matter with Ms. Johnson commenting that the drainage coming from the housing development into the park may cause damage. She also asked that since the location was once

condemned if that now changes the zoning right. Mr. Kupper said that, no, the zoning is still in effect until someone applies to change it. Dr. Dey asked if C & D landfills are regulated and Mr. Solter agreed and said that we should request identification of landfill requirements. Ms. Johnson noted that the condition of the land has changed and the old basements are hazards.

Ms. Miller asked what the basis of the motion was to which Ms. Johnson replied that the demolition and old remains from the houses would impact the park property. Mr. Brunner then noted that there could be asbestos or other hazardous chemicals in the area that could be harmful to the potential homeowners.

Motion: Recommend to City Council to Deny Tax Credits to MPI Kansas, LLC

A motion was made by Ms. Johnson and seconded by Dr. Dey to recommend to the City Council that the request by MPI Kansas LLC for tax credits, be denied based on the fact that there are too many environmental factors that could possibly damage Grove Park as a result of the draining of unknown hazardous materials, from the housing development. She further recommended that an environmental study of the area be conducted and that an independent review of the storm water drainage plan be conducted.

The board continued to discuss the motion and voted to add to the original motion so that it included their support of seeing houses built, but not at an environmental risk to the park. Mr. Kupper spoke and said that he feels the motion should be changed to say something about the quality of the neighborhood's adverse impact on the quality of life for park patrons. President Miller stated that she would like to add a preamble to the earlier stated motion.

Amendment to Previous Motion: Add Preamble to Earlier Stated Motion.

The Motion was made by President Miller and seconded by Dr. Dey to amend the prior motion to indicate that the Park Board is not opposed to building additional housing in this area. The board supports residential redevelopment next to the park, but feels that this particular site is not yet ready to be built. The Board feels that the developer needs to do more work on the site before building begins.

The complete amended motion was as follows:

The Park Board is not opposed to building additional housing in this area. While the Board supports residential redevelopment next to the park, it believes this particular site is not yet ready to be built upon. The Board believes the developer needs to do more work on the site before building begins. Therefore, the Board recommends to the City Council that the request by MPI Kansas LLC for tax credits be denied based on the fact that there are too many environmental factors that could possibly damage Grove Park due as a result of the draining of unknown hazardous materials from the housing development. Further, the Board recommends that an environmental study of the area be conducted and that an independent review of the storm water drainage plan be conducted.

Upon a vote of the Board, the motion passed unanimously.

Item 8. Director's Update

Mr Kupper advised the Board that the City Council had approved the purchase of a tennis dome to be placed at Riverside Tennis Center.

There being no further business, the meeting adjourned at approximately 6:13 p.m.

_____
Janet Miller, President

ATTEST:

_____
Myca J. Bunch, P&R Administrative Assistant
Recording Secretary

BOARD OF PARK COMMISSIONERS
INTERIM MEETING
Human Resources Training Room
10th Floor City Hall
Monday, September 11, 2006
3:30 p.m.

Present:	Glen Dey, Doug Leeper, Janet Miller, Andy Solter, and Nalini Johnson*
Absent:	Dennis Brunner, Mick Tranbarger
Also Present:	Doug Kupper, Larry Hoetmer, Tim Martz, Scott Wadle, Debbie Nguyen and Myca Bunch (staff)

President Miller called the meeting to order at approximately 3:30 p.m.

PUBLIC AGENDA

No items.

Miller began by asking the Board members and the audience to observe a moment of silence in memory of the 5-year anniversary of the September 11, 2005, tragedy.

REGULAR AGENDA

Item 1: Approval of Meeting Minutes

Motion 1: Andy Solter made the motion to approve the August 3, 2006, meeting minutes in their current status. Miller seconded the motion. Motion passed unanimously.

Motion 2: Solter motioned that the Board approve the August 14, 2006, meeting minutes with the changes to Item 7 that were recommended by Dey. Johnson seconded the motion. Motion passed unanimously.

Item 2: Response to WAMPO Pathways Study

Miller introduced to the Board an issue that was first discussed at the July 17, 2006, meeting concerning the Wichita Area Metropolitan Planning Organization (WAMPO) and their pathways study that looks at regional paths and trails. The Board discussed providing a response to WAMPO with some thoughts about this subject. Johnson was

asked to draft a document for review to which Dey suggested edits that could be added to the proposal.

Johnson began by outlining that WAMPO is inviting input from community and will be holding different meetings around Wichita to give input on their plan. The plan relates to pathways around the city that creates a backbone pathway system around entire regions and could incorporate other cities. Johnson composed a document that outlined what might be the Park Board's role in the pathways process. She said that she feels that as a Board and Park and Recreation staff should be involved with the process quite extensively since it involves bike and hiking trails. In the eyes of WAMPO, it would connect to economic generators so that it would be a transportation system to give the public another mode of transportation besides cars. Johnson suggested the Board come up with a statement endorsed by the Park Board that would produce certain points that everyone could agree to. She said that she put the document together with three key points to discuss which can be fine-tuned later. She said the Board needed to add a strong opening statement that would show that they support the WAMPO pathway planning process.

Johnson's proposal, based on prior input from the Park Board, was broken down into three key bullets:

1. Request that the final WAMPO plan be presented to the Board for approval prior to adoption by WAMPO. After this approval, the plan would then continue on to be approved by City Council and other entities.

2. Gain input from all sectors of the community including current and potential users of the pathways system, recreation users and transportation-based users to minimize impacts caused by speed differentials. She added that WAMPO and the Park Board both need to ensure that the plan addresses all types of users.

3. Ask that the recreation destination points be added to the list of viable destination points analyzed by the planning staff. She said WAMPO stressed to the Park Board that the destination points would be related to areas that generate economic development activity. The Park Board would like to have WAMPO consider that recreation destination points be looked at in terms of economic growth as well.

Dey shared that he would endorse the major points proposed by Johnson, but would try to soften the language so that WAMPO did not perceive it as a demand, but rather more in terms of it being an invitation to have the two groups work together. He said the two groups could have a committee or an informal contact to communicate some of these issues.

Miller asked if any members of the audience wished to comment on the WAMPO pathways plan. No comments. The Board then proceeded to make a motion on the item.

Motion 3. Miller motioned for Johnson and Dey to work together to finalize a letter along the lines that they have worked on so far and submit it to WAMPO. It was also recommended that copy of letter be copied to the head of the Planning Committee at WAMPO as well as John Schlegel, the Director of the Metropolitan Area Planning Department, so everyone will understand in that organization. Kupper also requested that a copy be sent to his office as well. Johnson seconded the motion. Motion passed 7-0.

*Johnson left the meeting.

Item 3. Proposed Vietnamese War Memorial in Veterans' Park

Miller reminded the audience that this item was a public hearing and that the Board would take no action on the topic today. She informed the audience that the Park Board had approved the Vietnamese Community Association request to build a memorial at the August 14, 2006, meeting. Following that meeting, the Board heard from a number of individuals in the community who wished to speak on the issue. The Park Board thus decided to hear public comment on the issue. She said that after hearing all comments that the Board would take the situation under advisement and would then determine whether or not to add the item to the next Park Board meeting agenda for actual discussion and a possible second vote. She added that the City Council does have final vote on the memorial and that she did not know for sure, but she suspected that the City Council would wait to hear the issue until the Park Board makes their final decision. She informed the audience that each speaker would be given two minutes speaking time. She also introduced Debbie Nguyen, a City of Wichita employee, who would act as a translator during the meeting.

Thang Nong, 2205 S. Sunnybrook, as translated by Nguyen
We are Vietnamese community and we do not represent the communist. There is a saying within our community that we eat the fruit that we reap and sow. We are immigrants from the war and we are now members of this country. This memorial is to honor those that gave their life in the war. Everyone needs to know the sacrifice that these soldiers made.

Huong Thu Tran, 719 N. St. Paul
From all the Vietnamese people we are here to ask support for a memorial for American and Vietnamese soldiers who together fought for freedom and sacrificed together and they need to be remembered together so our coming generations will have a place to remember those heroes who gave up their lives for us. We also need to remember and honor with all of our hearts.

Luc Nguyen, 1927 S. Ida
When we fought the communist, the US and England and Switzerland and other allies sacrificed thousands of lives. I want to have a memorial park so our children will one day remember that the Vietnamese and American solders fought for something and we

spilled our blood for something. We will have a place for our people to go every year to remember all of our heroes who fought and died for freedom.

Oris E. Serpan, 7800 North 167th Street West
I was a participant in SE Asia War Games, 2nd Place. Vietnam was a country that wanted to be free, or at least as free as the CIA would allow it. Many Americans went there just to go, some believed in freedom and some did not. Some killed communists and some didn't, some were wounded and some weren't. They were our allies, and we went there under Kennedy to protect their way of life and help them stop the communist from taking over, which they did. The Americans took second place and the Vietnamese took third place so I believe we should have memorial here for them and for the Americans with them. There is talk about when will this quit if we allow them to have their memorial. I believe it will quit when we no longer have wars. But as long as we are fighting to help others we will have this. I think we have lost track of what is going on. I volunteered and I believed that we could help stop communism and I believe they have every right to have a memorial here.

Lan Lee, 2304 S. Cypress
The American armed forces fought two wars, one in Korea and one in Vietnam. We owe soldiers and we are lucky that there are still survivors today and we never forget the old people who have come here. We would like to build a monument to the Vietnamese and American soldiers together so we do not forget. The older are dying and this way every year we can come and celebrate those that have died. People will come to this memorial to remember what has happened in the past. These older soldiers deserve to have a location to remember.

Kenny Nguyen, 1836 S. Shiloh Street
I'm 25 but I do not know anything about my country and the war. I came here in 1992 with my parents to find freedom and find my future. I grew up here and graduated here and I made some new friends who are American. I became the president of the Vietnamese Association at Wichita State University in 2005-2006. I am here as a young Vietnamese-American individual to ask the community to support and approve the idea of the memorial in Veterans Park.

Hoa Bui, 4929 N. Harborside
I am here to show my support for the memorial and I believe that the Vietnamese people deserve this little space to show our love and respect and gratitude that we have for the American and other people that died for freedom. We want a place we can go every year to pay our respects to those who died for our freedom. So that my kids and their kids can go there and remember everything that they did in the name of freedom.

ThienVu, 10118 Kincaid Circle
Vice President of Vietnamese Community in Wichita, also the former president of Vietnamese Student Association at WSU. I would like to ask Wichita to grant us some land in Veterans' Park to build our memorial. The conflict was between the North and

South communist and the Americans were our strongest allies. We wanted to live under a government of the people, for the people and by the people. After the communist invasion the whole country fell into bloodshed. Now Vietnamese are exiled all over the world. For many in Wichita, we are fortunate enough to have American opportunities and freedom for which we cherish. The fight for freedom and democracy in Vietnam has claimed 2.5 million lives and we want to have a memorial for both American and Vietnamese soldiers who sacrificed their lives.

Philip Blake, 1632 W. 20th St.
I am a WWII Veteran but never served in Vietnam. The Vietnamese community I have met in Wichita are good workers and honest people. I, too, think that there should be a monument and that they richly deserve it, but not in the Veterans' Park. The park was dedicated as a park that would be built to honor America's veterans who have fought in defense of America. The Chamber of Commerce magazine published after that shows a flag array and says that it was built to honor veterans of all American wars. It does not honor veterans of other nations. There are many other American veterans that have not yet been honored in the park as of yet. Among those are the women veterans of the U.S. and the Coast Guard or WWI or WWII; they are honored elsewhere. Our purpose of this park can be maintained and I offer a suggestion that Woodland Park would make a good location for the Vietnamese Monument. I believe this would be fair to everyone.

Randy Bane, 1821 Burns St.
I deal with many Veterans organization both locally and nationwide that support veterans and their families. My concern is that the memorial is not a list of names or a stroll through the park but it is sacred ground. It is the 5th anniversary of 9/11 and our sons and daughters are right now dying for freedom. I am worried that we do not have a place to honor them with a memorial in the future. That is my major concern. I also want to add that I am sick to death of segregation and anger and hatred and of communities not coming together. I vote that we seriously look at the proposal for the park. If it can bring a community and neighbors together, then we need to seriously consider the Memorial.

John Wilson, 4309 Soder
I am a member of various American Legion and Vietnam Veterans Memorials. I believe that the Vietnamese Community deserves a memorial, but not in Veterans' Park. The park was promised to the American Veterans. This is nothing against the Vietnamese community, but we believe the park should be reserved for only military veterans of the United States.

Cha Tran, 2268 S. Hiram, as translated by Debbie Nguyen
I was in the Vietnam War and was a prisoner of war for ten year. The memorial is for the next generation so that they can remember those that died and that is what Veterans' Park is for. If the monument is not built there, the next generation will not remember.

Kathy Dittmer, 823 Litchfield
I believe the Vietnamese Community has worked long and hard to find the funds to build this memorial. I understand that the American servicemen's concern over the lack of

space in the park. There seems to me that there has to be a way to resolve these issues. I believe everyone can end up a winner with this memorial.

Curt Lewis, 15401 E. 71st St South
I became aware of this issue today and I am in favor of this memorial being built in the Park. My family has a long line of veterans and I see no reason why they cannot have their memorial.

Tom Peterson, 3940 S. 215th, Goddard, KS
I do not support this memorial being built in Veterans' Park. It is for American veterans and should be left that way.

Tu Vu, 1945 S. Stacy
I work at Sprit and I was an officer in South Vietnam. I fought from 1972-75 and my brother was also soldier who died in the war. We fought side by side with the American soldiers. My family came to America because we had no place to live in Vietnam. We pay taxes in this American city now and we just ask why we cannot build a memorial in the park now. I think we have plenty of land in the park and we can build our memorial and then we can build the memorials of all of the other wars. Please do put our memorial some place else.

Jim Dennison, 9015 W. Central Park St.
I am a member of various Veterans and POW organizations. I have worked along side the Vietnamese-American people and have seen them raise their families and pay their taxes. They have worked hard for what they have. These people have their American citizenship and they have given up their citizenship of Vietnam and have grown with us. Their sons and daughters have put on American uniforms and have fought in Afghanistan and Iraq. They have paid their dues. The war is over and these people deserve a place in that park. So many people lost their lives, it's the least we can do to give them a place in that park.

Khanh Nguyen, 1129 N. Pinecrest
My history classes in Vietnam and the classes I have taken in America were very different. I know that the Kennedy government had a big impact on many Americans. I support the memorial so I can show my friends a part of our history. All we want is just a piece of land. We all died together.

Chin Nguyen, 1129 N. Pinecrest
We would like to have a place to build. We want to remember our heroes who died in Vietnam. We respect the Americans and love them. Eight thousand people in Wichita need a place for our young children to remind them always of respect to their heroes. If you accept the memorial we will build it and pay for it. We hope you will help us remember our American heroes.

Mike Harter, 2224 S. Waco
Member of various Marine Corp Leagues and American Vietnam Veterans Organizations. I am here to represent a large number of veterans and organizations that express their objection to placing a Vietnamese Memorial in Veterans Park. Wichita veterans came and asked for this park and were granted this land to memorialize American veterans. There never has never nor will there ever be an intent to memorialize soldiers of other governments in this park. Doing so would open a floodgate of requests from our past allies. I have no doubt that there would be a great outcry from the community if this memorial were granted. Ten years ago the Vietnamese Community again tried to have a memorial built in Veterans' Park and was confronted by many veterans who told them they would give them any piece of city land except in Veterans Park for their memorial. We even offered to drive them around to find the site. The Vietnamese Community rejected this offer. They have not contacted any organization that currently has memorials in the park. They have tried to back door us to get their agenda passed. If the Vietnamese Community is so adamant in honoring their soldiers, why have they waited 40 years to do this? If these people want to honor us, they need to honor our concern to place their memorial in another location. When the Vietnam wall was erected, the Vietnamese Community was invited to place their flag along side our service flag to honor their soldiers. We feel that this honors their soldiers.

Bob Pinkstaff, 10208 E. Shadybrook
I am a veteran and member of various American Veterans organizations. About ten years ago we held a meeting the Vietnamese Organization and told them we did not support their trying to build a memorial in Veterans Park. We offered to help them find another site. The final outcome of their attempt to build a memorial failed. The City of Wichita did agree to allow them to build a memorial anywhere else in Wichita. I am strongly opposed to any plan to allow the construction of the Vietnamese Memorial in Veterans' Park. This park is a snapshot of American history and the dedication of the soldiers who died in action. The Vietnamese Association has attempted to purge their memory that Vietnam is a communist country and flies the flag of communism. There is not a free South Vietnam. The flag they wish to fly stands for communism.

There being no further requests to speak, Miller then closed the public comment portion of the meeting and encouraged any further comments be submitted via email to the Park Board.

Item 4. Storm Water Filtration

Miller introduced the topic by outlining that several Board members had expressed interest in learning more about how storm water can be filtered and slowed down. Larry Hoetmer was asked to provide information on this subject.

Hoetmer handed out several documents that pertained to storm water filtration and how to utilize it in parks and around the city. He referred to the storm water manual from Lincoln, NE, and pointed out good examples on how they are handling their storm water issue. Miller asked if Hoetmer would consider the items on the list alternatives to

diverting storm water into a concrete drainage box and getting it to the river quickly and unfiltered. Hoetmer replied that they are alternatives and that they are used for different types of drainage issues and sites. He explained that this information is for new developments and not so much for existing developments. Kupper replied that if we had been consulted on the Grove Park situation, for example, we would have required them to create a pre-treatment pond similar to this one. Hoetmer replied that having open prairie areas helps slow down the rain as well; it allows the soil to open up and receive the water. He said he would like to see the community get past the mentality that they need to mow these areas and that by letting the vegetation and prairie grow is really beneficial to the storm water plan.

Dey commented that it would be helpful to him if we knew how we could get the City of Wichita or Sedgwick Co. to adopt a manual like this for all developments. Hoetmer replied that we have to introduce the idea to the storm water department, which he believes is already beginning to consider the idea. He said that the biggest thing we need to do is to get with the GIS people and have automatic flags come up when they see that they are dealing with City property. Dey said he would like to encourage the City of Wichita to visit this issue. He went on to say that the PROS plan would be an exception to the current way of looking at these issues and the development of parks. Kupper said we need to work with the consultants and we can have them create a whole section of their PROS proposal toward storm water filtration.

Solter commented that the Park Department staff has a lot of inter-office communication with other city departments, but he wondered if the Park Board could make a presentation to the city commission and request that storm water filtration become a part of the city planning efforts. Kupper replied that the Board would have to have a joint meeting with the MAPC because it all starts with the developers. Solter commented that he has watched meetings between Jim Skelton and Tim Norton and the city and county are beginning to talk together at that level. Kupper said that we need to look at states that have higher rainfall levels then Kansas and look at what they require as it relates to storm water management. Miller then questioned how to get this process started and how we educate ourselves better and create prototypes to provide more information to the different organizations. She said she liked the idea of inviting Public Works and other entities to get together and express everyone's interest on the topic. The storm water manual is being re-done right now and we need to talk to them concerning this, too.

Miller asked what next steps the Board should take and Kupper suggested the Board members take time as individuals reading and reviewing the information. She then asked Hoetmer what his preferred storm water methods were from the listing in the manual. His preferred methods were:

Bio-swell
Dry Detention Basins
Natural and Native Vegetation
Rain Gardens

The Board agreed to keep this matter open and to continue to try and draw involvement from other organizations to help the storm water process grow in the area.

Items 4 and 5: Park and Playground Requests/Dry Creek Neighborhood Request

Miller then asked the Board if anyone would be interested in moving Items 4 and 5 to the next Park Board Meeting agenda due to the length of the current meeting.

Motion 4: Solter made the motion to delay items 4 and 5 to the next meeting. Leeper seconded the motion. Motion passed 6-0.

Item 6: Update on Riverside Tennis Center

Kupper informed the board that the Parks Department had received bids from one vendor for the inflatable tennis dome. The bid came in at $46,000 less then the original estimate. The dome came with heating, air conditioning and lights at $403,000. He said they also purchased a truck airlock system so they can drive one of the large bucket trucks inside the dome to fix the lights. He said the entire $429,000 federal money we had has been encumbered for the dome. The bids for the actual construction of the courts is slated to come in around September 25, 2006, and will go to the City Council the first week in October. After that we will find out the cost to demolish the existing courts. He said he is now thinking of placing post-tension concrete over the existing asphalt courts that are there, as it would provide a nice stable base. He has have not reviewed the current plan, but by the next Park Board Meeting he would know the exact costs. Leeper asked if the dome was still going to be a permanent fixture to which Kupper replied that it was. He said it is his intent to use it 12 months out of the year and they had reviewed the cost estimates and they still stand by their original estimates. Leeper asked to make the point that perhaps it would be cheaper to seal the current courts and use a type of plexi-plate surface for the new courts. He said this material lasts forever and that tennis players love it. Miller then wished to inform the board that some operational funding for the dome had been approved. She said that $40,000 had been approved in this year's budget.

Item 7. Slate of Officers

Miller informed the Board that she was willing to continue on as President of the Park Board and that Dey was also willing to remain as Second Vice President. She then said that Brunner had officially asked to resign as first Vice President but not from the Board. Leeper spoke and said that he would like to nominate Johnson as First Vice President and keep Dey as Second Vice President.

Motion: The slate of officers to be voted on at the next Park Board meeting proposes that Janet Miller be retained as Park Board President, Johnson be nominated as First Vice President and Dey will remain as Second Vice President of the Park Board. Motion was proposed by Solter and seconded by Leeper. Vote passed, 6-0.

Item 8: Park Board Retreat

Miller informed the board that her mother-in-law had passed away the previous weekend and the memorial service was scheduled for the same day as the Park Board Retreat. She said that she did not mind if the Retreat proceeded without her and then asked the Board members what they would like to do. The majority of the Board members agreed to postpone the retreat until a later date. Kupper then informed the Board that he would be at a conference in Seattle during the next regularly scheduled Park Board Meeting on October 9. He asked the board to please reschedule the meeting to Oct. 16, 2006.

Motion 5: Miller made the motion to postpone the Park Board Retreat originally scheduled for September 15 to a future date and time. She also made the motion to reschedule the October 9 Park Board meeting to October 16, 2006, and to include the officer elections at that meeting. Leeper seconded the motion. Motion passed unanimously.

Item 9: PROS plan update.

Wadle informed the Board that they had a good pre-submittal conference last week with 11 firms in attendance. Kupper added that the Trust for Public Land has also decided to respond to the RFP.

Miller informed the Board that they were getting ready to submit their first grant application for the speaker series funding to the Kansas Health Foundation. Kupper replied that the Board should try to contact the Lattner Foundation as well.

Item 10: Director's Update

Kupper informed the board that a landowner in the southeast quadrant of the city would like the City to buy his section of land. This individual does not want any money, but his sister does. He said he has $350,000 in CIP funds for 2007 reserved for land acquisition. Their quoted price is $6000/acre for the 160-acre lot. Kupper said he wants to convince the landowner to give us his 80 acres for free and then he would not be far off in cost if he had to buy the other portion that belongs to the sister. He said he would need to come up with an extra $130,000. Kupper said he has contacted Trust for Public Land to see if they can do the negotiating and will hold the money until we have all of the money.

Kupper said he had advised the landowner that he needs to sell it with stipulations on the deed to preserve the area and that it be protected and preserved or they would get the land back. Miller asked what the Park Board's role was in making this decision and Kupper said he will come back with an actual agenda item if he feels they are getting close to finalizing the plans to preserve and buy the land. Leeper asked if that money that was set-aside was to develop the new regional park to which Kupper relied that this would qualify as that park. Kupper agreed to keep the Board informed on the issue and let them know if and when they decided to purchase the property.

Miller then asked if anyone from the Board had any additional comments and there were none.

There being no further business, the meeting adjourned at approximately 6:10 p.m.

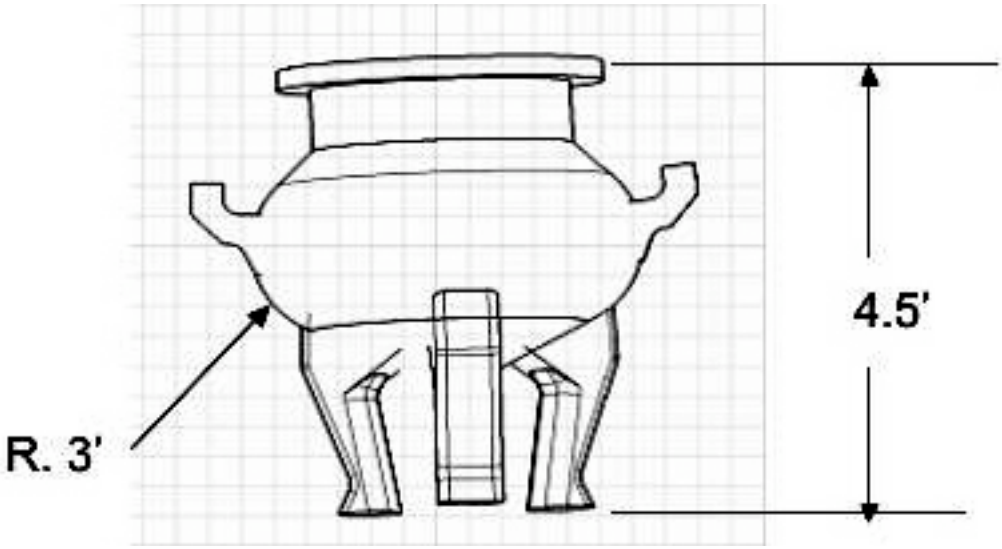
_____
Janet L. Miller, President

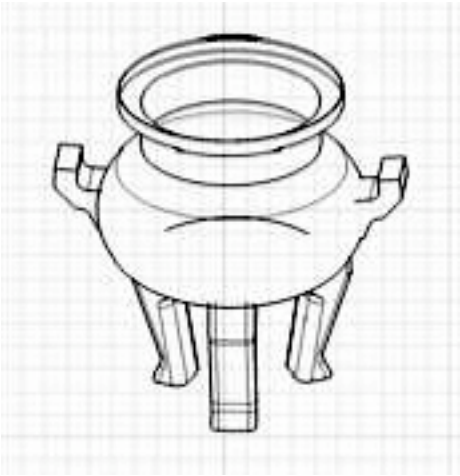
ATTEST:

_____
Myca J. Bunch
Recording Secretary

Sculpture

Incense Burner



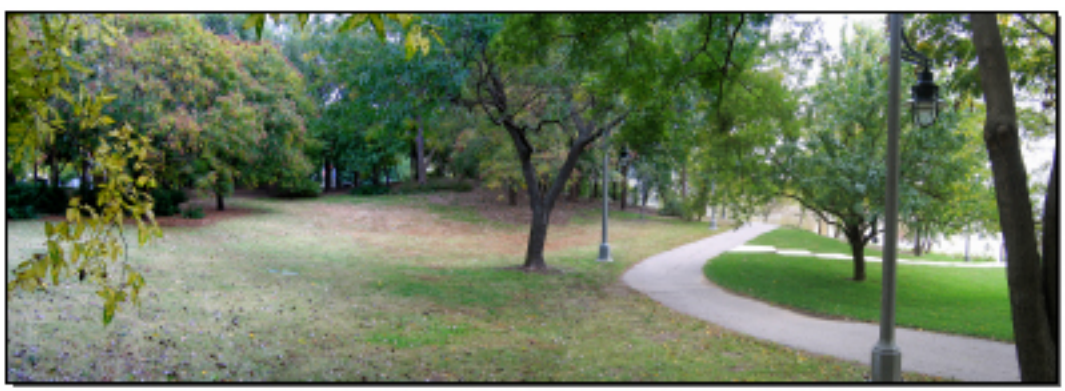


Vietnam War Memorial

Veterans Memorial Park
Wichita, KS

View northwest from memorial site

View toward memorial site from north



View toward memorial site from northwest

View toward memorial site from west,
at steps leading up from the USS Wichita memorial

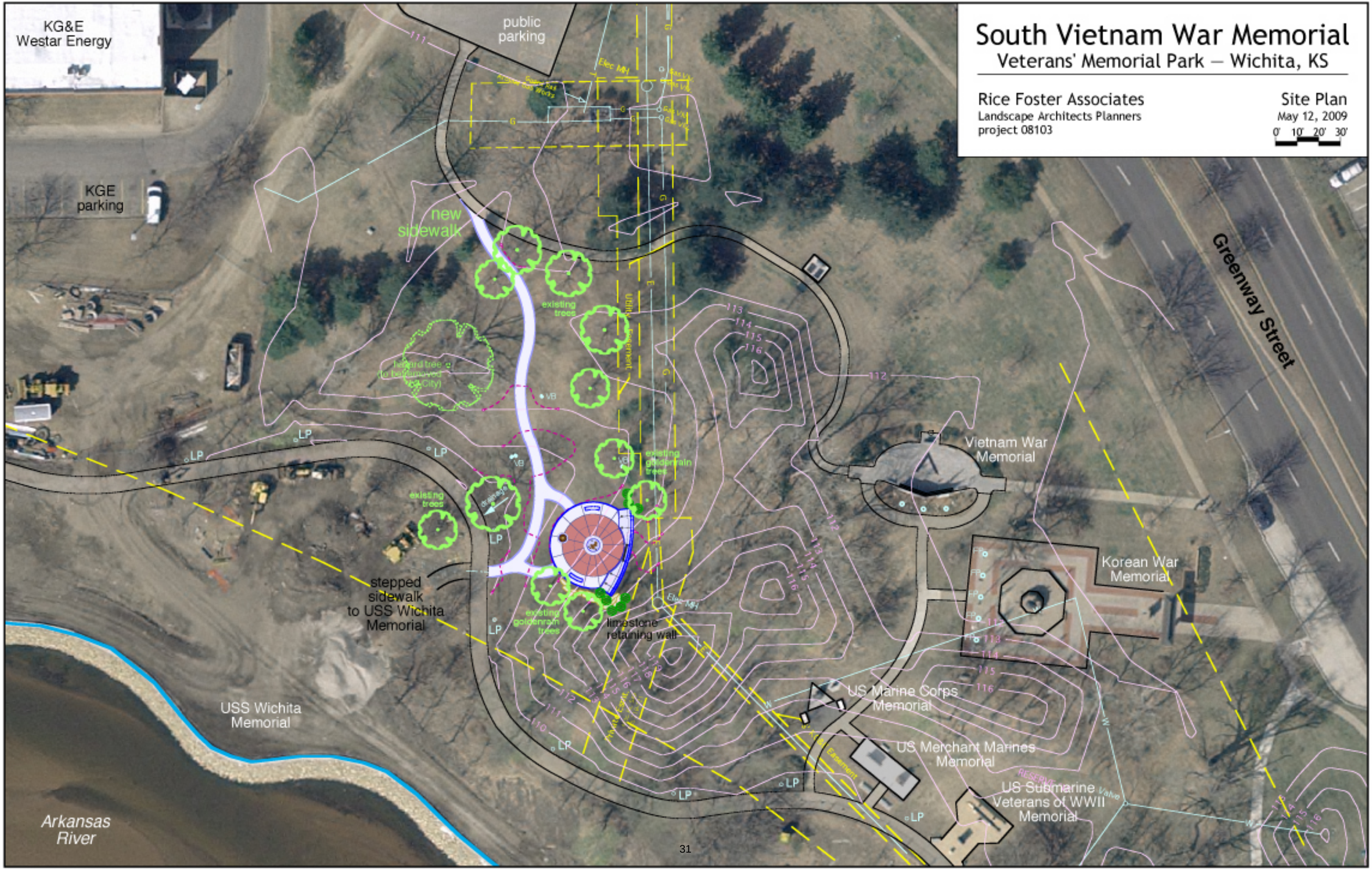
Rice Foster Associates

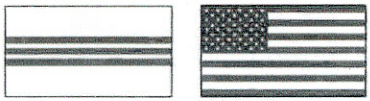
South Vietnam War Memorial

Veterans' Memorial Park — Wichita, KS

Rice Foster Associates
Landscape Architects Planners
project 08103

Site Plan
May 12, 2009
0' 10' 20' 30'



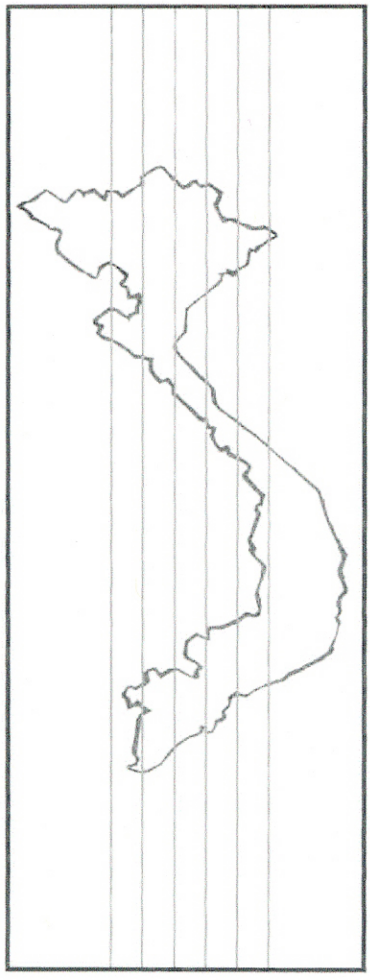


VIỆT NAM CỘNG HOÀ

Chúng tôi, Cộng đồng người Mỹ gốc Việt tại Wichita, Kansas, cống hiến Đài Tưởng Niệm này để tưởng nhớ và vinh danh những người Mỹ, Việt Nam và các nước đồng minh đã chiến đấu để giúp Việt Nam Cộng Hòa chống lại cuộc xâm lăng của cộng sản Bắc Việt. Đặc biệt là 58,000 chiến binh Hoa Kỳ đã hy sinh vì lý tưởng tự do trên quê hương chúng tôi. Những người nam và nữ ấy đã dũng cảm làm nhiệm vụ của những người lính và đã đổ máu cho một chính nghĩa cao quý để người dân miền Nam Việt Nam được sống nhiều năm trong tự do.

Sau khi cộng sản đánh chiếm miền Nam Việt Nam năm 1975, vì không chấp nhận sống dưới chế độ độc tài, hàng triệu người đã vượt thoát khỏi Việt Nam bằng thuyền, đường bộ... Trên đường đi tìm tự do, hàng trăm ngàn người đã phải hy sinh mạng sống trong rừng sâu, trên biển cả, hoặc bỏ mình trong các trại tỵ nạn, cuối cùng đã đến đất nước bao dung này.

Là những nhân chứng lịch sử cho tội ác của cộng sản, chúng tôi thấu hiểu giá trị của tự do bằng kinh nghiệm bản thân. Xin tri ân sâu xa sự hy sinh của những người đã chiến đấu bên cạnh chúng tôi, cũng như nhân dân Hoa Kỳ đã rộng mở vòng tay nhân ái, cưu mang chúng tôi và cho chúng tôi cơ hội tái lập lại đời sống trên mảnh đất được mệnh danh là "quê hương Tự Do của nhân loại".

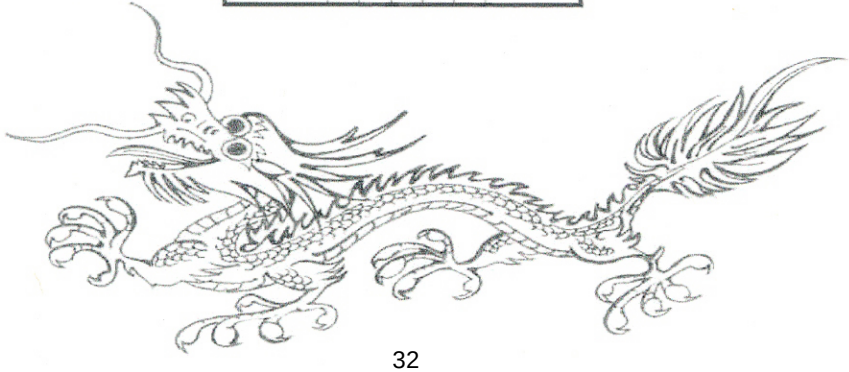


REPUBLIC OF VIETNAM

We, the Vietnamese American Community of Wichita, Kansas, dedicate this plaque in the memory and honor of American, Vietnamese and Allied soldiers who fought to resist the North Vietnamese aggression against the Republic of Viet Nam. We honor in particular the more than 58,000 American soldiers who sacrificed their own lives for the cause of freedom in our land. These men and women valiantly discharged their duties and shed their blood on our soil for a noble cause that the South Vietnamese may live in freedom for many years.

After the Communists conquered the South in 1975, millions of South Vietnamese rejected the prospect of living under an authoritarian regime and fled their homeland – by land and sea-to search for freedom. Along their arduous journeys, hundreds of thousands perished in the jungles, on the oceans and in refugee camps. We were among those who survived and arrived ay this land of the free.

Having faced the crimes against humanity committed by the Communists, we fully appreciate the value of freedom and democracy. Therefore, we would like to express our profound gratitude for those who fought along our side, and to the American people who have embraced us with wide open arms and provided us with new opportunities. We have begun anew in this "Land of Liberty".



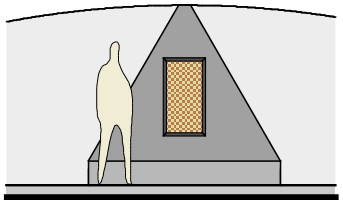
LANDSCAPE ARCHITECTS PLANNERS

rice-foster associates

Vietnam War Memorial

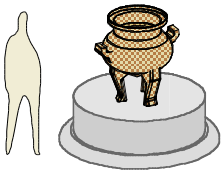
Veterans Memorial Park
Wichita, KS

April 15, 2009
project 08103

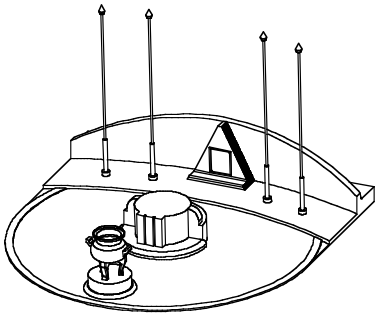


Granite Monolith & Bronze Plaque

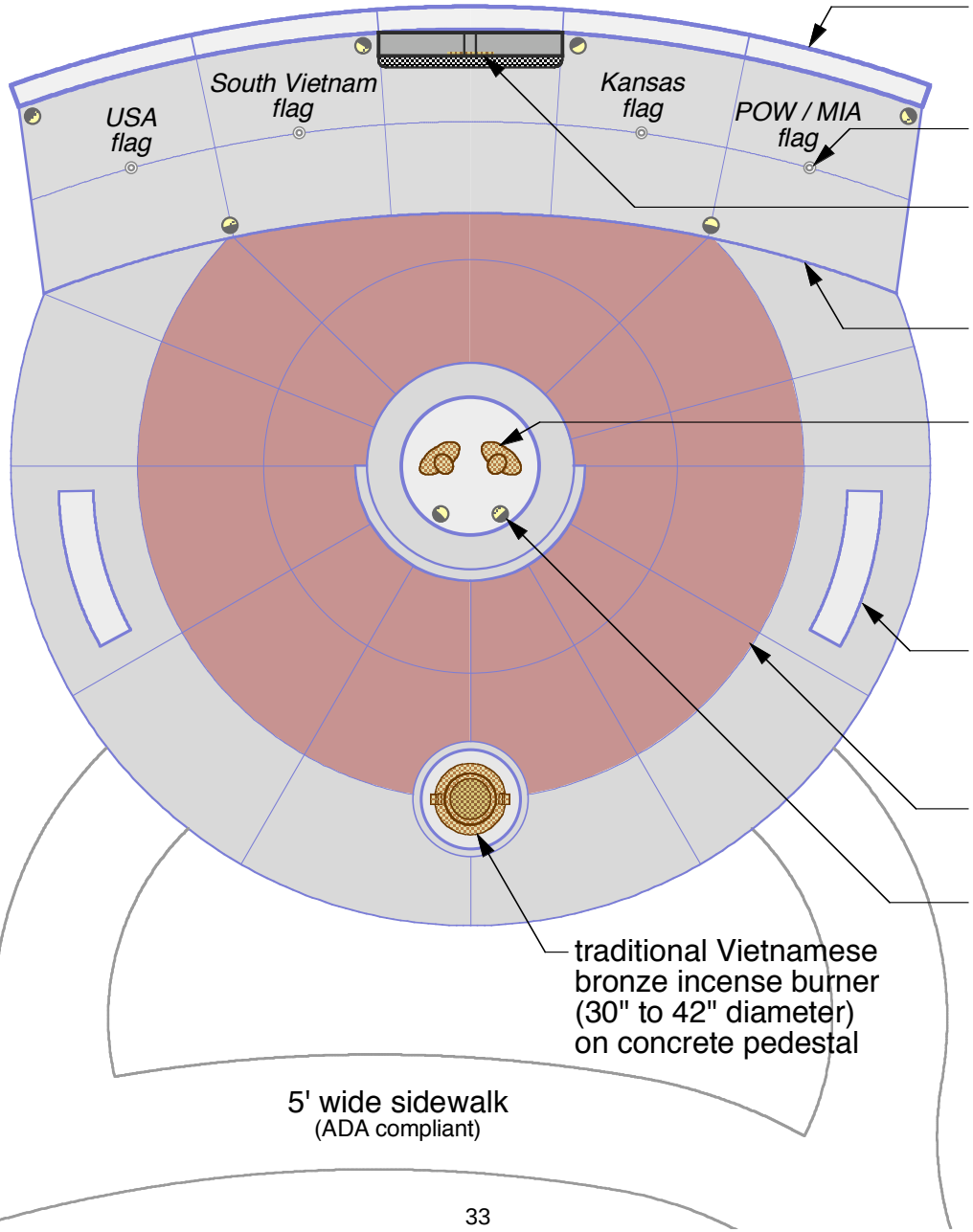
Bench
(TF 5140 Radius Bench with Sphere Base)



Bronze Incense Burner



Original Design



curved concrete wall
8' high at top of arch

four 25' flagpoles
(internal halyard)

18"w x 36"h bronze plaque,
inset in triangular monolith
of polished black granite

6" step up
to flagpole platform

bronze sculpture
on concrete pedestal —
two life-size
Vietnam War soldiers
(one American,
one South Vietnamese)

7' curved bench —
precast concrete
with spherical legs
(two)

donor brick
paving

uplight
(typical)

traditional Vietnamese
bronze incense burner
(30" to 42" diameter)
on concrete pedestal

PLAN

Agenda Item No. II-2.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Special Assessment Financing Program for Façade Improvements – program modifications

INITIATED BY: Office of Urban Development

AGENDA: Unfinished Business

Recommendations: Approve the program modifications.

Background: In 2001, the City Council authorized the implementation of the Façade Improvement Program, on a pilot project basis focusing initially on buildings located on Douglas Avenue between Washington and Seneca. The Facade Improvement Program is designed to provide low-cost loans to enhance the visual aesthetics in targeted areas and provide an incentive for businesses to improve their property. The program provides low interest, fifteen-year loans for facade renovation for owners and tenants of buildings in the targeted areas. City assistance is in the form of a five-year forgivable loan, originally up to $15,000 per visible facade for a maximum of two building sides, or 25% of the project cost, whichever is lower. The owner can finance the remainder of the project cost through 15-year special assessments at the City's cost of funds. The owner must sign a special assessment petition and a facade easement in favor of the City for the term of the special assessment and agree to maintain the facade.

In 2003, the Façade Program was modified to allow the program to be used for high-rise buildings in the targeted area. High-rise buildings must be 4 stories or more in height. High-rise façade projects are not eligible for forgivable loans, but more than two facades can be included in the façade project if they are readily visible form the street. The project has to include significant private investment (other than the façade loan) in an amount equal to or greater than the amount financed by the Façade Improvement Program within twelve months of the date the façade loan is approved.

In 2006, recognizing that the Douglas Avenue pilot project had been a success, the City Council approved the expansion of the program to include buildings located on arterial streets in selected commercial corridors and adopted neighborhood plan areas. The targeted areas included in the expansion are listed in the attached "Façade Improvement Program Policy and Procedures." In addition, the forgivable loan amount for a mid-block façade was reduced to $10,000. Corner buildings are still eligible for forgivable loans of $15,000 per façade for two facades.

In 2008, the City Council approved as a special project the use of the Façade Program for extensive improvements to the facades of seven downtown buildings being redeveloped by Real Development. As a result of dealing with the details and differences encountered with the Real Development façade project, it became apparent that several changes were needed in the Façade Improvement Program to reflect the higher level of analysis and due diligence required for larger façade projects. In the course of reviewing the policy and procedures a number of additional refinements were identified, as explained below.

Following initial consideration of this item by the City Council on May 12, 2009, City staff met with representatives of the Wichita Downtown Development Corporation, downtown developers and property owners to discuss the proposed changes. Their input is reflected in proposed program guidelines.

Analysis: The policy and procedures that govern the Façade Improvement Program are contained in a document that also serves as a handout to building owners seeking information on the program. A copy of this document is attached to this agenda report, with proposed changes marked in red. The changes are summarized below.

Policy Modifications

Matching private investment requirement: Changes to the program in 2003 require a significant private investment for higher cost façade projects on high-rise buildings, in an amount that at least matched the amount financed by the Façade Program (the "façade loan"), to ensure that improvements to the building go beyond the façade. In the proposed program modifications, this requirement is extended to all façade projects, regardless of size, and the property owner is required to provide proof that the private investment will be made.

Minimum project size: To ensure that projects add real value to buildings, the proposed minimum amount of façade improvement financing under this program will be $50,000.

Financial needs analysis: The proposed program modifications include a requirement that the property owner submit detailed financial information, in the form of sources and uses of funds and pro forma cash flows and any other information that will allow a determination that the project cannot be completed without using the City's Façade Program. This "gap" analysis would take into account the availability of conventional debt and equity financing and a reasonable return on investment (ROI).

Eligible/ineligible improvements: Developer fees are added to the list of ineligible façade improvements. Project management fees may be allowed, based on financial need as determined by the gap analysis and documentation of actual costs incurred, prorated to reflect façade limitation and capped at 5% of façade project costs. The storefront reconstruction item in the list of eligible improvements has been modified to allow modernization of facades. In addition, certain portable, non-permanent items are removed from the eligible list, including planter boxes, street furniture and letter bins. In the ineligible list, the item pertaining to temporary improvements adds the clarification of having a useful life less than the term of the Façade Loan. Work occurring prior to project approval (including design work) is also ineligible.

Procedural Modifications

Maximum assessment ordinance: The Real Development façade project revealed the need to further secure the City's investment through the special assessment process by fully completing the authorization process prior to start of construction, thus eliminating the possibility that ownership changes could derail the process by submitting a valid protest petition. By holding a public hearing and adopting a maximum assessment ordinance prior to construction, this is avoided. A 10% contingency amount is added to the cost estimate, along with a 2% engineering administrative fee, construction period interest and financing costs, to arrive at the maximum assessment amount. For projects over $500,000, the finance costs include a bond reserve equal to one year's debt service, which will be used to pay the final year's assessment.

Disbursement procedures: Disbursement procedures are added to guide City staff and building owners with the process of making progress payments from façade loan proceeds. Owners are required to submit detailed invoices from project participants and use American Institute of Architects (AIA) payment request forms for construction draws, including lien waivers and sufficient documentation to show that expenses were actually incurred and the draw-down against the original project budget. Owners are required to pay project vendors within 14 days of receiving City payments.

Taxable vs. tax-exempt bonds: Generally, façade improvements do not qualify for tax-exempt bond financing under the federal tax code. A *de minimus* rule in the code allows up to 5% of a tax-exempt bond issue be used for non-exempt costs. The City has used this allowance to finance façade projects with tax-exempt bonds, but only when the City's *de minimus* capacity allows. The proposed program modifications require projects over $500,000 to be financed with taxable special assessment bonds; projects less than $500,000 may be financed with tax-exempt bonds, but only within the City's legal capacity to do so.

15 vs. 20-year assessments: The general policy is to use 15-year special assessment bonds for all façade projects. Since the special-case Real Development façade project included 20-year assessments for some buildings, staff recommends that any future requests for 20-year assessments be based on a financial needs analysis and be reviewed by the Development Coordinating Committee.

Other changes: Other changes are proposed for the Facade Program policy document, many of them to better organize the document and some for technical issues and to improve the process, such as:

- Based on legal advice, the forgivable loan is recast as a grant, subject to recapture if the owner fails to maintain the façade during the term of the Façade Loan.
- The requirement for project completion within 180 days was modified to allow phasing to be approved by the City. A construction schedule is required.
- Verification of property ownership is required to ensure all owners sign the petition.
- For façade projects over $500,000, building owners are required to provide a current appraisal that estimates both "as-is" and "as-built" property values. Bank appraisals may be used. Cost of a separate appraisal may be financed by the façade loan.
- The City will conduct a background check on all applicants.

Financial Considerations: There are no financial impacts to the City resulting from the proposed modifications to the Façade Improvement Program policies and procedures.

Goal Impact: The goals addressed by this program include Economic Vitality and Affordable Living, Quality of Life and Core Area and Neighborhoods by 1) adding to the value of the tax base, 2) redeveloping an underutilized downtown property and 3) providing additional housing options in the core area.

Legal Considerations: The modification of this program is a policy issue for the City Council.

Recommendations/Actions: It is recommended that the City Council approve the proposed modifications to the Façade Improvement Program policies and procedures.

Attachments: Revised Façade Improvement Program Policies and Procedures (revisions marked)

FACADE IMPROVEMENT PROGRAM

PROGRAM POLICIES AND PROCEDURES

Summary
The Facade Improvement Program is designed to enhance the visual aesthetics of Wichita's downtown and revitalization areas and provide an incentive for businesses to invest in redevelopment of their property. Low cost loan financing combined with a forgiveness provision for a portion of the loan (for non-high-rise buildings) makes an attractive financing package for owners or tenants seeking to renovate or restore building facades. Borrowers under this program are expected to match the City's financing package with other funding for the overall redevelopment project. The minimum façade improvement project size is $50,000.

What is the Facade Improvement Program?
The program provides low cost financing (based on market conditions) over a fifteen-year period to renovate or restore a visible facade. For non high-rise buildings, the City assistance also includes a grant of up to 25% of the project cost, subject to recapture (as liquidated damages) if the owner fails to maintain the façade during the term of the façade financing. The maximum City of Wichita assistance (grant) is $10,000 (or 25% of the total project cost, whichever is lower) for one facade. Up to $30,000 (or 25% of total project costs, whichever is lower) is available for a corner building with two visible facades. The balance of the City's financing package (up to 75% of the facade improvement costs) will be made available through a fifteen-year special assessment against the real property. The property owner must sign the special assessment petition and the facade easement conveying the facade to the City of Wichita during the term of the special assessment financing. When the loan is repaid, the facade easement will be released.

High-Rise Building Requirements
- The high-rise facility must be more than three stories in height.
- Grants will be not be permitted for high-rise buildings or façade projects over $500,000.
- Assistance beyond two sides of the building may be approved if circumstances warrant.
-

Who can apply for financing?
Any building owner or tenant with lease authority and approval of the owner may apply for façade funding. The building must be located within approved areas (see map). Owner or tenants cannot be delinquent on any current City charges, taxes or assessments or have defaulted on any previous City assistance. Owner must provide evidence of additional private investment in the redevelopment of the property, equal to or greater than the amount of City façade funding. Private investment may include the cost of consolidating land ownership.

What is the target area?

DRAFT

Buildings with frontages on arterial streets in select commercial corridors and adopted neighborhood plan areas are eligible. Those neighborhoods include:

- Downtown Self-Supporting Municipal Improvement District (SSMID)

Arena Neighborhood Redevelopment Plan

- Center City
- Delano Neighborhood Revitalization Plan
- 21st St. North Corridor Redevelopment (International Marketplace)
- South Central Neighborhood Plan (South Broadway area)
- Historic Midtown Neighborhood Plan
- McAdams Neighborhood Revitalization Plan
- Central Northeast Area Plan

The City Council will also have the option for a case-by-case review of individual blighted properties located outside of the target areas.

What types of improvements are eligible? (subject to City approval)
Masonry repairs and tuckpointing
Repair/replace/preserve historically significant architectural details
Storefront reconstruction
Cornice repair
Power washing (subject to approval by historic preservation officer)
Exterior painting and stucco
Awnings and canopies
Window and door repair or replacement
Permanent exterior signage integrated into the storefront design
Exterior lighting
Repair/replacement of gutters and downspouts
Facade building code items
Visible roof repairs in conjunction with structural improvements
Public art attached to the building (such as murals)
Utility/trash enclosures attached to the building
Sidewalks
Decorative fencing attached to the building
Decking and stairs attached to the building
Architectural, engineering or design fees
Conversion of use on a case by case basis

What items are not eligible?
Landscaping
Non-visible roofing
Attached, hanging or projecting signs unrelated to the architecture of the building
Mechanical equipment enclosures (non-visible)
Parking lots
Billboards
Interior renovation
Temporary, portable or non-permanent improvements (useful life less than term of façade loan)
Non-visible or side façade (unless on an arterial street) and rear facades
New construction
Property acquisition
Expansion of building area
Working capital
Developer fees
Refinance of existing debt
Improvements (including design work) in progress or completed prior to loan/grant approval
Loans for speculative purposes
Single family residential properties

These lists are not intended to be exhaustive. All improvements are subject to City Council approval.

Are project management fees allowed?
Project management fees may be financed by the Facade Improvement Program only if the need for such financing is established through analysis of financial information showing that private funding is not available to pay such costs, based on a reasonable return on investment. Project management fees paid through this program must be documented as actual façade improvement costs incurred, and will be capped at 5% of costs financed by the Facade Improvement Program.

Are there any design guidelines?
All Facade Improvement Program projects must be reviewed and approved by representatives of the Historic Preservation Board and the City Design Council prior to approval of the loan or issuance of a building permit. Where historic structures are involved, review by the Historic Preservation Board is required prior to start of construction. This includes properties located within a historic district and any property within 500 feet of a listed historic property (environs). All construction must comply with City code. All construction must conform to the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG).

What other requirements are there?

- All work must be accomplished using private contractors through competitive bidding from at least three qualified companies pre-approved by the City of Wichita.
- Requires the use of professional design assistance (including providing elevations and renderings).
- Project must result in visible improvement of overall facade (e.g. not just sign replacement). Borrower agrees to maintain the facade for the term of the façade loan.
- Façade loans will be offered on a one-time basis unless a phased project receives prior City Council approval.
- Owner shall convey a facade easement to the City of Wichita before the start of construction, which shall run for the full term of the façade loan. Ownership verification is required.
- All approved projects must be completed within six months (180 days) of approval of the application, unless approved for phasing. A construction schedule is required for high-rise projects and façade loans over $500,000.
- The City will conduct a background check on all applicants and applicants' project partners.
- Owner shall provide financial information that substantiates the need for the City's façade loan in order to complete the redevelopment project, including the overall sources and uses of funds and pro forma cash flow analysis that shows a reasonable return on owner's investment.
- The overall redevelopment project must include significant private investment (other than the facade loan) in an amount equal to or greater than the amount financed by the Facade Improvement Program, proof of which must be provided prior to disbursement of any façade loan proceeds.
- Special assessment financing of façade loans shall be for a 15-year term unless 20-year financing is recommended by the Development Coordinating Committee, based on financial need.
- Special assessment financing for façade loans over $500,000 requires the use of taxable bonds, whose interest rate will be higher than tax-exempt bonds. Use of tax-exempt bonds for façade loans less than $500,000 depends on the City's legal capacity to issue tax-exempt bonds for non-exempt projects.
- A current independent appraisal that estimates both "as-is" and "as-built" property values is required for high-rise buildings and façade loans over $500,000. A bank appraisal associated with private investment may be used. Cost of a separate appraisal may be financed with the façade loan.

Loan proceeds for façade loans over $500,000 will be disbursed to the borrowers as progress payments pursuant to detailed invoices from project participants, including contractors, consultants and project managers, with sufficient documentation to show expenses were actually incurred. AIA payment request forms will be used for all construction draws, including lien

releases, showing the draw-down against original project budget, based on construction contracts. Contractors must be paid within 14 days of payment by the City.

Where do I apply? Applications are available in the Department of Public Works, Engineering Office, 7th Floor, City Hall, 455 North Main. The program coordinator is Bill Morris, Administrative Services, (316) 268- 4548, and wmorris@wichita.gov. Application forms are also available online at the City of Wichita web site: www.wichitagov.org on the Urban Development webpage.

What is the process?

Step 1: Meet with appropriate City staff to review the preliminary design, expected time lines and next steps. This may include the Department of Public Works, Office of Central Inspection and the Metropolitan Area Planning Department.

Step 2: Finalize the renovation plans. This step should include consultation with an architect or engineer to discuss improvements and alterations to the building exterior.

Step 3: Obtain a complete preliminary cost estimate from a licensed contractor which covers the work to be accomplished. Cost estimate shall be a not-to-exceed amount and may include a 10% contingency. City will add a 2% Engineering Administrative Fee and financing costs, including construction interest and costs of bond issuance. For façade loans over $500,000, a debt service reserve equal to one year's debt service will be added to the loan amount (reserve will be held in trust by the City and used to pay final year's special assessment payment.

Step 4: Submit a completed Facade Improvement Program application form to: Bill Morris, Administrative Services, Department of Public Works, 7th Floor, City Hall, 455 North Main, Wichita, Kansas 67202. Include a completed Facade Easement form with application.

Step 5: City formally reviews the application and performs background checks on applicant(s). Approvals are required by representatives of the Public Works Department, Office of Urban Development, City Design Council, Department of Finance and Historic Preservation Board (as appropriate).

Step 6: Obtain approval by City Council by means of a maximum assessment ordinance.

Step 7: Public Works notifies the applicant of approval and any pertinent requirements. The applicant has six months (180 days) from the date of application approval to complete the project. If there is no activity during this time, the application approval will expire and any City funding will be released for other applications.

Step 8: Initiate competitive bidding for facade work. Obtain building permit and planning permits (as applicable). Submit copies of permit and competitive bidding to Bill Morris in Public Works. Applicant commences improvements.

Step 9: Applicant submits construction progress payment to the Department of Public Works. If the progress payment is approved, the City will pay the progress payment to the applicant within 20 days of approval.

Step 10: Applicant submits proof of final expenses to Bill Morris in Public Works. Public Works processes applicant final reimbursement and issues a Statement of Final Project Cost.

Step 11: Special Assessment payments will appear on the Sedgwick County Property Tax Statements starting with the next tax statement (following year).

Are there companion programs that I may also be eligible for?

Applicants may wish to review the following programs:

NRA Tax Rebate Program	Urban Development Office 13th Floor City Hall 455 North Main Wichita, Kansas 67202 (316) 268-4524 Diana Mefford, Secretary dmefford@wichita.gov
State and Federal Rehabilitation Tax Credits	Kansas State Historical Society 6425 SW Sixth Avenue Topeka, Kansas 66615-1099 (785) 272-8681 ext. 226 Katrina Klingaman kklingaman@kshs.org
Building Permit Fee Waiver	Office of Central Inspection 7th Floor City Hall 455 North Main Wichita, Kansas 67202 (316) 268-4460 Kurt Schroeder, Superintendent kschroeder@wichita.gov
Historic Revolving Loan Program	Preservation Office 10th Floor City Hall 455 North Main Wichita, Kansas 67202 (316) 268-4392 Cathy Morgan, Senior Planner-Historic Preservation kmorgan@wichita.gov
Asbestos/Lead-based Paint Mitigation Program	Development Assistance Office 13th Floor City Hall 455 North Main Wichita, Kansas 67202 (316) 268-4371 Terry Cassady, Development Assistance Director tcassady@wichita.gov

Agenda Item No. II-3.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous Structures - 2001 East 21st Street North (District I)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing.

Background: On December 2, 2008, the City Council conducted its initial public hearing to consider condemnation of the dangerous building on property at 2001 E. 21st St. North (the gasoline service station). The property was represented by Mr. Joseph Weber, attorney for Ciena Capital. Mr. Weber stated his client was attempting to obtain title to the property in order to sell it and/or to have the underground gasoline storage tanks and vacant service station buildings removed. Mr. Weber said his client was pursuing mortgage foreclosure, and had obtained bid estimates to remove the buildings and underground gasoline storage tanks. Mr. Weber requested a sixty to ninety day extension to finalize foreclosure and/or possible sale of the property. The City Council deferred action for ninety days.

At the March 3, 2009 Council meeting, the property was again represented by Mr. Weber. Mr. Weber reported that Ciena Capital was still pursuing foreclosure, but had not yet taken title to the property. Mr. Weber stated the foreclosure involves a Small Business Administration (SBA) loan, and that the SBA must authorize actions taken by Ciena Capital. Mr. Weber informed the Council that Ciena Capital had obtained a Phase I environmental study of the site, and was working with an interested buyer of the property. Per Mr. Weber, Ciena Capital had agreed to keep the property clean and mowed, and to keep the building secure. As of March 3, 2009, the property was mowed, clean and secure. Mr. Weber requested Council to defer action for at least another sixty days to determine actions required to sell or dispose of the property. The City Council passed a motion to defer action for an additional sixty days.

On May 5, 2009, Mr. Weber again appeared before City Council, representing Ciena Capital. As of May 5, 2009, Ciena Capital had not yet obtained title to the property, and was waiting to see if they could sell the property before finalizing foreclosure action. Mr. Weber reported there was still an interested buyer, although the potential buyer had encountered significant neighborhood opposition to its redevelopment plan for the site. Mr. Weber stated he had further discussions with Kansas Department of Health and Environment (KDHE) officials regarding the Phase I environmental study and the condition of the underground gasoline storage tanks. Mr. Weber reported that KDHE has been actively monitoring the area around this site, and that at least one (1) KDHE official had indicated to him that the potential for significant ground contamination at this site was minimal. Mr. Weber hoped to be able to obtain additional information from KDHE that would help alleviate fears of potential buyers about ground contamination at this site (so the property could be more effectively marketed by a commercial realtor). Mr. Weber requested the City Council to defer action for at least another sixty days.

After significant discussion among the Council and staff, Director of Law, Gary Rebenstorf, suggested that Council allow staff thirty days to contact KDHE, review property status and meet with Mr. Weber so staff could provide a more detailed report and recommendation. Council Member Williams moved to defer this case for thirty days to allow staff to further review this case and to meet with Mr. Weber. Council Member Williams asked to be involved in the staff meeting/s with Mr. Weber and/or KDHE. The motion carried.

On May 18, 2009, Council Member Williams, City Manager Layton and staff from the Law Department, Office of Central Inspection and Environmental Services Department met with Mr. Weber, attorney for Ciena Capital. The current status of the Ciena Capital foreclosure case, the Phase I environmental report, KDHE monitoring reports for the site, potential site tank removal/sealing programs/options, Ciena Capital's bid estimates for removal of the service station and underground tanks, marketing and sale of the property, and other related issues were discussed. Mr. Weber indicated that Ciena Capital would be finalizing a contract with a commercial property realtor by early June. Mr. Weber agreed to inform his client of the need to perform more frequent mowing and premise cleanup of the property, and of the possible need to secure the site in order to prevent unauthorized access (for illegal dumping, vehicle abandonment, etc.). City Manager Layton informed Mr. Weber that it would be critical for the commercial realtor hired by Ciena Capital to attend the June 9, 2009 Council review hearing.

Analysis: Staff inspected the property on May 26, 2009; no repairs had been made, but the property was secure. The area at the rear of the service station had some recently dumped bulky waste, bags of trash and tree logs on it. The vacant lots behind the grocery story building just east of the service station (part of the Ciena Capital property interest) had tall grass about two feet in height.

The 2006, 2007 and 2008 taxes are delinquent in the amount of $47,026.53, including specials and interest. There is a 2008 special assessment for weed mowing in the amount of $1,144.75, including interest, and a 2009 special assessment for lot cleanup in the amount of $2,064.61, including interest.

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

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

Legal Considerations: The owner and owner's representative have been informed of the date and time of the review hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) the structure is kept secure; (2) the premise is routinely mowed and kept clean and free of debris; and (3) the service station premise is secured in manner to deter unauthorized access onto the gas station premise.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

Attachments: None

Agenda Item No. II-4.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: U.S. Department of Housing and Urban Development Consolidated Plan (All Districts)

INITIATED BY: Housing and Community Services Department

AGENDA: Unfinished Business

Recommendation: Approve the 2009-2013 Consolidated Plan and the One Year Action Plan for submission to the U.S. Department of Housing and Urban Development (HUD), and authorize the necessary signatures.

Background: Wichita is recognized as an "entitlement" city by the U.S. Department of Housing and Urban Development (HUD). This is based on a federal formula which looks at total population, the number of persons below the poverty level, the number of overcrowded housing units, the age of housing and the population growth lag.

Analysis: In order to be eligible to receive Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), American Dream Downpayment Initiative (ADDI) and Emergency Shelter Grant (ESG) funds as an "entitlement" city, Wichita must have a Five Year Consolidated Plan. The current 2004-2008 Consolidated Plan will expire on June 30, 2009 and in order to continue to receive these funds, a new Plan must be approved by HUD. The purpose of the Consolidated Plan is to establish community development goals and provide a framework for evaluating funding requests during the Plan years.

The Housing and Community Services Department solicited input into the design of the 2009-2013 Consolidated Plan from a variety of sources. Surveys were distributed in 2008 and presentations made to a variety of audiences including all District Advisory Boards. The purpose of the surveys was to determine the community's priority needs.

A focus group was held with providers of services to special populations to further refine the needs and strategies for meeting those needs. Staff also reviewed existing planning documents including neighborhood plans and the Wichita/Sedgwick County Comprehensive Plan, *Preparing for Change*, to identify long range strategies for community development. Other documents which were reviewed include the 2006 Needs Survey and Priority Study prepared by the United Way of the Plains and reports from Visioneering Wichita Strategic Alliances.

Information from all of these activities was incorporated into the 2009-2013 Consolidated Plan. On April 21, 2009, the City Council authorized a 30 day public comment period for the Five Year Consolidated Plan and for the One Year Action Plan. The documents were prepared and posted separately for public comment for the required 30 days. One comment was received relative to the One Year Action Plan.

Financial Considerations: In the current year (July 1, 2008 – June 30, 2009) just over $4M was allocated to Wichita from all four sources. The One Year Action Plan was developed based on staff estimates of HUD funding for 2009-2010. HUD released 2009-2010 allocations for CDBG, HOME and ESG on May 1, 2009. All allocations exceeded staff estimates and all but ESG exceeded prior year allocations. There was no funding for the ADDI program. Following is a chart which reflects the actual allocations:

	08-09 Actual	09-10 Estimate	09-10 Actual	Difference From Estimate	Difference From 08-09
CDBG	$2,813,499	$2,672,824	$2,848,531	+$175,707	+$35,032
HOME	$1,650,087	$1,584,163	$1,883,537	+$249,374	+$238,450
ESG	$125,779	$124,521	$125,266	+$745	-$513

The additional CDBG funds have been allocated as proposed in the April 21 Council agenda, with one exception. CDBG funding for administration and planning was increased by $10,000 and included in the line item for Fair Housing Initiatives. The balance of the CDBG increase was applied to the home repair program, bringing the total to $659,638.

The additional HOME funds have been allocated as proposed in the April 21 Council agenda, with two exceptions. The HOME regulations require 15% of the allocation to be programmed for CHDO Set-Aside. The new total for CHDO set-aside with the additional funds is $275,031. Staff also increased the program administration line item by 10% of the increased allocation for a total of $183,353. All other funds were added to the Boarded-Up Home program for a total of $300,000 in that category.

Goal Impact: Expenditure of Consolidated Plan program funds will impact Economic Vitality & Affordable Living, Safe and Secure Community, Efficient Infrastructure, Core Area and Neighborhood and Quality of Life goals.

Legal Considerations: HUD has developed a new tool for preparation of the Consolidated Plan. It is not required but recommended. The 2009-2013 Consolidated Plan was prepared using the new tool. In addition, the One Year Action Plan was prepared according to the new tool although it was posted for comment separately. It has now been incorporated into the 2009-2013 Consolidated Plan in accordance with HUD instructions for using the new tool.

Recommendations/Actions: It is recommended that the City Council approve the 2009-2013 Consolidated Plan and the One Year Action Plan for submission to the U.S. Department of Housing and Urban Development (HUD), and authorize the necessary signatures.

Attachments: 2009-2013 Consolidated Plan, required certifications and revised spreadsheet for the One Year Action Plan.

SF 424

The SF 424 is part of the CPMP Annual Action Plan. SF 424 form fields are included in this document. Grantee information is linked from the 1CPMP.xls document of the CPMP tool.

SF 424

Complete the fillable fields (blue cells) in the table below. The other items are pre-filled with values from the Grantee Information Worksheet.

Date Submitted – June 3, 2009	Applicant Identifier	**Type of Submission**	
Date Received by state	State Identifier	**Application**	**Pre-application**
Date Received by HUD	Federal Identifier – B-09-MC-200004 & S-09-MC-200004 & M-09-MC-200004	☐ Construction	☐ Construction
		☒ Non Construction	☐ Non Construction
Applicant Information			
Jurisdiction**: State of Kansas – City of Wichita**		KS203696 WICHITA	
Street Address Line 1**: 332 Riverview St**		Organizational DUNS**: 04-306-34-60**	
Street Address Line 2		Organizational Unit	
City **- Wichita**	Kansas	Department **- Housing and Community Services**	
ZIP **67203**	Country U.S.A.	Division**: Community Investments**	
Employer Identification Number (EIN):		County**: Sedgwick**	
48-6000653		Program Year Start Date (7/1/2009)	
Applicant Type:		**Specify Other Type if necessary:**	
Local Government: City		Specify Other Type	
Program Funding		**U.S. Department of Housing and Urban Development**	
Catalogue of Federal Domestic Assistance Numbers; Descriptive Title of Applicant Project(s); Areas Affected by Project(s) (cities, Counties, localities etc.); Estimated Funding			
Community Development Block Grant		14.218 Entitlement Grant	
CDBG Project Titles – Community Development Block Grant		Description of Areas Affected by CDBG Project(s) Wichita, Kansas	
$CDBG Grant Amount - $2,848,531	$Additional HUD Grant(s) Leveraged	Describe	
$Additional Federal Funds Leveraged		$Additional State Funds Leveraged	
$Locally Leveraged Funds		$Grantee Funds Leveraged	
$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for CDBG-based Project(s)			
Home Investment Partnerships Program		14.239 HOME	
HOME Project Titles – HOME Investment Partnership Program		Description of Areas Affected by HOME Project(s) – Wichita, Kansas	
$HOME Grant Amount - $1,833,537	$Additional HUD Grant(s) Leveraged	Describe	
$Additional Federal Funds Leveraged		$Additional State Funds Leveraged	

$Locally Leveraged Funds	$Grantee Funds Leveraged
$Anticipated Program Income	Other (Describe)
Total Funds Leveraged for HOME-based Project(s)	

Housing Opportunities for People with AIDS	14.241 HOPWA	
HOPWA Project Titles	Description of Areas Affected by HOPWA Project(s)	
$HOPWA Grant Amount	$Additional HUD Grant(s) Leveraged	Describe
$Additional Federal Funds Leveraged	$Additional State Funds Leveraged	
$Locally Leveraged Funds	$Grantee Funds Leveraged	
$Anticipated Program Income	Other (Describe)	
Total Funds Leveraged for HOPWA-based Project(s)		

Emergency Shelter Grants Program	14.231 ESG	
ESG Project Titles – Emergency Shelter Grant	Description of Areas Affected by ESG Project(s) – Wichita, Kansas	
$ESG Grant Amount - $125,266	$Additional HUD Grant(s) Leveraged	Describe
$Additional Federal Funds Leveraged	$Additional State Funds Leveraged	
$Locally Leveraged Funds - $125,266	$Grantee Funds Leveraged	
$Anticipated Program Income	Other (Describe)	
Total Funds Leveraged for ESG-based Project(s) - $125,266		

Congressional Districts of:		Is application subject to review by state Executive Order 12372 Process?	
Applicant Districts: KS-004	Project Districts: KS-004		
Is the applicant delinquent on any federal debt? If "Yes" please include an additional document explaining the situation.		☐ Yes	This application was made available to the state EO 12372 process for review on DATE
		☒ No	Program is not covered by EO 12372
☐ Yes	☒ No	☐ N/A	Program has not been selected by the state for review

Person to be contacted regarding this application		
First Name**: Mary**	Middle Initial**: K.**	Last Name**: Vaughn**
Title**: Director**	Phone: 316-462-3795	Fax: 316-462-3719
email**: mkvaughn@wichita.gov**	Grantee Website: www.wichita.gov/housing	Other Contact
Signature of Authorized Representative		Date Signed June 3, 2009

CPMP Non-State Grantee Certifications

Many elements of this document may be completed electronically, however a signature must be manually applied and the document must be submitted in paper form to the Field Office.

☐ **This certification does not apply.**
☒ **This certification is applicable.**

NON-STATE GOVERNMENT CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential antidisplacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about –
   a. The dangers of drug abuse in the workplace;
   b. The grantee's policy of maintaining a drug-free workplace;
   c. Any available drug counseling, rehabilitation, and employee assistance programs; and
   d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will –
   a. Abide by the terms of the statement; and
   b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted –
   a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
   b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

June 3, 2009

Signature/Authorized Official **Date**

Carl Brewer

Name

Mayor

Title

455 N. Main

Address

Wichita, KS 67202

City/State/Zip

316-268-4331

Telephone Number

☐ This certification does not apply.
☒ This certification is applicable.

Specific CDBG Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

Maximum Feasible Priority - With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);

Overall Benefit - The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2009, 2010, 2011, (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;

Special Assessments - It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Compliance With Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K and R, of title 24;

Compliance with Laws -- It will comply with applicable laws.

June 3, 2009

Signature/Authorized Official

Date

Carl Brewer

Name

Mayor

Title

455 N. Main

Address

Wichita, KS 67202

City/State/Zip

316-268-4331

Telephone Number

☒ This certification does not apply.
☐ This certification is applicable.

OPTIONAL CERTIFICATION
CDBG

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208(c):

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities, which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

Signature/Authorized Official **Date**

Name

Title

Address

City/State/Zip

Telephone Number

☐ This certification does not apply.
☒ This certification is applicable.

Specific HOME Certifications

The HOME participating jurisdiction certifies that:

Tenant Based Rental Assistance -- If the participating jurisdiction intends to provide tenant-based rental assistance:

> **The use of HOME funds for tenant-based rental assistance is an essential element of the participating jurisdiction's consolidated plan for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing.**

Eligible Activities and Costs -- it is using and will use HOME funds for eligible activities and costs, as described in 24 CFR § 92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214.

Appropriate Financial Assistance -- before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

June 3, 2009

Signature/Authorized Official **Date**

Carl Brewer

Name

Mayor

Title

455 N. Main

Address

Wichita, KS 67202

City/State/Zip

316-268-4331

Telephone Number

☒ This certification does not apply.
☐ This certification is applicable.

HOPWA Certifications

The HOPWA grantee certifies that:

Activities -- Activities funded under the program will meet urgent needs that are not being met by available public and private sources.

Building -- Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

1. **For at least 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility,**

2. **For at least 3 years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.**

June 3, 2009

Signature/Authorized Official **Date**

Carl Brewer

Name

Mayor

Title

455 N. Main

Address

Wichita, KS 67202

City/State/Zip

316-268-4331

Telephone Number

☐ This certification does not apply.
☒ This certification is applicable.

ESG Certifications

I, Carl Brewer, Chief Executive Officer of Error! Not a valid link., certify that the local government will ensure the provision of the matching supplemental funds required by the regulation at 24 *CFR* 576.51. I have attached to this certification a description of the sources and amounts of such supplemental funds.

I further certify that the local government will comply with:

1. The requirements of 24 *CFR* 576.53 concerning the continued use of buildings for which Emergency Shelter Grants are used for rehabilitation or conversion of buildings for use as emergency shelters for the homeless; or when funds are used solely for operating costs or essential services.

2. The building standards requirement of 24 *CFR* 576.55.

3. The requirements of 24 *CFR* 576.56, concerning assurances on services and other assistance to the homeless.

4. The requirements of 24 *CFR* 576.57, other appropriate provisions of 24 *CFR* Part 576, and other applicable federal laws concerning nondiscrimination and equal opportunity.

5. The requirements of 24 *CFR* 576.59(b) concerning the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

6. The requirement of 24 *CFR* 576.59 concerning minimizing the displacement of persons as a result of a project assisted with these funds.

7. The requirements of 24 *CFR* Part 24 concerning the Drug Free Workplace Act of 1988.

8. The requirements of 24 *CFR* 576.56(a) and 576.65(b) that grantees develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted with ESG funds and that the address or location of any family violence shelter project will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter.

9. The requirement that recipients involve themselves, to the maximum extent practicable and where appropriate, homeless individuals and families in policymaking, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities as provided by 24 *CFR* 76.56.

10. The requirements of 24 *CFR* 576.57(e) dealing with the provisions of, and regulations and procedures applicable with respect to the environmental review responsibilities under the National Environmental Policy Act of 1969 and related

authorities as specified in 24 *CFR* Part 58.

11. The requirements of 24 *CFR* 576.21(a)(4) providing that the funding of homeless prevention activities for families that have received eviction notices or notices of termination of utility services will meet the requirements that: (A) the inability of the family to make the required payments must be the result of a sudden reduction in income; (B) the assistance must be necessary to avoid eviction of the family or termination of the services to the family; (C) there must be a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and (D) the assistance must not supplant funding for preexisting homeless prevention activities from any other source.

12. The new requirement of the McKinney-Vento Act (42 *USC* 11362) to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons. I further understand that state and local governments are primarily responsible for the care of these individuals, and that ESG funds are not to be used to assist such persons in place of state and local resources.

13. HUD's standards for participation in a local Homeless Management Information System (HMIS) and the collection and reporting of client-level information.

I further certify that the submission of a completed and approved Consolidated Plan with its certifications, which act as the application for an Emergency Shelter Grant, is authorized under state and/or local law, and that the local government possesses legal authority to carry out grant activities in accordance with the applicable laws and regulations of the U. S. Department of Housing and Urban Development.

	June 3, 2009
Signature/Authorized Official	**Date**

Carl Brewer
Name
Mayor
Title
455 N. Main
Address
Wichita, KS 67202
City/State/Zip
316-268-4331
Telephone Number

☐ This certification does not apply.
☒ This certification is applicable.

APPENDIX TO CERTIFICATIONS

Instructions Concerning Lobbying and Drug-Free Workplace Requirements

Lobbying Certification
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Drug-Free Workplace Certification
1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.

The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).

If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).

2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant: Place of Performance (Street address, city, county, state, zip code) Check if there are workplaces on file that are not identified here. The certification with regard to the drug-free workplace is required by 24 CFR part 21.

Place Name	Street	City	County	State	Zip
City of Wichita	455 N. Main	Wichita	Sedgwick	KS	67202
Housing and Community Services	332 N. Riverview	Wichita	Sedgwick	KS	67203

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules: "Controlled substance" means a controlled substance in Schedules I through V of the Controlled
Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15); "Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes; "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any

controlled substance; "Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including:

a. All "direct charge" employees;
b. all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and
c. temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Note that by signing these certifications, certain documents must completed, in use, and on file for verification. These documents include:

1. Analysis of Impediments to Fair Housing
2. Citizen Participation Plan
3. Anti-displacement and Relocation Plan

June 3, 2009

Signature/Authorized Official

Date

Carl Brewer

Name

Mayor

Title

455 N. Main

Address

Wichita, KS 67202

City/State/Zip

316-268-4331

Telephone Number

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Consideration of Boathouse Request for Proposals (District I)

INITIATED BY: City Manager's Office

AGENDA: Unfinished Business

Recommendation: Support the Koch Proposal for reuse of the Boathouse facility and authorize staff to enter into negotiations with Mr. Koch's representative for a lease agreement.

Background: On January 13, 2009 the City Council received a status report on the Boathouse facility in the WaterWalk development. The presentation reviewed the history of the facility beginning with the City's acquisition in 1991 and its location in an Urban Renewal area. In 1992 the Arkansas River Foundation expressed a desire to purchase the building and renovate it into a facility that could be a focal point on the river. In 1993, Mr. Bill Koch provided the Foundation with an $800,000 loan to renovate the facility. Mr. Koch also offered to donate the Jayhawk (a sail boat utilized in the Americas Cup race) on the terms that it would be on display and could not be sold, transferred or removed from the property. The City provided the Foundation with a 20 year lease for $1 per year.

In 1997, the Foundation requested, and the City Council approved, the termination of the lease agreement and the transfer of the Boathouse's operations and the Jayhawk to the City. Mr. Koch agreed to forgive the $800,000 loan and to make a $200,000 cash donation to be used for continued support of Boathouse operations.

The City operated the Boathouse as a Visitor's Center and a banquet facility until it closed in 2005 as a result of street construction related to the WaterWalk development. The annex to the facility was removed, utilities were disconnected and the facility was mothballed.

In November 2005, the City issued a Request for Proposals (RFPs) for the reuse of this facility. None of the proposals were considered satisfactory. Over time there has been considerable discussion about a viable use for the Boathouse. The City Council, at its January 13, 2009 meeting, authorized staff to again solicit proposals for the reuse of the facility.

Analysis: The City of Wichita issued an RFP to revitalize the Boathouse on February 2, 2009. Proposers were offered the opportunity to update and reuse the existing building, extensively modify the existing building or replace the building with a new structure. The RFP stated the City's willingness to sell or lease the building but the land included as the Boathouse property was not for sale. Three proposals were receive and all anticipated modifications to the existing facility. One proposal was eliminated due to a lack of substantiating information. The two

remaining proposals included one from William Koch to house the Kansas Sports Hall of Fame and the other from Chris Ligi and Tommy Gilardo, to establish and operate Palermo's A Taste of Northern Italy restaurant.

The City Manager appointed a Staff Screening Selection Committee to review the proposals. Council Members Williams and Schlapp provided City Council representation as non voting members. Proposals were ranked based upon financial feasibility, commitment to finance facility modifications and maintenance, aesthetic and land use compatibility, and public benefit criteria. A summary of the two proposals follows:

Koch Proposal: The Koch proposal would lease the Boathouse facility for the purpose of housing the Kansas Sports Hall of Fame. Koch would contribute a minimum of $679,308 to the renovation of the facility and this contribution could increase depending upon final cost estimates. The proposer also agreed to assume the responsibility for maintenance of this facility.

The proposal requested that the City apply an insurance claim for hail damage for the roof ($68,000) and pay for restoration of utilities to the facility (estimated to cost $61,200). Additionally, the City would return $200,000 in unexpended funds to Koch for the purpose of refurbishment of the Jayhawk.

This proposal would have limited financial return to the City, with sales tax receipts estimated at $32,670 per year, primarily from gift shop sales. There would not be a gain in property tax revenues due to the tax exempt use of the facility.

The evaluation initially assumed termination of the lease between the Sports Hall of Fame and the City. Staff assumed that the City would lose one year's worth of lease payments from this lease termination. From discussions with a Koch representative, it was agreed that the lease payment due to the City in August of 2009 be paid in the amount of approximately $98,000. In return for this payment, the City would release the Kansas Sports Hall of Fame from its future lease obligations. Staff has recently learned that there is interest in purchasing this facility. For this reason it is recommended that a process be initiated for soliciting an eligible buyer.

Staff requested financial information from the Sports Hall of Fame to assess its financial capacity. The information indicated that it would have the financial capacity to sustain operations. Revenues would be enhanced as its business model would include the utilization of the second floor as event/party rental space. The first floor would be the headquarters for the Sports Hall of Fame, gift shop and permanent displays. The other sports memorabilia would become the Museum of Kansas Sports History and would be housed at a location in Newton, Kansas.

Palermo Proposal: This proposal would create a new Italian theme restaurant in the Boathouse. Palermo stated it would invest $751,400 in facility upgrades and the City was requested to invest $554,600. The City would also be responsible for $60,000 per year for insurance and maintenance. The financial return to the City was estimated to be $104,743 from sales tax and $62,349 from property tax.

Staff attempted to meet with this proposer to determine its financial ability to make the necessary repairs and modifications to the facility as well as its ability to sustain costs associated with

operations. Representatives for the Palermo proposal did not attend the scheduled meeting with staff and did not respond to follow-up phone calls and a letter requesting additional financial information.

After reviewing both proposals, the Staff Screening and Selection Committee determined that the Koch proposal was the best proposal. This was due to the proposer's commitment to finance the renovation and ongoing maintenance costs associated with this facility, the commitment to refurbishment of the Jayhawk, and its agreement to honor the August 2009 lease obligation for the Old Town building.

Financial Considerations: The City of Wichita would contribute the insurance proceeds resulting from roof damage in the amount of $68,000 to this project along with the cost of restoration of utilities (estimated to cost $61,000). In addition, the City would return to Mr. Koch the $200,000 donated to the City for refurbishment of the Jayhawk.

Mr. Koch has agreed to finance all renovation costs associated with this facility (excluding those listed above) and agreed to maintain the facility for the term of the 99 year lease. Additionally, the Sports Hall of Fame would be responsible for ensuring the lease payment of approximately $98,000 is made. Mr. Koch has also agreed that the departure of the Sports Hall of Fame from the Boathouse would result in the return of the facility to the City or the reuse of the facility by a new party subject to the approval of the Mayor and City Council.

The Sports Hall of Fame has demonstrated its financial ability to sustain operations at this location.

Legal Considerations: The Law Department will assist with negotiating and drafting all legal agreements associated with the lease of this facility.

Goal Impact: Reuse of the Boathouse will address the goals for improving Economic Vitality and Quality of Life.

Recommendation/Action: It is recommended that the City Council support the Koch proposal for reuse of the Boathouse facility and authorize staff to enter into negotiations with Mr. Koch's representatives for a lease agreement.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Wichita Employees' Retirement System
Proposed Revisions of City Code Sections 2.28.070, 2.28.121, 2.28.400, 2.28.410 and 2.28.430, and Repealing the originals of said Sections and Section 2.28.420

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Approve first reading of the Ordinance.

Background: Ice Miller, the Wichita Employees' Retirement System's outside legal counsel, advised the City Attorney and the Board of Trustees that it would be a prudent for the System to file for an updated determination letter with the Internal Revenue Service (IRS) to ensure the continuation of the System's current tax treatment. The last favorable IRS determination letter received by the Retirement System is dated April 19, 2001.

Analysis: Ice Miller reviewed the System's current Ordinance and rules for compliance with current IRS standards and requirements for qualified retirement plans. As a result of their review, Ice Miller advised the Board that the IRS has recently changed their requirements regarding the level of detail required in plan documents pertaining to distribution requirements, rollover rules, Section 415 limits and provisions relating to persons performing qualified military service. Accordingly, appropriate Sections of the Ordinance related to these plan provisions have been revised in order for the System to qualify for a favorable determination letter.

The proposed revisions to Chapter 2.28 of the City Code were unanimously approved by the Board of Trustees at their meeting on December 17, 2008.

Financial Considerations: An updated favorable determination letter and the continuation of the tax-exempt status of the Retirement System are dependent upon these revisions.

Goal Impact: The City of Wichita, by offering this Retirement System, impacts the Internal Perspective goal by increasing employee motivation and satisfaction.

Legal Considerations: The Law Department has approved the proposed Ordinance revisions as to form.

Recommendation/Actions: It is recommended that the City Council approve the first reading of the Ordinance revising City Code Sections 2.28.070, 2.28.121, 2.28.400, 2.28.410 and 2.28.430, and repealing the originals of said sections and Section 2.28.420.

Attachments: Ordinance amending Sections 2.28.070, 2.28.121, 2.28.400, 2.28.410 and 2.28.430, and repealing the originals of said sections and Section 2.28.420 of the City Code.

(Published in The Wichita Eagle on _____)

ORDINANCE NO. 48-344

AN ORDINANCE AMENDING SECTIONS 2.28.070, 2.28.121, 2.28.400, 2.28.410, AND 2.28.430 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ADMINISTRATION OF THE WICHITA EMPLOYEES' RETIREMENT SYSTEM, AND REPEALING THE ORIGINALS OF SAID SECTIONS AND SECTION 2.28.420 OF THE CODE OF THE CITY OF WICHITA.

WHEREAS, the City's Pension Office is in the process of seeking updated determination letters from the Internal Revenue Service on the tax qualification of the benefit plans comprising the Wichita Employees' Retirement System; and,

WHEREAS, the Internal Revenue Service, as a condition of granting favorable determination letters, now requires that the plan provisions be amended to set forth in greater detail the current distribution requirements, current provisions relating to persons performing qualified military service, the current rollover rules and the Internal Revenue Code Section 415 limits, all of which changes have been approved and recommended by the Board of Trustees of the Wichita Employees' Retirement System;

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

SECTION 1. Section 2.28.070 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.070 Composition; expenditures.

(a) The fund shall consist of all moneys received from contributions made by employees, refunds made by employees on re-employment, investments, earnings and moneys paid into such fund by the city.

(b) All benefits paid from the retirement plan shall be distributed in

accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. This is being adopted in accordance with Section 823 of the Pension Protection Act of 2006. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(1) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1st following the calendar year in which a participant attains age 70 1/2 or the April 1st of the year following the calendar year in which the member retires. If a member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in Sections 2.28.120 or 2.28.210;

(2) The member’s entire interest must be distributed over the member’s life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence;

(3) The retirement system, pursuant to a qualified domestic relations order, may establish separate benefits for a member and

nonmember;

(4) If a member dies before the required distribution of the member's benefits has begun, the member's entire interest must be either:

(A) distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31st of the calendar year immediately following the calendar year in which the member died; or

(B) distributed within five years of the member's death;

(5) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death;

(6) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2;

(7) The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable

may not exceed 25% of the cost of all of the members' benefits received from the retirement system; and

(8) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The board is authorized to expend funds for the following purposes: clerical and secretarial work, stationery, supplies and printing; and professional services of actuaries, accountants, physicians and attorneys, the foregoing list not being intended to limit or exclude expenditures for other proper purposes.

(d) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(e) Effective as of July 1, 1989, the Board will determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the Board by rule; such benefits will not be subject to employer discretion. The Board rules adopted for this purpose are incorporated into this section as part of the plan document.

SECTION 2. Section 2.28.121 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.121 Military Service.

(a) Notwithstanding any provision of this plan to the contrary, contributions,

benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(b) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(2) of the Internal Revenue Code, a member receiving differential wage payments (while the member is performing qualified military service (as defined in chapter 43 of title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

SECTION 3. Section 2.28.400 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.400 Compliance with Code Section 415 Limitations on Contributions and Benefits.

(a) Notwithstanding any other provisions of the retirement system to the

contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

(b) *Participation in Other Qualified Plans: Aggregation of Limits.*

(1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contributions plans in which the member has been a member were payable from one (1) plan.

(c) *Basic 415(b) Limitation.*

(1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified

in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

(2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) *Adjustments to Basic 415(b) Limitation for Form of Benefit.*

If the benefit under the plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either

reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent

Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2009, using the rate in effect for the month prior to retirement, and on and after January 1, 2009, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(e) *Benefits Not Taken into Account for 415(b) Limitation.*

For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(3) Any other benefit not required under Section 415(b)(2) of the

Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(f) *Other Adjustments in 415(b) Limitation.*

(1) In the event that the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

(2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) *Less than Ten (10) Years of Service Adjustment for 415(b) Limitations.*

The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator

of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(h) *Ten Thousand Dollar ($10,000) Limit.*

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars ($10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

(i) *Effect of COLA without a Lump Sum Component on 415(b) Testing.*

Effective on and after January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code ("the Limit") to a member with no lump sum benefit, the following will apply:

(1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under 2.28.160;

(2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated

increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under 2.28.160, shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(j) *Effect of Cola with a Lump Sum Component on 415(b) Testing.*

On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(k) *Section 415(c) Limitations on Contributions and Other Additions.*

After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of $40,000 (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions

that are paid to a defined benefit plan.

(2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

(3) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an

election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(I) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(II) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have

been able to use if employment had continued; or

(III) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the member who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.

A member who is in qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the member would have received during such period if the member were not in qualified military service, determined based on the rate of pay the member would have received from the employer but for the absence

during the period of qualified military service, or (ii) if the compensation the member would have received during such period was not reasonably certain, the member's average compensation from the employer during the twelve-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(l) *Service Purchases under Section 415(n).*

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

(1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section

415(b) of the Internal Revenue Code, or

(2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.

(3) For purposes of applying this section, the system will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit-

(A) recognized by the system for purposes of calculating a member's benefit under the system,

(B) which such member has not received under the system, and

(C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause

(B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(5) The system will fail to meet the requirements of this section if-

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the system.

(6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to-

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code

which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed.

(C) service as an employee of an association of employees who are described in clause (A), or

(D) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer)-

(A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits

attributable to such amounts.

(8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the system before January 1, 1998.

(m) *Modification of Contributions for 415(c) and 415(n) Purposes.* Notwithstanding any other provision of law to the contrary, the system may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Section 415 of the Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

(n) *Repayments of Cashouts.*

Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

(o) *Reduction of Benefits Priority.*

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

SECTION 4. Section 2.28.410 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.410 Direct Rollovers of Defined Contribution Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of the distribution will not fail to be an eligible

rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code,

(B) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code,

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code,

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code,

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code,

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined

by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct Rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001, will be accepted for the purchase of prior or future service credit or for vested Plan 3 participant accounts from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, including after-tax employee contributions.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code, excluding after-tax employee contributions.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 5. Section 2.28.420 of the Code of the City of Wichita, Kansas is hereby repealed.

SECTION 6. Section 2.28.430 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.430 Direct Rollovers of Defined Benefit Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision

or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except than an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the

Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code,

(B) an individual retirement annuity described in Section 408(b) of Internal Revenue Code,

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code,

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code,

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code,

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the

account or annuity will be treated as an “inherited” individual retirement account or annuity.

(4) “Direct Rollover” means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001, will be accepted for the purchase of prior or future service credit only from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state; or an agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408 (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 7. Section 2.28.070, 2.28.121, 2828.400, 2.28.410 and 2.28.430 of the Code of the City of Wichita, Kansas are hereby repealed.

SECTION 8. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2009.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf, Director of Law

(Published in The Wichita Eagle on _____)

ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 2.28.070, 2.28.121, 2.28.400, 2.28.410, AND 2.28.430 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ADMINISTRATION OF THE WICHITA EMPLOYEES' RETIREMENT SYSTEM, AND REPEALING THE ORIGINALS OF SAID SECTIONS AND SECTION 2.28.420 OF THE CODE OF THE CITY OF WICHITA.

WHEREAS, the City's Pension Office is in the process of seeking updated determination letters from the Internal Revenue Service on the tax qualification of the benefit plans comprising the Wichita Employees' Retirement System; and,

WHEREAS, the Internal Revenue Service, as a condition of granting favorable determination letters, now requires that the plan provisions be amended to set forth in greater detail the current distribution requirements, current provisions relating to persons performing qualified military service, the current rollover rules and the Internal Revenue Code Section 415 limits, all of which changes have been approved and recommended by the Board of Trustees of the Wichita Employees' Retirement System;

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

SECTION 1. Section 2.28.070 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.070 Composition; expenditures.

(a) The fund shall consist of all moneys received from contributions made by employees, refunds made by employees on re-employment, investments, earnings and moneys paid into such fund by the city.

(b) All benefits paid from the retirement plan shall be distributed in

accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. This is being adopted in accordance with Section 823 of the Pension Protection Act of 2006. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(1) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1st following the calendar year in which a participant attains age 70 1/2 or the April 1st of the year following the calendar year in which the member retires. If a member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in Sections 2.28.120 or 2.28.210;

(2) The member’s entire interest must be distributed over the member’s life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence;

(3) The retirement system, pursuant to a qualified domestic relations order, may establish separate benefits for a member and

nonmember;

(4) If a member dies before the required distribution of the member's benefits has begun, the member's entire interest must be either:

(A) distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31st of the calendar year immediately following the calendar year in which the member died; or

(B) distributed within five years of the member's death;

(5) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death;

(6) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2;

(7) The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable

may not exceed 25% of the cost of all of the members' benefits received from the retirement system; and

(8) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The board is authorized to expend funds for the following purposes: clerical and secretarial work, stationery, supplies and printing; and professional services of actuaries, accountants, physicians and attorneys, the foregoing list not being intended to limit or exclude expenditures for other proper purposes.

(d) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(e) Effective as of July 1, 1989, the Board will determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the Board by rule; such benefits will not be subject to employer discretion. The Board rules adopted for this purpose are incorporated into this section as part of the plan document.

SECTION 2. Section 2.28.121 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.121 Military Service.

(a) Notwithstanding any provision of this plan to the contrary, contributions,

benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(b) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(2) of the Internal Revenue Code, a member receiving differential wage payments (while the member is performing qualified military service (as defined in chapter 43 of title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

SECTION 3. Section 2.28.400 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.400 Compliance with Code Section 415 Limitations on Contributions and Benefits.

(a) Notwithstanding any other provisions of the retirement system to the

contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

(b) *Participation in Other Qualified Plans: Aggregation of Limits.*

(1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contributions plans in which the member has been a member were payable from one (1) plan.

(c) *Basic 415(b) Limitation.*

(1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified

in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

(2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) *Adjustments to Basic 415(b) Limitation for Form of Benefit.*

If the benefit under the plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either

reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent

Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2009, using the rate in effect for the month prior to retirement, and on and after January 1, 2009, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(e) *Benefits Not Taken into Account for 415(b) Limitation.*

For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(3) Any other benefit not required under Section 415(b)(2) of the

Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(f) *Other Adjustments in 415(b) Limitation.*

(1) In the event that the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

(2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) *Less than Ten (10) Years of Service Adjustment for 415(b) Limitations.*

The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator

of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(h) *Ten Thousand Dollar ($10,000) Limit.*

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars ($10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

(i) *Effect of COLA without a Lump Sum Component on 415(b) Testing.*

Effective on and after January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code ("the Limit") to a member with no lump sum benefit, the following will apply:

(1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under 2.28.160;

(2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated

increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under 2.28.160, shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(j) *Effect of Cola with a Lump Sum Component on 415(b) Testing.*

On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(k) *Section 415(c) Limitations on Contributions and Other Additions.*

After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of $40,000 (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions

that are paid to a defined benefit plan.

(2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

(3) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an

election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(I) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(II) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have

been able to use if employment had continued; or

(III) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the member who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.

A member who is in qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the member would have received during such period if the member were not in qualified military service, determined based on the rate of pay the member would have received from the employer but for the absence

during the period of qualified military service, or (ii) if the compensation the member would have received during such period was not reasonably certain, the member's average compensation from the employer during the twelve-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(l) *Service Purchases under Section 415(n).*

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

(1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section

415(b) of the Internal Revenue Code, or

(2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.

(3) For purposes of applying this section, the system will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit-

(A) recognized by the system for purposes of calculating a member's benefit under the system,

(B) which such member has not received under the system, and

(C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause

(B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(5) The system will fail to meet the requirements of this section if-

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the system.

(6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term “nonqualified service credit” means permissive service credit other than that allowed with respect to-

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code

which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed.

(C) service as an employee of an association of employees who are described in clause (A), or

(D) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer)-

(A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits

attributable to such amounts.

(8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the system before January 1, 1998.

(m) *Modification of Contributions for 415(c) and 415(n) Purposes.* Notwithstanding any other provision of law to the contrary, the system may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Section 415 of the Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

(n) *Repayments of Cashouts.*

Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

(o) *Reduction of Benefits Priority.*

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

SECTION 4. Section 2.28.410 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.410 Direct Rollovers of Defined Contribution Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of the distribution will not fail to be an eligible

rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code,

(B) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code,

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code,

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code,

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code,

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined

by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct Rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001, will be accepted for the purchase of prior or future service credit or for vested Plan 3 participant accounts from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, including after-tax employee contributions.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code, excluding after-tax employee contributions.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 5. Section 2.28.420 of the Code of the City of Wichita, Kansas is hereby repealed.

SECTION 6. Section 2.28.430 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.430 Direct Rollovers of Defined Benefit Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision

or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except than an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the

Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code,

(B) an individual retirement annuity described in Section 408(b) of Internal Revenue Code,

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code,

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code,

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code,

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the

account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct Rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001, will be accepted for the purchase of prior or future service credit only from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state; or an agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408 (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 7. Section 2.28.070, 2.28.121, 2828.400, 2.28.410 and 2.28.430 of the Code of the City of Wichita, Kansas are hereby repealed.

SECTION 8. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2009.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Police and Fire Retirement System
Proposed Revisions of Charter Ordinance Sections 1 through 41, inclusive

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Approve first reading of the Charter Ordinance.

Background: Ice Miller, the Police and Fire Retirement System's outside legal counsel, advised the City Attorney and the Board of Trustees that it would be a prudent for the System to file for an updated determination letter with the Internal Revenue Service (IRS) to ensure the continuation of the System's current tax treatment. The last favorable IRS determination letter received by the Retirement System is dated November 7, 2002.

Analysis: Ice Miller reviewed the System's current Ordinance and rules for compliance with current IRS standards and requirements for qualified retirement plans. As a result of their review, Ice Miller advised the Board that the IRS has recently changed their requirements regarding the level of detail required in plan documents pertaining to distribution requirements, rollover rules, Section 415 limits and provisions relating to persons performing qualified military service. Accordingly, Sections 7, 16, 36, 37 and 38 of the Ordinance related to these plan provisions have been revised in order for the System to qualify for a favorable determination letter. Additionally, all Sections of the Ordinance have been revised to correct a recurring punctuation error.

The proposed revisions to Charter Ordinance 205 were unanimously approved by the Board of Trustees at their meeting on December 17, 2008.

Financial Considerations: An updated favorable determination letter and the continuation of the tax-exempt status of the Retirement System are dependent upon these revisions.

Goal Impact: The City of Wichita, by offering this Retirement System, impacts the Internal Perspective goal by increasing employee motivation and satisfaction.

Legal Considerations: The Law Department has approved the proposed revisions to the Charter Ordinance as to form.

Recommendation/Actions: It is recommended that the City Council approve the first reading of the Charter Ordinance revising Sections 1 through 41, inclusive.

Attachments: Charter Ordinance amending Sections 1 through 41, inclusive.

Charter Ord. 209 Police and Fire Retirement
(Published in the Wichita Eagle on 06/19/2009 and 6/26/2009

CHARTER ORDINANCE NO. 209

A CHARTER ORDINANCE OF THE CITY OF WICHITA KANSAS, AMENDING CHARTER ORDINANCE NO. 205 RELATING TO THE POLICE AND FIRE RETIREMENT SYSTEM OF THE CITY OF WICHITA AND REPEALING THE ORIGINAL OF SAID CHARTER ORDINANCE.

WHEREAS, the City of Wichita, Kansas, has created and continued, by various charter ordinances, a retirement system for commissioned officers of the Wichita Police Department and Wichita Fire Department (the "Retirement System"); and,

WHEREAS, since their original adoption, the charter ordinances providing for the creation, modification and continuation of the Retirement System have been from time to time amended, supplemented and/or replaced; and,

WHEREAS, the City of Wichita desires to amend certain provisions of the retirement plans within the Retirement System.

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

SECTION 1

The City of Wichita, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby continues its election, initially made in Charter Ordinance No. 19 of the City of Wichita, and preserved in subsequent charter ordinances amendatory thereto, to exempt itself from and makes inapplicable to it Section 13-14a01 through and including Section 13-14a14 of the Kansas Statutes Annotated; and further, the City hereby enacts the following sections hereof in substitution of, and as a complete replacement for, all currently existing provisions of Charter Ordinance No. 205 of the City of Wichita.

SECTION 2

Name and Effective Date.

The Police & Fire Retirement System of Wichita, Kansas, hereinafter referred to as the “Retirement System” is hereby established to provide retirement, survivor, death and other

benefits for Police and Fire Officers of the City of Wichita and their dependents, continuing the provisions of the Retirement System, which was established January 1, 1965.

SECTION 3

Definitions.

The following words and phrases as used in this ordinance, unless a different meaning is plainly required by the context, shall have the following meanings:

"Act of Duty" means an act performed by a Member within the scope of occupational duties inherently involving special risks not generally assumed by a citizen in the ordinary walks of life, for the purpose of protecting life or property, including any act of heroism as a Member.

"Actuarial Tables" means such tables of mortality and rates of interest as may be adopted by the Board.

"Board" means the Board of Trustees of the Police & Fire Retirement System.

"City" means the municipal government of the City of Wichita, Kansas.

"City Council" means the governing body of the City of Wichita, Kansas.

"Deferral Period" means that period of time between the date a vested employee leaves Service and the date upon which the employee is eligible for and begins to receive a pension benefit.

"Deferred Retiree" means a vested Member who has withdrawn from Service, has not elected to receive a refund of contributions and any applicable interest, and is eligible to receive retirement benefits at a future date.

"Disability" means total inability to perform permanently the duties of the position held by the Member at date of Disability due to a physical or mental incapacity resulting from external force or violence or disease.

"DROP" means the Deferred Retirement Option Plan available to Retirement System Members for a maximum period of five (5) years. The DROP is to be phased in over a three (3) year period starting on January 1, 2000. From January 1, 2000 to December 31, 2000, no Member may utilize the DROP; beginning January 1, 2001 to December 31, 2001, Members may select a backward DROP of up to one (1) year; beginning January 1, 2002 to December 31, 2002, Members may select a backward DROP of up to three (3) years; beginning January 1, 2003, Members may select a backward DROP of up to five (5) years.

"DROP Period" means the number of months between the actual retirement date under the DROP and the Member's date of Withdrawal from Service.

"Final Average Salary" means the average annual Salary for the three (3) highest consecutive years of Service within the last ten (10) years of Service as a Member, and which

shall be computed on the basis of the seventy-eight (78) consecutive pay periods within which the Salary is the highest.

"Fund" means the Police & Fire Retirement Fund as first established by Charter Ordinance No. 5 of the City of Wichita, Kansas.

"Internal Revenue Code" refers to the Internal Revenue Code of 1986 or 1954, as applicable to governmental plans, and regulations promulgated with respect to the Internal Revenue Code.

"Member" means any Police or Fire Officer of the City receiving compensation and contributing to the Police & Fire Retirement System of Wichita.

"Minor Child" or "Minor Children" eligible for consideration under the provisions of the ordinance means children of the blood and adopted children, provided the proceedings for adoption shall have been initiated at least one (1) year prior to the date of death of the Member or Retiree.

"Police or Fire Officer" means, in the case of a Police Officer, any employee of the Police Department of the City holding the rank of Police Officer, including probationary Police Officers or any higher rank; and, in the case of a Fire Officer, any employee of the Fire Department of the City holding the rank of fire fighter, including probationary fire fighter or any higher rank; and in any case, commissioned officers. Effective June 29, 1996, the term "Police or Fire Officer" includes safety officers employed by the Wichita Airport Authority who shall be considered Fire Officers for purposes of electing representatives to the Board. The term "Police or Fire Officer" shall not include: (1) any person privately employed as a Police or Fire Officer; (2) any person temporarily employed as a Police or Fire Officer for an emergency; (3) any civilian employee in the Police or Fire departments; or, (4) any person permanently appointed to the position of Chief of Police under an offer of employment which provides the option of either membership in this Retirement System or the International City Management Association deferred compensation and/or retirement programs, unless such person files in writing a selection of membership in this Retirement System within ninety (90) days of commencing employment, such selection of membership is irrevocable.

"Prior Service" means service rendered by a Member prior to January 1, 1965.

"Regular Interest" means interest at seven percent (7%) per annum, compounded monthly.

"Retiree" means a Police or Fire Officer who is receiving a retirement benefit from the Retirement System.

"Salary" means the base monthly rate of pay being paid in accordance with a Salary ordinance (and shall include longevity pay, educational pay, EMT pay, MICT, acting, Kelly, court appearance, bomb tech pay, flight pay, standby pay, and shift differential in the

computation of benefits). Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded.

"Service" means employment with the City as a Police or Fire Officer and those periods of military service, Sick Leave, and/or Disability for which Members are entitled to Service credit under the provisions of this ordinance.

"Service-Connected Disability" means any physical or mental incapacity resulting from external force, violence, or occupational disease occasioned by an Act of Duty as a Police or Fire Officer, imposed by the ordinance or rules and regulations of the City, or any other Disability, which may be directly attributable to the performance of an Act of Duty.

"Service-Connected Disease" shall be applicable to any Member having five (5) years of Service or more, and shall mean any sickness, disease, or illness of the heart, lungs, or respiratory tract of a Member which may be determined to be directly attributable to his or her employment as a Police or Fire Officer, including exposures to heat and extreme cold, inhalation of heavy smoke, fumes or poisonous, toxic or chemical gases, while in the performance of an Act of Duty.

"Sick Leave" shall be defined as part of Service: provided that unused accumulated Sick Leave shall not be used to meet the existing age or Service requirements heretofore established under Plans A, B, and C-79.

"Withdrawal from Service" means complete severance of employment of any Member as an employee of the City by resignation, discharge, or dismissal.

SECTION 4

Continuation of Three Plans.

There are hereby continued in existence Plans A, B, and C-79. Plan A applies to all Police and Fire Officers entering the Service of the City between December 31, 1964 and January 1, 1979. Plan B applies to those Police and Fire Officers with Prior Service who chose to participate in Plan B. Plan C-79 applies to Police and Fire Officers newly employed or re-employed by the City on or after January 1, 1979.

It is the intent that the Police & Fire Retirement System of Wichita, KS plan be established as a qualified governmental pension plan under Section 401(a) and 414(d) of the Internal Revenue Code. Retirement plan assets are to be held in a trust as required under Section 401(a) of the Internal Revenue Code. The Board shall distribute the corpus and income of the retirement plan to the members and their beneficiaries in accordance with the retirement plan's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries. Upon complete or

partial termination of the retirement plan, the rights of members to benefits accrued to the date of termination, to the extent funded, or to the amounts in their accounts are nonforfeitable, and amounts in their accounts may be distributed to them.

SECTION 5

Membership.

Membership of the Retirement System shall include:

(a) Any person becoming a Police or Fire Officer on or after January 1, 1965.

(b) Any person who was a Police or Fire Officer on December 31, 1964. Any Police or Fire Officer who was temporarily absent on December 31, 1964, due to sickness or Disability, and any such person on an approved leave of absence on said date for any cause, provided such leave shall not have extended for more than one (1) year continuously, except for military service, shall be considered as a Police or Fire Officer on such date.

SECTION 6

Retirement System Funding.

An annual determination shall be made of the actuarial reserve requirements for the benefits provided herein for the Members and their beneficiaries based upon such Member's current and future Services. In addition to interest income and other income accruing to the Retirement System, these requirements shall be by Member contributions and City contributions as follows:

(a) From and after August 7, 1999, each Member of Plan A shall contribute eight percent (8%) of Salary earned and accruing after such date, each Member of Plan B shall contribute six percent (6%) of Salary earned and accruing after such date, and each Member of Plan C-79 shall contribute seven percent (7%) of Salary earned and accruing after such date as their share of the cost of the benefits provided herein.

These contributions shall be made in the form of a deduction from Salary.

(b) The City shall make bi-weekly contributions in an amount, which will be sufficient to provide actuarial reserves for earned benefits and the expenses of plan administration. In the event that Police and Fire Officers are paid other than on a bi-weekly basis, the City shall make such contributions with the same frequency as Police and Fire Officers are paid.

(1) To provide for any unfunded accrued liability, the City shall contribute a sum sufficient to amortize such liability over a period of not more than twenty years.

(2) The amount of City contribution provided in this section shall be established by applying percentage rates of contribution as actuarially determined to the salaries being paid to the Members during each payroll period, and the resulting amounts shall be remitted by the City to the Retirement System concurrently with the payment of the salaries of the Members.

(3) For the purpose of funding all obligations of the Retirement System under the provisions of this ordinance over and above Member contributions and other income accruing to the Retirement System, as herein provided, the City may levy a tax, which levy shall be in addition to the levies now authorized by law for corporate or other purposes.

(4) The City shall pick up the employee contribution required by subsection (a) of this section for all Salary earned after the effective date of this subsection. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. The City shall pick up these employee contributions from funds established and available in the salaries account, which fund would otherwise have been designated as employee contributions and paid to the Retirement System. Employer contributions picked up by the City pursuant to this subsection shall be treated for all other purposes of this and other laws of the City in the same manner and to the same extent as employer contributions made prior to the effective date of this subsection. This subsection is effective for pay periods beginning on and after January 1, 1994.

(5) Forfeitures may be used to reduce City contributions but should not be used to increase benefits, in compliance with Section 401(a)(8) of the Internal Revenue Code.

SECTION 7

Composition; Expenditures.

(a) The Fund shall consist of all moneys received from contributions made by employees, refunds made by employees on re-employment, investments, earnings, and moneys paid into the Fund by the City.

(b) All benefits paid from the Retirement System shall be distributed in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. This is being adopted in accordance with Section 823 of the Pension Protection Act of 2006. In order to meet these requirements, the Retirement System shall be administered in accordance with the following provisions:

(1) Distribution of a Member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the Member attains age 70 ½ or April 1 of the year following the calendar year in which the Member retires. If a Member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in Sections 13 or 15;

(2) The Member's entire interest must be distributed over the Member's life or the lives of the Member and a designated beneficiary, or over a period not extending beyond the life expectancy of the Member or of the Member and a designated beneficiary. The life expectancy of a Member or the Member's spouse may not be recalculated after the benefits commence;

(3) The Retirement System, pursuant to a qualified domestic relations order, may establish separate benefits for a Member and nonmember;

(4) If a Member dies before the required distribution of the Member's benefits has begun, the Member's entire interest much be either:

(A) distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year in which the Member died; or

(B) distributed within five years of the Member's death;

(5) If a Member dies after the required distribution of benefits has begun, the remaining portion of the Member's interest must be distributed at least as rapidly as under the method of distribution before the Member's death;

(6) The amount of an annuity paid to a Member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A 2;

(7) The death and disability benefits provided by the Retirement System are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code, and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the Members' benefits received from the Retirement System; and

(8) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The Board is authorized to expend funds for the following purposes: clerical and secretarial work, stationery, supplies and printing; and professional services of actuaries, accountants, physicians, and attorneys, the foregoing list not being intended to limit or exclude expenditures for other proper purposes.

(d) The Board may not engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(e) Effective as of July 1, 1989, the Board will determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the Board by rule; such benefits will not be subject to employer discretion. The Board rules adopted for this purpose are incorporated into this section as part of the plan document.

SECTION 8

Accounting and Actuarial.

(a) The assets of the Retirement System shall be held for the express purposes set forth in the provisions of this ordinance. An adequate system of accounts and records shall be established and maintained.

(b) An actuarial experience study of the Retirement System shall be made at least once every five (5) years by an actuary engaged by the Board to check demographic and economic assumptions used in the calculations of liabilities

and costs. An annual actuarial valuation of the Retirement System shall be made as of December 31st of each year for the purpose of establishing its financial condition and checking its current operating experience.

(c) Any excess balance in the Retirement System as determined in such valuation shall be applied to reduce the City's rate of contribution in succeeding years. Such contribution adjustments shall be made upon recommendation of the actuary.

SECTION 9

Management-Policy Direction.

The Retirement System continued and maintained by this ordinance shall be construed to be a trust, separate and distinct from all other entities. The responsibility for the direction and operation of the Retirement System, and for making effective the provisions hereof, is hereby vested in a Board. The Board shall consist of sixteen (16) Members, as follows:

(a) The City Manager, or an individual appointed by the City Manager (the City Manager's Designee);

(b) The Chief of the Police Department and the Chief of the Fire Department;

(c) Seven (7) trustees appointed by the City Council who need not be employees of the City. Trustees appointed by the Council shall be appointed for such terms and shall be subject to such limitation of terms as adopted by ordinance;

(d) Three (3) Police Officers and three (3) Fire Officers, each having at least five (5) years of Service, who shall be Members of the Retirement System and shall be elected by the Members from the respective occupational groups according to rules of election to be adopted by the Board. Elected trustees shall serve four-year terms expiring on December 31st of the fourth year following their election;

(e) The City Manager's designee shall serve a two (2) year term ending on August 31st of the second year following appointment;

(f) An elected or appointed trustee shall continue in office until the trustee's successor is elected or appointed, and has qualified. Any elected trustee shall be disqualified to serve in that capacity upon termination of Service with the City. If a vacancy occurs in the office of elected trustees, a successor shall be elected for the unexpired term of office within thirty (30) days by a special election, unless the regular bi-annual election occurs sooner. If a vacancy occurs in the office of an appointive trustee, such vacancy shall be filled for the unexpired term in the same manner as the office was previously filled;

(g) Each trustee shall take an oath that, so far as it devolves upon the trustee, the trustee will diligently and honestly administer the affairs of the Board, and that the trustee will not knowingly or willfully permit to be violated any of the provisions of the ordinances applicable to the Retirement System. Such oath shall be subscribed by the trustee making it, and certified by the officer before whom it is taken, and immediately filed with the City Clerk. A trustee shall be deemed to have qualified for membership on the Board when such oath shall have been filed;

(h) Subject to the limitations prescribed herein, the Board shall from time to time establish rules and regulations for the administration of the Retirement System and to implement the provisions of this ordinance as may be required. It shall hold regular meetings at least quarterly in each year and such special meetings as may be deemed necessary. The annual meeting shall be held in the month of January of each year. All meetings shall be open to the public. A record of proceedings of all meetings shall be kept by the Board;

(i) Each trustee shall be entitled to one (1) vote on the Board, and the concurrence of a majority vote of the trustees present at the meeting shall be necessary; provided, however, that in all matters relating to: (1) changes in the ordinances requiring City Council action; (2) Disability applications; (3) hiring or dismissal of consultants; and (4) alteration of the Investment Committee's recommendations for investment advisor, actuary, asset allocation plan and investment policy, at least nine (9) affirmative votes shall be required for passage; and

(j) A trustee shall receive no Salary while serving in that capacity, provided, however, that Police and Fire Officers elected to the Board shall be permitted to receive their regular Salary from the City of Wichita.

SECTION 10

Officers and Their Duties.

The Board shall have the following officers, whose duties shall be prescribed by the by-laws to be adopted by the Board:

(a) A President, a First Vice President, and a Second Vice President shall be elected from among its trustees.

(b) The Administrator of the Retirement System shall be the Pension Manager who is appointed to such position by the City Manager.

(c) The City Treasurer, ex-officio, shall be treasurer of the Retirement System.

(d) The City Attorney, ex-officio, shall be legal counsel to the Board, and shall represent the Board in all litigation affecting the Retirement System.

(e) An actuary shall be appointed to serve as technical advisor in the administration of the Retirement System on matters pertaining to the technical and actuarial aspects thereof.

(f) A specializing physician or physicians shall be appointed at the discretion of the Board to pass upon claims for Service-Connected and non-Service Connected Disability benefits, on medical questions pertaining to such claims, and on any other matters requiring medical advice that may arise in administration of the Retirement System.

SECTION 11

Administration.

Subject to the direction of the Board, the Administrator of the Retirement System shall:

(a) Employ such clerical and professional services as may be required for the proper operation of the Retirement System, whose compensation shall be fixed by the City Council;

(b) Establish and maintain records, files, and accounts in such form and scope as will give effect to the requirements of the Retirement System in accordance with the provisions hereof;

(c) Accumulate actuarial data concerning the operating experience of the Retirement System in such form as is necessary for the annual actuarial valuations and periodic actuarial studies in accordance with the recommendations of the actuary;

(d) Prepare periodic reports as may be required for the efficient administration of the Retirement System;

(e) The Administrator shall also prepare each year the annual report of the Board, to be submitted to the City Council embodying, among other things, a statement of assets, liabilities and reserves certified by the actuary, an accountant's balance sheet supported by a statement of income and expenditures, a listing of investments owned by the Retirement System, a detailed statement of investments acquired and disposed of during the year covered by the report, and such other financial and statistical data as may be deemed necessary for a proper interpretation of the condition of the Retirement System and the results of its operations. The Board shall cause to be distributed among the Members of the Retirement System a synopsis of such annual report.

SECTION 12

Investments.

(a) The Board shall invest and reinvest any portion of the Fund not needed for immediate benefit payments through a joint investment fund comprised of assets of the Wichita Employees' and Police & Fire Retirement Systems. The joint investment fund shall be overseen by an investment committee comprised of trustee representatives elected from both Boards and a City Manager's designee. The administrator shall be an ex-officio, non-voting Member of the investment committee.

(b) To achieve the investment objective of making the Fund as productive as possible, the following standards and limitations are set forth:

(1) In investing and reinvesting monies in the Fund and in acquiring, retaining, managing, and disposing of investments of the Fund, there shall be exercised the judgment and care under the circumstances then prevailing which people of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard and subject to the following requirements, there may be acquired, retained, managed, and disposed of as investments of the Fund every kind of investment which people of prudence, discretion, and intelligence acquire, retain, manage, and dispose of for their own account;

(2) The proportion of the funds invested in corporate preferred and common stocks shall not exceed seventy percent (70%);

(3) Investments may be made in any pooled arrangement such as a mutual fund, separate account, or commingled fund operated by a qualified investment counselor, an insurance company, or a bank;

(4) Investments managed by in-house staff will be restricted to high-grade marketable fixed income securities;

(5) Other investments separately managed by a qualified investment counselor, an insurance company, or a bank, who represent that they act as a fiduciary, will be handled similarly to most other clients of the

managing firm, except for holdings of money market instruments or their equivalent;

(6) The Board shall impose whatever limitations are deemed appropriate under its investment policy statement;

(7) The proportion of the Fund invested in securities of a corporation organized under the laws of a country other than the United States of America and securities issued by a foreign country or political subdivision thereof shall not exceed a total of twenty-five percent (25%).

(c) Nothing in this ordinance, however, shall be construed so as to give the Board at any time authority to invest directly or indirectly in any:

(1) Real estate; except in pooled arrangements such as a mutual fund, separate account or commingled fund operated by a qualified investment counselor or an insurance company. The amount of such investment shall not exceed ten percent (10%) of the Fund;

(2) Private equity; except in a commingled fund-of-funds vehicle operated by a registered investment advisor or a bank. The amount of such investment shall not exceed ten percent (10%) of the Fund;

(3) Mortgages secured by real estate, except insured mortgages under Titles 203, 207, 220 and 221 of the Federal Housing Act;

(4) Oil and gas leases or royalties; or

(5) Commodities (including but not limited to wheat, gold, gasoline, options, or financial futures);

(6) Provided, however, that the restrictions on investments set forth above shall not apply to funds which are invested in a mutual fund, separate account, or commingled fund operated by a qualified investment counselor or insurance company for the purpose of making international investments.

(d) The Board shall have the power to hold, purchase, sell, assign, transfer, and dispose of any of the securities in which monies of the Retirement System have been invested, as well as the proceeds from such investments, and any other property belonging to the Retirement System.

(e) All investments shall be clearly marked to indicate ownership of the Retirement System, and to the extent possible, shall be registered in its name. No securities

shall be purchased or sold, or in any manner hypothecated, except by action of the Board duly entered in the record of its proceedings.

(f) Any limitations affecting the purchase of securities shall be applicable only at the time of purchase and shall not require the liquidation of an investment at any time.

(g) No trustee or employee of the Board shall have any direct interest in the income or gains from any investment made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment. No trustee or employee of the Board shall become an endorser or surety, or in any manner an obligor for money loaned or borrowed from the Retirement System. Proof that any such person has violated any of these restrictions shall make him guilty of a misdemeanor or larceny, as the case may be, and such person shall be punishable therefore as provided by law.

SECTION 13

Distribution of Contributions.

(a) Any Member withdrawing from Service prior to retirement shall be entitled to a distribution, in a single sum, of the Member's accumulated contributions. Those Members withdrawing from Service after December 31, 1999 shall receive interest at the rate of five percent (5%) per year on such contributions, which shall be credited to accumulated contributions as of the last day of December of each year beginning with the year 1999 through the year 2006. Beginning January 31, 2007 interest shall be credited monthly to accumulated contributions at the rate of five percent (5%) per year, compounded monthly. No interest shall be allowed in any case in which the contributions, and any prior interest earned, were in the fund for any period following termination. The payment of a distribution under the provisions of this section shall automatically effect a waiver and forfeiture of all of such Member's accrued rights and benefits in the Retirement System. The Board may, in its sole discretion, withhold payment of a distribution for a period of not to exceed ninety (90) days after receipt of a written request for the same.

(b) Any Member who has received such distribution shall be considered a new Member under Plan C-79 upon re-employment provided that if such Member shall render at least three (3) years of Service following such Member's latest re-employment, such Member shall be entitled to regain his or her previously

forfeited Service credits upon repayment of all amounts received as refunds, including Regular Interest from date of refund to date of repayment. The time and manner of making such repayments shall be fixed by the Board. Any Member who terminates employment and leaves the Member's contributions in the Retirement System, if rehired, shall be classified as a Member under Plan C-79.

(c) Upon death of a Member leaving no survivors eligible for a benefit from the Retirement System, such Member's accumulated contributions plus interest, if applicable, shall be paid in a single sum to such person or persons as the member shall have nominated by written designation duly executed and filed with the Board. If no such designation shall have been made, payment shall be made to the Member's legal representative.

(d) After termination of all benefit payments to the Member, surviving spouse, and/or Minor Children, a distribution shall be made to the designated beneficiary or legal representative of the Member, surviving spouse, or Minor Children consisting of the excess, if any, of the Member's accumulated contributions, together with interest thereon if applicable, over all such benefit payments made by the Retirement System to or for the benefit of the Member.

(e) Optional direct transfer of eligible rollover distribution shall be as required under Section 401(a)(31) of the Internal Revenue Code.

SECTION 14

Eligibility for Service Retirement; Indexing Deferred Benefits.

(a) Under Plan A or Plan B, any Member having at least twenty (20) years of Service may retire and receive a Service retirement benefit.

(b) Under Plan C-79, all Police and Fire Officers employed on or after January 1, 1979, having at least twenty (20) years of Service, and having attained age fifty (50), may retire on a Service retirement benefit; provided, that from and after January 1, 1979, any Member who has completed thirty (30) years of Service shall be eligible to receive, regardless of age, a retirement benefit, computed in accordance with a Service retirement benefit.

(c) A Member under Plan C-79 having at least twenty (20) years of Service may retire prior to the attainment of age fifty (50) by leaving active Service as a Police or Fire Officer of the City; leaving the Member's contributions in the Retirement Fund; and deferring the payment of the Member's retirement benefits until the

Member has attained age fifty (50). If such Member has a Deferral Period of at least one (1) full month, such Member shall be entitled to a retirement benefit calculated as follows:

(1) A base retirement benefit calculated under Section 15 and

(2) A benefit (which may calculate as no actual increase in benefits), which shall be calculated for each calendar year or full months, in the case of a partial year in such Member's Deferral Period.

(3) The benefit calculation in subparagraph (2) shall be the base benefit calculation in subparagraph (1) adjusted annually for each calendar year or full months in the Member's Deferral Period. The determination of whether a Member is due a benefit increase for a specific calendar year in which the Member has at least one (1) full month of Deferral Period shall be made by determining, for that calendar year, the smaller of (1) 1.055; or (2) the ratio of national average earnings for the second preceding calendar year to national average earnings for the third preceding calendar year. If the smaller of these two amounts is greater than 1.0, the Member shall be entitled to a benefit increase for that calendar year equal to the Member's base retirement benefit, as calculated under subparagraph (1), multiplied by such smaller amount. Any benefit increase for a partial year in the Member's Deferral Period shall be pro-rated for each month, based on the full year increase.

(d) A Member under Plan C-79 with at least ten (10) years of Service may withdraw from Service and elect to leave such Member's contributions in the Retirement System until such time as such Member is eligible to receive a retirement benefit. If such Member has a Deferral Period of at least one (1) full month, such Member shall be entitled to a retirement benefit calculated as provided for above.

SECTION 15

Calculation of Retirement Benefit.

(a) Any Member in Plan A or Plan B having twenty (20) years or more of Service may make application to be retired, and if such application is made, the Board shall retire such Member and shall pay such Member a monthly benefit in an amount equal to fifty percent (50%) of such Member's Final Average Salary at date of his or her retirement, plus an additional two and one-half percent (2.50%) per year

for each year above twenty (20) years up to a maximum of seventy-five percent (75%) of Final Average Salary. For purposes of computing a retirement benefit, unused Sick Leave will be added to Service so long as the computed benefit does not exceed seventy-five percent (75%) of Final Average Salary. The accumulated, unused Sick Leave shall not be used to meet the twenty (20) year Service requirement. A fractional period of Service of less than a full year shall be considered in the calculation of the benefit.

(b) Any Member in Plan C-79 having twenty (20) years or more of Service and who has attained the age of fifty (50) years may make application to be retired, and if such application is made, the Board shall retire such Member and shall pay such Member a monthly benefit in an amount equal to fifty percent (50%) of such Member's Final Average Salary at date of retirement, plus an additional two and one-half percent (2.50%) per year for each year above twenty (20) years up to a maximum of seventy-five percent (75%) of Final Average Salary. For purposes of computing the retirement benefit, unused Sick Leave will be added to Service so long as the computed benefit does not exceed seventy-five percent (75%) of Final Average Salary. The accumulated, unused Sick Leave shall not be used to meet the twenty (20) year Service requirement. A fractional period of Service of less than a full year shall be considered in the calculation of the benefit.

(c) Any Member having ten (10) years and less than twenty (20) years of Service may become a Deferred Retiree by electing to leave such Member's contributions and interest, if any, in the Retirement System. If such Member leaves the Member's contributions and interest in the Retirement System until the Member reaches age fifty-five (55) years, the Member shall be entitled to a retirement benefit as calculated in Section 14(d) herein.

(Such benefit shall be calculated by multiplying the Member's years of Service by an amount equal to two and one-half percent (2.50%) and multiplying that product by the Member's Final Average Salary.) Upon retirement and commencement of the receipt of the retirement benefit, such Member shall not be entitled to any survivor's benefits.

SECTION 16

Military Service.

(a) Notwithstanding any provisions of this plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(b) Effective with respect to deaths occurring on or after January 1, 2007, while a Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a Member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the Member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the Member's death while employed.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(2) of the Internal Revenue Code, a Member receiving differential wage payments (while the Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated Members in a reasonably equivalent manner.

SECTION 17

Monthly Payments.

Any benefit hereunder shall be payable in monthly installments.

SECTION 18

Optional Annuity.

An optional annuity, as herein provided, means a benefit computed according to the approximate equivalent formula recommended by the actuary and adopted by the Board, payable during the lifetime of the specified beneficiary only if such beneficiary survives the Retiree who was receiving a reduced Service retirement annuity. If the specified beneficiary predeceases the Retiree, the Retiree's reduced Service retirement annuity shall revert to the Service retirement annuity calculated for the Member had the Member not selected the optional annuity. This recalculated Service retirement annuity shall be payable beginning the first of the month following notice of the beneficiary's death.

The amount of the optional annuity shall be that specified in the Member's notice of election, and shall not, in any event, be more than the amount of the Member's reduced Service retirement annuity.

The optional annuity shall begin on the day following the death of the Retiree.

SECTION 19

Permanent Service-Connected Disability Benefits.

Any Member, who shall, while engaged in the performance of his or her duties, be permanently injured or disabled, other than as the result of an occupational disease, and upon an examination by a physician or physicians appointed by the Board of Trustees, be found to be physically or mentally disabled as a result of such permanent Disability or injury so as to render him incapable to perform the duties of the position held by the Member at date of Disability, shall be entitled to be retired, and the Board of Trustees shall thereupon order such Member's retirement and upon being retired, the Member shall be paid a benefit equal to seventy-five percent (75%) of the Salary in effect on the date when Salary payments ceased. The benefit shall be established according to the charter ordinance that is in effect at the time Salary payments ceased.

Any Police or Fire Officer incurring an occupational disease due to service-connected causes, who upon examination by a physician or physicians appointed by the Board is found by at least two (2) out of three (3) such physicians to be physically or mentally disabled as the direct result and proximate cause of such disease so as to render him incapable to perform the duties of the position held by the Member at date of Disability, shall be entitled to be retired at a benefit equal to fifty percent (50%) of his or her Salary in effect upon the date when Salary payments ceased. The benefit shall be established according to the charter ordinance that is in effect at the time Salary payments ceased.

The Board of Trustees may, when they deem it advisable, call back for re-examination by a physician, any Member retired by reason of permanent Disability under the provisions of this ordinance, and if said examination discloses that said Member is then able to perform his or her duties in said department, he or she may be returned to Service; and if said Member, upon request, fails or refuses to return to duty, then all payments from said System shall cease.

The Disability benefit shall be recomputed when the Member attains age fifty-five (55). At such time the Member attains age fifty-five (55), the Disability benefit shall be recomputed in the same manner as a Service retirement benefit which would have been received had the Member been continuously in Service in the grade occupied at date absence on account of Disability began, subject to periodic Salary changes in such grade. In such a case, Service

credit shall be granted during the period of payment of the Disability benefit, prior to attainment of age fifty-five (55), toward the recomputed Disability benefit.

SECTION 20

Non-Service Connected Disability.

Any Member having at least seven (7) years of credited Service, under the age of fifty-five (55) years, who becomes totally and permanently disabled due to any cause other than Service-Connected Disability, while an employee of the City, shall be entitled to a Non-Service Connected Disability benefit. The benefit shall be equal to thirty percent (30%) of the Final Average Salary plus one (1) percentage point for each year of Service above seven (7) years, up to a maximum of fifty percent (50%) of Final Average Salary. Accumulated unused Sick Leave will be added to Service so long as the computed benefit does not exceed fifty percent (50%) of Final Average Salary. The benefit shall be reduced by any amounts received by the Member from public funds as Salary, or other forms of compensation during Disability, exclusive of payments under Federal Social Security.

Non-Service Connected Disability shall be considered total and permanent if it results in some impairment of mind or body due to mental or physical incapacity resulting from external force, or violence, or disease that substantially precludes a Member from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that the Member would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

The benefit shall be payable during continuing Disability of the Member, but the Member shall be subject to periodic medical examinations as herein provided.

Should a Member recover from Disability and re-enter the Service of the City as a Police or Fire Officer, and shall render at least three (3) years of Service thereafter, the Member shall be credited for Service retirement benefit purposes with the periods of time during which the Member shall have received a Non-Service Connected Disability benefit; otherwise, such Member re-entering Service shall not be entitled to Service credit for the periods of such Disability.

Disability incurred while in military service shall not be considered for benefits under the provisions of this ordinance.

A Non-Service Connected Disability shall begin to accrue upon commencement of Disability, provided that if the Member is receiving Salary, the benefit shall begin to accrue from the date Salary has ceased. If written application for the benefit shall not have been filed with the Board prior to the expiration of ninety (90) days from date of Disability, the benefit

shall begin to accrue from the date application therefore has been filed, but in no event prior to the time when payments to the Member on account of Salary have ceased.

SECTION 21

Administration of Disability Annuities.

(a) The determination of Disability from any cause shall be made upon the basis of reports of examinations made by at least two (2) physicians designated by the Board.

(b) A Member receiving service-connected or non-Service Connected Disability benefits shall be required, at the discretion by the Board of Trustees, to submit to an examination at least once each year by a physician or physicians designated by the Board to establish that the Member is incapacitated for active Service as a Police or Fire Officer and is entitled to continue to receive a Disability benefit. The Board may terminate a Disability benefit upon evidence that the Member is no longer disabled for Service. If such termination occurs and the Member does not re-enter the Service, he or she shall be entitled to a refund of the excess, if any, of the contributions made by the Member, without interest, over the amounts received by the Member on the Disability benefit.

If medical examination or an investigation made by the Board discloses that the Member is engaged in or is able to engage in any gainful occupation resulting in earnings for services rendered in any capacity, payment of the Disability benefit shall be reduced to an amount which, when added to the Member's income from such gainful occupation, does not exceed the rate of Salary currently being paid for the rank similar to that held by the Member at commencement of Disability.

(c) Each Member in receipt of a Disability benefit shall submit to the Board at least once each year, an authenticated copy or duplicate original of the Member's complete United States Income Tax Return, being a statement of income from gainful occupation for the preceding twelve (12) months. Any adjustment in benefit payments, as aforesaid, shall be based upon such statement of income.

(d) Should any Member receiving a Disability benefit refuse to submit to a medical examination or supply the Board with required statements of income, as herein above provided, benefit payments by the Retirement System shall be discontinued until compliance with the provisions hereof. Should such refusal continue for one (1) year, all rights of the Member to any Disability benefit shall be revoked by the Board. Upon finding that a Member receiving a Disability

benefit has deliberately falsified information contained in his or her statement of income, all rights of the Member in any Disability benefit shall be revoked by the Board.

SECTION 22

Backward Deferred Retirement Option Plan (DROP).

(a) Any Member eligible to retire on or after January 1, 2001 may, at the time of applying for retirement benefits, elect a backward DROP benefit with payment as provided herein. A Member electing a backward DROP must select an effective backward DROP date. The Member must be eligible to receive a Service retirement benefit on the effective backward DROP date.

(b) The maximum allowable DROP Period for a backward DROP is sixty (60) months. The DROP Period is the period between the Member's effective backward DROP date and the date of the Member's Withdrawal from Service.

(c) For purposes of benefit calculations, the Member's retirement date will be the effective backward DROP date.

(d) A Member's unused Sick Leave credit at the Member's date of election of the backward DROP may be added to the Member's Service at the Member's effective backward DROP date.

(e) The Member's monthly retirement benefit is calculated as of the Member's effective backward DROP date and is payable at the Member's Withdrawal from Service.

(f) The Member's DROP benefit is calculated by:

(1) multiplying the Member's monthly retirement benefit from (e), times the number of months selected by the Member as the backward DROP Period;

(2) plus any applicable post-retirement adjustments;

(3) plus interest at an annual rate of five percent (5%) compounded monthly.

(g) Application for withdrawal of the DROP account balance shall be made within ninety (90) days of the Member's Withdrawal from Service. Payment of the amount calculated in (f) shall be made only in a lump sum payment, a direct rollover, or some combination of the two.

SECTION 23

Service-Connected Death.

(a) Upon death of a Member, regardless of the Member's age or length of Service, resulting directly from service-connected causes; or an occupational disease if the Member had at least five (5) years of Service, and in the case of an occupational disease if death occurred within three (3) years from the date of commencement of the disease and the cessation of Salary payments to the Member, whichever is later, a surviving spouse shall be entitled to a benefit equal to fifty percent (50%) of the Member's final Salary at the date of the Member's death. This benefit payable to a surviving spouse hereunder shall be payable during such surviving spouse's lifetime.

(b) If such Member is also survived by a Minor Child or Minor Children, each such child shall be entitled to a benefit of ten percent (10%) of such Member's final Salary. Such benefit shall be paid to the custodial parent or guardian/conservator of each such child. The combined payments to a surviving spouse and Minor Children shall in no event exceed seventy-five percent (75%) of such Member's final Salary. In the event that the combined payments do exceed such amount, the benefit of the surviving spouse shall be reduced so that combined payments equal seventy-five percent (75%) of such Member's final Salary. At the time that combined payments no longer exceed such amount, the benefit of the surviving spouse shall be increased so that combined payments equal seventy-five percent (75%) of such Member's final Salary, but in no event shall the benefit of the surviving spouse be an amount greater than fifty percent (50%) of such Member's final Salary.

(c) If such Member dies leaving no surviving spouse, each Minor Child of such Member then surviving shall be entitled to a benefit of twenty percent (20%) of such Member's final Salary. Such benefit shall be paid to the custodial parent or guardian/conservator of each child. The combined payments on account of such Minor Children shall not exceed sixty percent (60%) of such Member's final Salary. In the event that combined payments exceed such amount, the benefits for such children shall be reduced pro rata so that total payments equal sixty percent (60%) of such Member's final Salary.(d) Benefits paid on account of Minor Children shall terminate upon the first to occur of the following:

(1) The Minor Child reaching the age of eighteen (18) years;

(2) Death of the Minor Child; or

(3) Marriage of the Minor Child.

(e) The determination of whether death is Service-Connected or not shall be made in the manner provided for in the administration of Disability benefits.

SECTION 24

Non-Service Connected Death.

(a) Upon death of a Member who has at least three (3) years of Service:

(1) whose death is not due to Service-Connected causes; or

(2) who is on Sick Leave receiving Salary on the date of death and whose death is not due to Service-Connected causes; or

(3) who is on approved leave of absence extending not more than twelve (12) continuous months on the date of death and whose death is not due to Service-Connected causes,

the surviving spouse of such Member shall be eligible to receive a benefit if such surviving spouse was the lawfully wedded spouse at the time of the death of such Member. Such surviving spouse shall continue to be eligible to receive a benefit for such spouse's lifetime. The amount of such benefit shall be as calculated in subparagraph (c) below and shall be subject to adjustment as provided in subparagraph (e) below.

(b) Upon death of a Retiree:

(1) who is receiving Service or Non-Service Connected Disability pension benefits on the date of death; or

(2) who is receiving a Service retirement benefit or is a Deferred Retiree and has at least twenty (20) years of Service at the date of death,

the surviving spouse of such Retiree shall be eligible to receive a benefit if i) such surviving spouse was the lawfully wedded spouse of such Retiree on the date such Retiree retired or began receiving either a Service or Non-Service Connected Disability pension benefit, and ii) such surviving spouse is at least forty (40) years of age at the time of the death of such Retiree, or if less than forty (40) years of age has, at the time of death of such Retiree, the care and custody of a Minor Child or Children of such Retiree. A surviving spouse who is not eligible to receive a benefit because such surviving spouse is less than forty (40) years of age shall become eligible to receive a benefit on the date that such

surviving spouse attains the age of forty (40) years, so long as such surviving spouse has not remarried. A surviving spouse who is eligible to receive a benefit shall continue to receive a benefit for such spouse's lifetime so long as such surviving spouse does not remarry after the date such Retiree dies and prior to such surviving spouse attaining the age of forty (40) years. The amount of such benefit shall be calculated as provided in subparagraph (c) below and shall be subject to adjustment as provided in subparagraph (e) below.

(c) Subject to adjustment because of the requirements of subparagraph (e) below, the benefit to be paid to a surviving spouse who is eligible to receive such a benefit under either paragraph (a) or (b) above, shall be equal to thirty-five percent (35%) of such Member or Retiree's Final Average Salary, increased by one percentage point for each year of Service greater than three (3) years, up to a maximum benefit of fifty percent (50%) of Final Average Salary. Provided, however, for a Member or Retiree under Plan B, such benefit shall be equal to fifty percent (50%) of such Member or Retiree's final Salary.

(d) If a Member or Retiree dies under circumstances set out in subsection (a) or (b) above, each surviving Minor Child of such Member or Retiree shall be entitled to a benefit as calculated herein and subject to adjustment because of the requirements of subparagraph (e) below. The amount of such benefit, if a benefit is also being paid to a surviving spouse of such Member or Retiree, shall be ten percent (10%) of such Member or Retiree's Final Average Salary. The amount of such benefit, if no benefit is being paid to a surviving spouse of such Member or Retiree, shall be fifteen percent (15%) of such Member or Retiree's Final Average Salary. The benefit for a Minor Child shall be paid to the custodial parent or conservator of each such Minor Child. When a Minor Child is receiving a ten percent (10%) benefit and the benefit being paid to a surviving spouse of the Member or Retiree on account of whose death each benefit was initially paid is terminated, the benefit to be paid to such Minor Child shall increase to fifteen percent (15%) of such Member or Retiree's Final Average Salary.

(e) (1) The combined monthly benefit payment to a surviving spouse and Minor Children shall not exceed sixty-six and two-thirds percent (66 2/3%) of the Final Average Salary of the Member or Retiree on account of whose death the benefits are being paid. In the event that the calculation of such benefit results in such combined monthly benefit

payment in excess of that amount, the benefit of the surviving spouse shall be reduced so that the combined monthly benefit payment equals sixty-six and two-thirds percent (66 2/3%) of such Member or Retiree's Final Average Salary. The benefit for such surviving spouse shall be increased at such time as the combined monthly benefit payment no longer exceeds such sixty-six and two-thirds percent (66 2/3%) limit, but in no event shall such increase result in such surviving spouse's benefit exceeding the amount originally calculated under subsection (c). When no benefit is being paid to a surviving spouse because the benefit calculated for the surviving spouse has been reduced to zero because of the adjustment set out above, any adjustment to the benefits paid to Minor Children because the combined monthly benefit payments exceed sixty-six and two-thirds percent (66 2/3%) of such Member or Retiree's Final Average Salary shall be made pro rata among such Member or Retiree's Minor Children, and such adjustment shall continue until the combined monthly benefit payment can be paid to eligible Minor Children without exceeding such sixty-six and two-thirds percent (66 2/3%) limit.

(2) The combined monthly benefit payment to Minor Children where there is no benefit being paid to a surviving spouse because no surviving spouse is eligible for such a benefit shall not exceed fifty percent (50%) of the Final Average Salary of the Member or Retiree on account of whose death the benefits are being paid. In the event that combined monthly payments exceed such amount, the benefit of each such Minor Child shall be reduced pro rata so that combined monthly payments equal fifty percent (50%) of such Member or Retiree's Final Average Salary. In no event shall the benefit paid a Minor Child exceed fifteen percent (15%).

(3) The combined monthly benefit payment to a surviving spouse and Minor Children or to Minor Children shall not exceed the amount of the monthly Service retirement or Disability retirement benefit being paid on the date of the death of the Retiree on account of whose death such benefit payments are being made. In the event that the calculation of such benefit results in a combined monthly benefit payment in excess of such amount, i) the benefit of the surviving spouse shall be reduced so that the combined monthly benefit payment equals such Service

retirement or Disability retirement benefit; or ii) if no benefit payment is being paid to a surviving spouse, the benefits of all Minor Children shall be reduced pro rata so that the combined monthly benefit payment equals such Service retirement or Disability retirement benefit. Once reduced, these benefit payments shall be increased in the same manner and subject to the same limitations as set forth in (e) (1) and (e) (2) above.

(f) Benefit payments for a Minor Child shall terminate upon such child reaching eighteen (18) years of age, the death of such child, or the marriage of such child, whichever shall occur first.

(g) The surviving spouse of a Retiree who retired on or after January 1, 2000 and thereafter dies under circumstances set out in subsections (b)(1) or (b)(2) above, shall not be limited by either the age requirement or the remarriage limitations set forth in subparagraph (b) herein. Provided, however that such surviving spouse, in order to be eligible to receive a benefit, shall have been such Retiree's lawfully wedded spouse for at least twelve (12) months immediately preceding the death of such Retiree.

(h) A Member who, on or after January 1, 2000, selects an effective backward DROP date which is prior to January 1, 2000, shall nevertheless be considered to have retired on or after January 1, 2000 for the purposes of determining the eligibility of such Member's surviving spouse for a benefit.

(i) For a Member or Retiree under Plan B, benefit payments on account of Minor Children shall be paid only if such Member or Retiree dies leaving no surviving spouse or dies leaving a surviving spouse who remarries prior to age forty (40). Under either such circumstance, the Minor Children of such Member or Retiree shall share equally a benefit equal to fifty percent (50%) of such Member or Retiree's final Salary.

SECTION 25

Post Retirement Adjustments.

For all Members retiring for any reason from and after February 1, 1974, upon completion of thirty-six (36) months of retirement, the monthly retirement benefits payable to such Retiree, or the monthly retirement benefits payable to the spouse or the Minor Child or Children of such Retiree, shall be increased two percent (2%) per year based on the original benefit, not compounded.

SECTION 26

Funeral Benefit.

The designated beneficiary of a Member who retired after November 21, 1973 under either Plan A, Plan B, or Plan C-79 shall be paid a funeral benefit of seven hundred fifty dollars ($750.00).

SECTION 27

Assignments Prohibited.

The right to a refund or a service retirement, Disability, death, or any benefit under the provisions of this ordinance, whatever name called, is personal with the recipient thereof, and the assignment or transfer of any such benefit, or any part thereof shall be void, except as may be provided herein. Any such refund or benefit shall not answer for debts contracted by the person receiving the same, and it is the intention of this ordinance that they shall not be subject to execution, attachment, garnishment, or affected by any judicial proceedings, except such benefit or any accumulated contributions due and owing from the System to any recipient are subject to claims of an alternate payee under a "qualified domestic relations order".

SECTION 28

Qualified Domestic Relations Orders.

As used in this section, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the Internal Revenue Code. The City of Wichita shall not be a party to any action under Article 10 of Chapter 60 of the Kansas Statutes Annotated but is subject to orders from such actions issued by the district court of the county where such action was filed and may also accept orders which it deems to be qualified under this section from courts having jurisdiction of such actions outside the State of Kansas. Orders from such actions shall specify either a specific amount or specific percentage of the amount of the benefit or any accumulated contributions due and owing from the Fund and to be distributed to the alternate payee. The order must contain the following information:

(a) Name, address, and social security number of the employee and alternate payee;

(b) Clearly identifies the appropriate Police & Fire Retirement System and plan;

(c) Creates or recognizes the existence of an alternate payee's rights to, or assigns to an alternate payee the right to receive a portion of the benefits otherwise payable to the employee;

(d) The date of marriage and divorce/separation;

(e) Statement that the benefit is payable only at the time of retirement of the employee or at the time the employee withdraws from Service, if the employee withdraws his or her contributions from the Fund;

(f) That the benefit is payable only during the lifetime of the retired employee or alternate payee should the alternate payee predecease the employee;

(g) Payment to the alternate payee shall be a lump sum if payment to the employee is lump sum, monthly if payment to the employee is monthly; and

(h) An employee who elects to participate in the DROP shall be treated as having retired for the purposes of a qualified domestic relations order.

The order to be qualified cannot allow the calculation of the lump sum payment or monthly benefit to be calculated in a manner which results in a payment or benefit in excess of the limits of the plan; cannot allow the alternate payee to be named as a surviving spouse or a survivor at the death of the retired employee; and cannot allow the alternate payee to name a beneficiary.

SECTION 29

Current Retiree Benefit Catch-Up Provision.

For Retirees who have been receiving a Service or Disability retirement benefit for ten (10) years or more as of January 1, 2000, and for the surviving spouses of deceased Retirees who retired and began receiving a Service or Disability retirement benefit prior to January 1, 1990, the pension benefit payable to such Retirees and such surviving spouses shall be increased by a factor of two percent (2%) per year for each year since such Retiree or the deceased Retiree began receiving a Service retirement benefit. This increase is a one-time benefit adjustment. This increase shall be applied to both the base pension benefit and any post-retirement adjustment, combined. The increased pension benefit calculated under this section shall in no event exceed $8,183.00 annually.

SECTION 30

Special Provisions for Safety Officers Employed by the Wichita Airport Authority.

Safety officers employed by the Wichita Airport Authority of the City of Wichita on June 29, 1996 shall be transferred on that date from the Wichita Employees' Retirement Plans to the Police and Fire Retirement System's Plan C-79. Notwithstanding provisions of any other sections contained herein, the following provisions shall be applicable for such safety officers transferred as of June 29, 1996:

(a) Service credit under the Wichita Employees' Retirement Plans shall be considered Service for purposes of meeting Service eligibility requirements for benefits under the Police and Fire Retirement System Plan C-79;

(b) Service under the Wichita Employees' Retirement Plans shall not be considered in the determination of the amount of any benefit payable by the Police and Fire Retirement System Plan C-79; and

(c) Under no circumstances will the total retirement benefit payable to a safety officer as a result of this transfer exceed an amount equal to seventy-five percent (75%) of his or her Final Average Salary regardless whether the source of the benefit is the Wichita Employees' Retirement System or the Police and Fire Retirement System.

SECTION 31

Re-employment of Retirees.

(a) Any Member under the Retirement System who is receiving a retirement benefit and who is re-employed as a commissioned Police or Fire Officer with the City of Wichita, or in a non-commissioned position under the Wichita Employee's Retirement System, shall have such Member's retirement benefit immediately suspended, and no benefit payments shall be made during the entire time such Member is so employed. However, nothing is intended to prohibit such member from participation in the appropriate retirement system and the accrual of additional Service for credit.

(b) Upon termination of such employment as a commissioned officer, payment of the retirement benefit shall be resumed; provided, however, nothing herein shall be construed to prohibit the employment of a retired police or fire commissioned officer in an advisory or consultant capacity on an independent contractor basis.

(c) Under no circumstances will the total retirement benefit payable to a re-employed Member exceed an amount equal to seventy-five percent (75%) of his or her Final Average Salary regardless whether the source of the benefit is the Wichita Employees' Retirement System or the Police and Fire Retirement System.

SECTION 32

Fraud.

Any person who knowingly makes a false statement in connection with the application for or the receipt of benefits, or falsifies or permits to be falsified, any record or records of this Retirement System, in an attempt to defraud the Retirement System, shall forfeit all rights to benefits hereunder. The Retirement System and the City shall have the right to recover by setoff or otherwise, any payments based on such false statement or falsified record.

SECTION 33

Limited Extension of Option and its Effective Date.

Any Police or Fire Officer who had previously elected to participate in Plan B shall have an option at any time prior to retirement to elect participation in Plan A by paying into the Retirement System a sum of money, without interest, equal to the difference in contributions which would have been paid by such Police or Fire Officer had they elected Plan A on January 1, 1965; provided, that once having made such election, such Police or Fire Officer shall not be permitted to revert back to Plan B.

SECTION 34

Benefit and Disability Rights Under Prior Laws Saved.

This ordinance shall not affect the rights nor decrease the Disability or retirement benefits of any Member or such Member's beneficiaries, who has died, been permanently disabled, or retired under any previously authorized and existing pension or retirement system. Any Member in service at the time of the effective date of this ordinance, who is at said time entitled to a benefit under any previously authorized pension or Retirement System shall not have such benefit reduced by virtue of the application of the provisions of this ordinance.

SECTION 35

Invalidity of Part.

If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are declared to be severable.

SECTION 36

Compliance with Code Section 415 Limitations on Contributions and Benefits.

a) Notwithstanding any other provisions of the Retirement System to the contrary, the Member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

(b) *Participation in Other Qualified Plans: Aggregation of Limits.*

(1) The 415(b) limit with respect to any Member who at any time has been a Member in any other defined benefit plan as defined in Section 414(j) of

the Internal Revenue Code maintained by the Member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the Member has been a Member were payable from one (1) plan.

(2) The 415(c) limit with respect to any Member who at any time has been a Member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the Member's employer in this plan shall apply as if the total annual additions under all such defined contributions plans in which the Member has been a Member were payable from one (1) plan.

(c) *Basic 415(b) Limitation.*

(1) Before January 1, 1995, a Member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a Member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the Retirement System. In no event shall a Member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

(2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) *Adjustments to Basic 415(b) Limitation for Form of Benefit.*

If the benefit under the plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the form of benefit to the Member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(e) *Benefits Not Taken into Account for 415(b) Limitation.*

For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(f) *Other Adjustments in 415(b) Limitation.*

(1) In the event the Member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in

accordance with Treasury Regulations pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

(2) In the event the Member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) *Ten Thousand Dollar ($10,000) Limit.*

Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such Member under this plan and under all other qualified defined benefit pension plans to which the Member's employer contributes, do not exceed ten thousand dollars ($10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the Member participated.

(h) *Effect of COLA without a Lump Sum Component on 415(b) Testing.*

Effective on and after January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code (the "Limit") to a Member with no lump sum benefit, the following will apply:

(1) a Member's applicable Limit will be applied to the Member's annual benefit in the Member's first limitation year without regard to any cost of living adjustments under Section 25;

(2) to the extent that the Member's annual benefit equals or exceeds the Limit, the Member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a Member's annual benefit, including any cost of living increases under Section 25, shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under

Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(i) *Effect of COLA with Lump Sum Component on 415(b) Testing.*

On and after January 1, 2009, with respect to a Member who receives a portion of the Member's annual benefit in a lump sum, a Member's applicable Limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(j) *Section 415(c) Limitations on Contributions and Other Additions.*

After-tax Member contributions or other annual additions with respect to a Member may not exceed the lesser of $40,000 (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the Member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, Member contributions, and forfeitures credited to a Member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that Member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

(3) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a Member's severance from employment or the end of the limitation year that includes the date of the Member's severance from employment if:

(I) the payment is regular compensation for services during the Member's regular working hours, or compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the Member while the Member continued in employment with the employer; or

(II) the payment is for unused accrued bona fide sick, vacation or other leave that the Member would have been able to use if employment had continued; or

(III) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Member at the same time if the Member had continued employment with the employer and only to the extent that the payment is includible in the Member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to a Member who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the Member would have received if the Member

had continued to perform services for the employer rather than entering qualified military service.

A Member who is in qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the Member would have received during such period if the Member were not in qualified military service, determined based on the rate of pay the Member would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the Member would have received during such period was not reasonably certain, the Member's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a Member's compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(k) *Service Purchases under Section 415(n).*

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a Member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

(1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section 415(b) of the Internal Revenue Code, or

(2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.

(3) For purposes of applying this section, the system will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code

solely by reason of this subparagraph and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit-

(A) recognized by the system for purposes of calculating a Member's benefit under the system,

(B) which such Member has not received under the system, and

(C) which such Member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the system.

(5) The system will fail to meet the requirements of this section if-

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the system.

(6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to-

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in Section 415(k)(3) of the Internal Revenue Code),

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Section

170(b)(1)(A)(ii) of the Internal Revenue Code which is public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(C) service as an employee of an association of employees who are described in clause (A), or

(D) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer)-

(A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.

(8) For an eligible Member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this paragraph an eligible Member is an individual who first became a Member in the system before January 1, 1998.

(l) *Modifications of Contributions for 415(c) and 415(n) Purposes.*

Notwithstanding any other provision of law to the contrary, the system may modify a request by a Member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Section 415 of the Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the Member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the system may either reduce the Member's contribution to an amount within the limits of those sections or refuse the Member's contribution.

(m) *Repayments of Cashouts.*

Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the Retirement System shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

(n) *Reduction of Benefits Priority.*

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such Member.

SECTION 37

Direct Rollovers of Defined Benefit Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to all rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement

law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of an eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code;

(B) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code;

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code;

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the Retirement System; or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001 will be accepted for the purchase of prior or future service credit from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408 (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 38

The Original of Charter Ordinance No. 205 of the City of Wichita, Kansas, is hereby repealed.

SECTION 39

Publication.

This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION 40

Petition for Referendum.

This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2009.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

Charter Ord. ____ Police and Fire Retirement
(Published in the Wichita Eagle on _____ and _____

CHARTER ORDINANCE NO._____

A CHARTER ORDINANCE OF THE CITY OF WICHITA KANSAS, AMENDING CHARTER ORDINANCE NO. 205 RELATING TO THE POLICE AND FIRE RETIREMENT SYSTEM OF THE CITY OF WICHITA AND REPEALING THE ORIGINAL OF SAID CHARTER ORDINANCE.

WHEREAS, the City of Wichita, Kansas, has created and continued, by various charter ordinances, a retirement system for commissioned officers of the Wichita Police Department and Wichita Fire Department (the "Retirement System"); and,

WHEREAS, since their original adoption, the charter ordinances providing for the creation, modification and continuation of the Retirement System have been from time to time amended, supplemented and/or replaced; and,

WHEREAS, the City of Wichita desires to amend certain provisions of the retirement plans within the Retirement System.

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

SECTION 1

The City of Wichita, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby continues its election, initially made in Charter Ordinance No. 19 of the City of Wichita, and preserved in subsequent charter ordinances amendatory thereto, to exempt itself from and makes inapplicable to it Section 13-14a01 through and including Section 13-14a14 of the Kansas Statutes Annotated; and further, the City hereby enacts the following sections hereof in substitution of, and as a complete replacement for, all currently existing provisions of Charter Ordinance No. 205 of the City of Wichita.

SECTION 2

Name and Effective Date.

The Police & Fire Retirement System of Wichita, Kansas, hereinafter referred to as the “Retirement System” is hereby established to provide retirement, survivor, death and other

benefits for Police and Fire Officers of the City of Wichita and their dependents, continuing the provisions of the Retirement System, which was established January 1, 1965.

SECTION 3

Definitions.

The following words and phrases as used in this ordinance, unless a different meaning is plainly required by the context, shall have the following meanings:

"Act of Duty" means an act performed by a Member within the scope of occupational duties inherently involving special risks not generally assumed by a citizen in the ordinary walks of life, for the purpose of protecting life or property, including any act of heroism as a Member.

"Actuarial Tables" means such tables of mortality and rates of interest as may be adopted by the Board.

"Board" means the Board of Trustees of the Police & Fire Retirement System.

"City" means the municipal government of the City of Wichita, Kansas.

"City Council" means the governing body of the City of Wichita, Kansas.

"Deferral Period" means that period of time between the date a vested employee leaves Service and the date upon which the employee is eligible for and begins to receive a pension benefit.

"Deferred Retiree" means a vested Member who has withdrawn from Service, has not elected to receive a refund of contributions and any applicable interest, and is eligible to receive retirement benefits at a future date.

"Disability" means total inability to perform permanently the duties of the position held by the Member at date of Disability due to a physical or mental incapacity resulting from external force or violence or disease.

"DROP" means the Deferred Retirement Option Plan available to Retirement System Members for a maximum period of five (5) years. The DROP is to be phased in over a three (3) year period starting on January 1, 2000. From January 1, 2000 to December 31, 2000, no Member may utilize the DROP; beginning January 1, 2001 to December 31, 2001, Members may select a backward DROP of up to one (1) year; beginning January 1, 2002 to December 31, 2002, Members may select a backward DROP of up to three (3) years; beginning January 1, 2003, Members may select a backward DROP of up to five (5) years.

"DROP Period" means the number of months between the actual retirement date under the DROP and the Member's date of Withdrawal from Service.

"Final Average Salary" means the average annual Salary for the three (3) highest consecutive years of Service within the last ten (10) years of Service as a Member, and which

shall be computed on the basis of the seventy-eight (78) consecutive pay periods within which the Salary is the highest.

"Fund" means the Police & Fire Retirement Fund as first established by Charter Ordinance No. 5 of the City of Wichita, Kansas.

"Internal Revenue Code" refers to the Internal Revenue Code of 1986 or 1954, as applicable to governmental plans, and regulations promulgated with respect to the Internal Revenue Code.

"Member" means any Police or Fire Officer of the City receiving compensation and contributing to the Police & Fire Retirement System of Wichita.

"Minor Child" or "Minor Children" eligible for consideration under the provisions of the ordinance means children of the blood and adopted children, provided the proceedings for adoption shall have been initiated at least one (1) year prior to the date of death of the Member or Retiree.

"Police or Fire Officer" means, in the case of a Police Officer, any employee of the Police Department of the City holding the rank of Police Officer, including probationary Police Officers or any higher rank; and, in the case of a Fire Officer, any employee of the Fire Department of the City holding the rank of fire fighter, including probationary fire fighter or any higher rank; and in any case, commissioned officers. Effective June 29, 1996, the term "Police or Fire Officer" includes safety officers employed by the Wichita Airport Authority who shall be considered Fire Officers for purposes of electing representatives to the Board. The term "Police or Fire Officer" shall not include: (1) any person privately employed as a Police or Fire Officer; (2) any person temporarily employed as a Police or Fire Officer for an emergency; (3) any civilian employee in the Police or Fire departments; or, (4) any person permanently appointed to the position of Chief of Police under an offer of employment which provides the option of either membership in this Retirement System or the International City Management Association deferred compensation and/or retirement programs, unless such person files in writing a selection of membership in this Retirement System within ninety (90) days of commencing employment, such selection of membership is irrevocable.

"Prior Service" means service rendered by a Member prior to January 1, 1965.

"Regular Interest" means interest at seven percent (7%) per annum, compounded monthly.

"Retiree" means a Police or Fire Officer who is receiving a retirement benefit from the Retirement System.

"Salary" means the base monthly rate of pay being paid in accordance with a Salary ordinance (and shall include longevity pay, educational pay, EMT pay, MICT, acting, Kelly, court appearance, bomb tech pay, flight pay, standby pay, and shift differential in the

computation of benefits). Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded.

"Service" means employment with the City as a Police or Fire Officer and those periods of military service, Sick Leave, and/or Disability for which Members are entitled to Service credit under the provisions of this ordinance.

"Service-Connected Disability" means any physical or mental incapacity resulting from external force, violence, or occupational disease occasioned by an Act of Duty as a Police or Fire Officer, imposed by the ordinance or rules and regulations of the City, or any other Disability, which may be directly attributable to the performance of an Act of Duty.

"Service-Connected Disease" shall be applicable to any Member having five (5) years of Service or more, and shall mean any sickness, disease, or illness of the heart, lungs, or respiratory tract of a Member which may be determined to be directly attributable to his or her employment as a Police or Fire Officer, including exposures to heat and extreme cold, inhalation of heavy smoke, fumes or poisonous, toxic or chemical gases, while in the performance of an Act of Duty.

"Sick Leave" shall be defined as part of Service: provided that unused accumulated Sick Leave shall not be used to meet the existing age or Service requirements heretofore established under Plans A, B, and C-79.

"Withdrawal from Service" means complete severance of employment of any Member as an employee of the City by resignation, discharge, or dismissal.

SECTION 4

Continuation of Three Plans.

There are hereby continued in existence Plans A, B, and C-79. Plan A applies to all Police and Fire Officers entering the Service of the City between December 31, 1964 and January 1, 1979. Plan B applies to those Police and Fire Officers with Prior Service who chose to participate in Plan B. Plan C-79 applies to Police and Fire Officers newly employed or re-employed by the City on or after January 1, 1979.

It is the intent that the Police & Fire Retirement System of Wichita, KS plan be established as a qualified governmental pension plan under Section 401(a) and 414(d) of the Internal Revenue Code. Retirement plan assets are to be held in a trust as required under Section 401(a) of the Internal Revenue Code. The Board shall distribute the corpus and income of the retirement plan to the members and their beneficiaries in accordance with the retirement plan's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries. Upon complete or

partial termination of the retirement plan, the rights of members to benefits accrued to the date of termination, to the extent funded, or to the amounts in their accounts are nonforfeitable, and amounts in their accounts may be distributed to them.

SECTION 5

Membership.

Membership of the Retirement System shall include:

(a) Any person becoming a Police or Fire Officer on or after January 1, 1965.

(b) Any person who was a Police or Fire Officer on December 31, 1964. Any Police or Fire Officer who was temporarily absent on December 31, 1964, due to sickness or Disability, and any such person on an approved leave of absence on said date for any cause, provided such leave shall not have extended for more than one (1) year continuously, except for military service, shall be considered as a Police or Fire Officer on such date.

SECTION 6

Retirement System Funding.

An annual determination shall be made of the actuarial reserve requirements for the benefits provided herein for the Members and their beneficiaries based upon such Member's current and future Services. In addition to interest income and other income accruing to the Retirement System, these requirements shall be by Member contributions and City contributions as follows:

(a) From and after August 7, 1999, each Member of Plan A shall contribute eight percent (8%) of Salary earned and accruing after such date, each Member of Plan B shall contribute six percent (6%) of Salary earned and accruing after such date, and each Member of Plan C-79 shall contribute seven percent (7%) of Salary earned and accruing after such date as their share of the cost of the benefits provided herein.

These contributions shall be made in the form of a deduction from Salary.

(b) The City shall make bi-weekly contributions in an amount, which will be sufficient to provide actuarial reserves for earned benefits and the expenses of plan administration. In the event that Police and Fire Officers are paid other than on a bi-weekly basis, the City shall make such contributions with the same frequency as Police and Fire Officers are paid.

(1) To provide for any unfunded accrued liability, the City shall contribute a sum sufficient to amortize such liability over a period of not more than twenty years.

(2) The amount of City contribution provided in this section shall be established by applying percentage rates of contribution as actuarially determined to the salaries being paid to the Members during each payroll period, and the resulting amounts shall be remitted by the City to the Retirement System concurrently with the payment of the salaries of the Members.

(3) For the purpose of funding all obligations of the Retirement System under the provisions of this ordinance over and above Member contributions and other income accruing to the Retirement System, as herein provided, the City may levy a tax, which levy shall be in addition to the levies now authorized by law for corporate or other purposes.

(4) The City shall pick up the employee contribution required by subsection (a) of this section for all Salary earned after the effective date of this subsection. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. The City shall pick up these employee contributions from funds established and available in the salaries account, which fund would otherwise have been designated as employee contributions and paid to the Retirement System. Employer contributions picked up by the City pursuant to this subsection shall be treated for all other purposes of this and other laws of the City in the same manner and to the same extent as employer contributions made prior to the effective date of this subsection. This subsection is effective for pay periods beginning on and after January 1, 1994.

(5) Forfeitures may be used to reduce City contributions but should not be used to increase benefits, in compliance with Section 401(a)(8) of the Internal Revenue Code.

SECTION 7

Composition; Expenditures.

(a) The Fund shall consist of all moneys received from contributions made by employees, refunds made by employees on re-employment, investments, earnings, and moneys paid into the Fund by the City.

(b) All benefits paid from the Retirement System shall be distributed in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. This is being adopted in accordance with Section 823 of the Pension Protection Act of 2006. In order to meet these requirements, the Retirement System shall be administered in accordance with the following provisions:

(1) Distribution of a Member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the Member attains age 70 ½ or April 1 of the year following the calendar year in which the Member retires. If a Member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in Sections 13 or 15;

(2) The Member's entire interest must be distributed over the Member's life or the lives of the Member and a designated beneficiary, or over a period not extending beyond the life expectancy of the Member or of the Member and a designated beneficiary. The life expectancy of a Member or the Member's spouse may not be recalculated after the benefits commence;

(3) The Retirement System, pursuant to a qualified domestic relations order, may establish separate benefits for a Member and nonmember;

(4) If a Member dies before the required distribution of the Member's benefits has begun, the Member's entire interest much be either:

(A) distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year in which the Member died; or

(B) distributed within five years of the Member's death;

(5) If a Member dies after the required distribution of benefits has begun, the remaining portion of the Member's interest must be distributed at least as rapidly as under the method of distribution before the Member's death;

(6) The amount of an annuity paid to a Member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A 2;

(7) The death and disability benefits provided by the Retirement System are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code, and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the Members' benefits received from the Retirement System; and

(8) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The Board is authorized to expend funds for the following purposes: clerical and secretarial work, stationery, supplies and printing; and professional services of actuaries, accountants, physicians, and attorneys, the foregoing list not being intended to limit or exclude expenditures for other proper purposes.

(d) The Board may not engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(e) Effective as of July 1, 1989, the Board will determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the Board by rule; such benefits will not be subject to employer discretion. The Board rules adopted for this purpose are incorporated into this section as part of the plan document.

SECTION 8

Accounting and Actuarial.

(a) The assets of the Retirement System shall be held for the express purposes set forth in the provisions of this ordinance. An adequate system of accounts and records shall be established and maintained.

(b) An actuarial experience study of the Retirement System shall be made at least once every five (5) years by an actuary engaged by the Board to check demographic and economic assumptions used in the calculations of liabilities and costs. An annual actuarial valuation of the Retirement System shall be made as of December 31st of each year for the purpose of establishing its financial condition and checking its current operating experience.

(c) Any excess balance in the Retirement System as determined in such valuation shall be applied to reduce the City's rate of contribution in succeeding years. Such contribution adjustments shall be made upon recommendation of the actuary.

SECTION 9

Management-Policy Direction.

The Retirement System continued and maintained by this ordinance shall be construed to be a trust, separate and distinct from all other entities. The responsibility for the direction and operation of the Retirement System, and for making effective the provisions hereof, is hereby vested in a Board. The Board shall consist of sixteen (16) Members, as follows:

(a) The City Manager, or an individual appointed by the City Manager (the City Manager's Designee);

(b) The Chief of the Police Department and the Chief of the Fire Department;

(c) Seven (7) trustees appointed by the City Council who need not be employees of the City. Trustees appointed by the Council shall be appointed for such terms and shall be subject to such limitation of terms as adopted by ordinance;

(d) Three (3) Police Officers and three (3) Fire Officers, each having at least five (5) years of Service, who shall be Members of the Retirement System and shall be elected by the Members from the respective occupational groups according to rules of election to be adopted by the Board. Elected trustees shall serve four-year terms expiring on December 31st of the fourth year following their election;

(e) The City Manager's designee shall serve a two (2) year term ending on August 31st of the second year following appointment;

(f) An elected or appointed trustee shall continue in office until the trustee's successor is elected or appointed, and has qualified. Any elected trustee shall be disqualified to serve in that capacity upon termination of Service with the City. If a vacancy occurs in the office of elected trustees, a successor shall be elected for the unexpired term of office within thirty (30) days by a special election, unless the regular bi-annual election occurs sooner. If a vacancy occurs in the office of an appointive trustee, such vacancy shall be filled for the unexpired term in the same manner as the office was previously filled;

(g) Each trustee shall take an oath that, so far as it devolves upon the trustee, the trustee will diligently and honestly administer the affairs of the Board, and that the trustee will not knowingly or willfully permit to be violated any of the provisions of the ordinances applicable to the Retirement System. Such oath shall be subscribed by the trustee making it, and certified by the officer before whom it is taken, and immediately filed with the City Clerk. A trustee shall be deemed to have qualified for membership on the Board when such oath shall have been filed;

(h) Subject to the limitations prescribed herein, the Board shall from time to time establish rules and regulations for the administration of the Retirement System and to implement the provisions of this ordinance as may be required. It shall hold regular meetings at least quarterly in each year and such special meetings as may be deemed necessary. The annual meeting shall be held in the month of January of each year. All meetings shall be open to the public. A record of proceedings of all meetings shall be kept by the Board;

(i) Each trustee shall be entitled to one (1) vote on the Board, and the concurrence of a majority vote of the trustees present at the meeting shall be necessary; provided, however, that in all matters relating to: (1) changes in the ordinances requiring City Council action; (2) Disability applications; (3) hiring or dismissal

of consultants; and (4) alteration of the Investment Committee's recommendations for investment advisor, actuary, asset allocation plan and investment policy, at least nine (9) affirmative votes shall be required for passage; and

(j) A trustee shall receive no Salary while serving in that capacity, provided, however, that Police and Fire Officers elected to the Board shall be permitted to receive their regular Salary from the City of Wichita.

SECTION 10

Officers and Their Duties.

The Board shall have the following officers, whose duties shall be prescribed by the by-laws to be adopted by the Board:

(a) A President, a First Vice President, and a Second Vice President shall be elected from among its trustees.

(b) The Administrator of the Retirement System shall be the Pension Manager who is appointed to such position by the City Manager.

(c) The City Treasurer, ex-officio, shall be treasurer of the Retirement System.

(d) The City Attorney, ex-officio, shall be legal counsel to the Board, and shall represent the Board in all litigation affecting the Retirement System.

(e) An actuary shall be appointed to serve as technical advisor in the administration of the Retirement System on matters pertaining to the technical and actuarial aspects thereof.

(f) A specializing physician or physicians shall be appointed at the discretion of the Board to pass upon claims for Service-Connected and non-Service Connected Disability benefits, on medical questions pertaining to such claims, and on any other matters requiring medical advice that may arise in administration of the Retirement System.

SECTION 11

Administration.

Subject to the direction of the Board, the Administrator of the Retirement System shall:

(a) Employ such clerical and professional services as may be required for the proper operation of the Retirement System, whose compensation shall be fixed by the City Council;

(b) Establish and maintain records, files, and accounts in such form and scope as will give effect to the requirements of the Retirement System in accordance with the provisions hereof;

(c) Accumulate actuarial data concerning the operating experience of the Retirement System in such form as is necessary for the annual actuarial valuations and periodic actuarial studies in accordance with the recommendations of the actuary;

(d) Prepare periodic reports as may be required for the efficient administration of the Retirement System;

(e) The Administrator shall also prepare each year the annual report of the Board, to be submitted to the City Council embodying, among other things, a statement of assets, liabilities and reserves certified by the actuary, an accountant's balance sheet supported by a statement of income and expenditures, a listing of investments owned by the Retirement System, a detailed statement of investments acquired and disposed of during the year covered by the report, and such other financial and statistical data as may be deemed necessary for a proper interpretation of the condition of the Retirement System and the results of its operations. The Board shall cause to be distributed among the Members of the Retirement System a synopsis of such annual report.

SECTION 12

Investments.

(a) The Board shall invest and reinvest any portion of the Fund not needed for immediate benefit payments through a joint investment fund comprised of assets of the Wichita Employees' and Police & Fire Retirement Systems. The joint investment fund shall be overseen by an investment committee comprised of trustee representatives elected from both Boards and a City Manager's designee. The administrator shall be an ex-officio, non-voting Member of the investment committee.

(b) To achieve the investment objective of making the Fund as productive as possible, the following standards and limitations are set forth:

(1) In investing and reinvesting monies in the Fund and in acquiring, retaining, managing, and disposing of investments of the Fund, there shall be exercised the judgment and care under the circumstances then prevailing which people of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within

the limitations of the foregoing standard and subject to the following requirements, there may be acquired, retained, managed, and disposed of as investments of the Fund every kind of investment which people of prudence, discretion, and intelligence acquire, retain, manage, and dispose of for their own account;

(2) The proportion of the funds invested in corporate preferred and common stocks shall not exceed seventy percent (70%);

(3) Investments may be made in any pooled arrangement such as a mutual fund, separate account, or commingled fund operated by a qualified investment counselor, an insurance company, or a bank;

(4) Investments managed by in-house staff will be restricted to high-grade marketable fixed income securities;

(5) Other investments separately managed by a qualified investment counselor, an insurance company, or a bank, who represent that they act as a fiduciary, will be handled similarly to most other clients of the managing firm, except for holdings of money market instruments or their equivalent;

(6) The Board shall impose whatever limitations are deemed appropriate under its investment policy statement;

(7) The proportion of the Fund invested in securities of a corporation organized under the laws of a country other than the United States of America and securities issued by a foreign country or political subdivision thereof shall not exceed a total of twenty-five percent (25%).

(c) Nothing in this ordinance, however, shall be construed so as to give the Board at any time authority to invest directly or indirectly in any:

(1) Real estate; except in pooled arrangements such as a mutual fund, separate account or commingled fund operated by a qualified investment counselor or an insurance company. The amount of such investment shall not exceed ten percent (10%) of the Fund;

(2) Private equity; except in a commingled fund-of-funds vehicle operated by a registered investment advisor or a bank. The amount of such investment shall not exceed ten percent (10%) of the Fund;

(3) Mortgages secured by real estate, except insured mortgages under Titles 203, 207, 220 and 221 of the Federal Housing Act;

(4) Oil and gas leases or royalties; or

(5) Commodities (including but not limited to wheat, gold, gasoline, options, or financial futures);

(6) Provided, however, that the restrictions on investments set forth above shall not apply to funds which are invested in a mutual fund, separate account, or commingled fund operated by a qualified investment counselor or insurance company for the purpose of making international investments.

(d) The Board shall have the power to hold, purchase, sell, assign, transfer, and dispose of any of the securities in which monies of the Retirement System have been invested, as well as the proceeds from such investments, and any other property belonging to the Retirement System.

(e) All investments shall be clearly marked to indicate ownership of the Retirement System, and to the extent possible, shall be registered in its name. No securities shall be purchased or sold, or in any manner hypothecated, except by action of the Board duly entered in the record of its proceedings.

(f) Any limitations affecting the purchase of securities shall be applicable only at the time of purchase and shall not require the liquidation of an investment at any time.

(g) No trustee or employee of the Board shall have any direct interest in the income or gains from any investment made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment. No trustee or employee of the Board shall become an endorser or surety, or in any manner an obligor for money loaned or borrowed from the Retirement System. Proof that any such person has violated any of these restrictions shall make him guilty of a misdemeanor or larceny, as the case may be, and such person shall be punishable therefore as provided by law.

SECTION 13

Distribution of Contributions.

(a) Any Member withdrawing from Service prior to retirement shall be entitled to a distribution, in a single sum, of the Member's accumulated contributions.

Those Members withdrawing from Service after December 31, 1999 shall receive interest at the rate of five percent (5%) per year on such contributions, which shall be credited to accumulated contributions as of the last day of December of each year beginning with the year 1999 through the year 2006. Beginning January 31, 2007 interest shall be credited monthly to accumulated contributions at the rate of five percent (5%) per year, compounded monthly. No interest shall be allowed in any case in which the contributions, and any prior interest earned, were in the fund for any period following termination. The payment of a distribution under the provisions of this section shall automatically effect a waiver and forfeiture of all of such Member's accrued rights and benefits in the Retirement System. The Board may, in its sole discretion, withhold payment of a distribution for a period of not to exceed ninety (90) days after receipt of a written request for the same.

(b) Any Member who has received such distribution shall be considered a new Member under Plan C-79 upon re-employment provided that if such Member shall render at least three (3) years of Service following such Member's latest re-employment, such Member shall be entitled to regain his or her previously forfeited Service credits upon repayment of all amounts received as refunds, including Regular Interest from date of refund to date of repayment. The time and manner of making such repayments shall be fixed by the Board. Any Member who terminates employment and leaves the Member's contributions in the Retirement System, if rehired, shall be classified as a Member under Plan C-79.

(c) Upon death of a Member leaving no survivors eligible for a benefit from the Retirement System, such Member's accumulated contributions plus interest, if applicable, shall be paid in a single sum to such person or persons as the member shall have nominated by written designation duly executed and filed with the Board. If no such designation shall have been made, payment shall be made to the Member's legal representative.

(d) After termination of all benefit payments to the Member, surviving spouse, and/or Minor Children, a distribution shall be made to the designated beneficiary or legal representative of the Member, surviving spouse, or Minor Children consisting of the excess, if any, of the Member's accumulated contributions, together with interest thereon if applicable, over all such benefit payments made by the Retirement System to or for the benefit of the Member.

(e) Optional direct transfer of eligible rollover distribution shall be as required under Section 401(a)(31) of the Internal Revenue Code.

SECTION 14

Eligibility for Service Retirement; Indexing Deferred Benefits.

(a) Under Plan A or Plan B, any Member having at least twenty (20) years of Service may retire and receive a Service retirement benefit.

(b) Under Plan C-79, all Police and Fire Officers employed on or after January 1, 1979, having at least twenty (20) years of Service, and having attained age fifty (50), may retire on a Service retirement benefit; provided, that from and after January 1, 1979, any Member who has completed thirty (30) years of Service shall be eligible to receive, regardless of age, a retirement benefit, computed in accordance with a Service retirement benefit.

(c) A Member under Plan C-79 having at least twenty (20) years of Service may retire prior to the attainment of age fifty (50) by leaving active Service as a Police or Fire Officer of the City; leaving the Member's contributions in the Retirement Fund; and deferring the payment of the Member's retirement benefits until the Member has attained age fifty (50). If such Member has a Deferral Period of at least one (1) full month, such Member shall be entitled to a retirement benefit calculated as follows:

(1) A base retirement benefit calculated under Section 15 and

(2) A benefit (which may calculate as no actual increase in benefits), which shall be calculated for each calendar year or full months, in the case of a partial year in such Member's Deferral Period.

(3) The benefit calculation in subparagraph (2) shall be the base benefit calculation in subparagraph (1) adjusted annually for each calendar year or full months in the Member's Deferral Period. The determination of whether a Member is due a benefit increase for a specific calendar year in which the Member has at least one (1) full month of Deferral Period shall be made by determining, for that calendar year, the smaller of (1) 1.055; or (2) the ratio of national average earnings for the second preceding calendar year to national average earnings for the third preceding calendar year. If the smaller of these two amounts is greater than 1.0, the Member shall be entitled to a benefit increase for that calendar year equal to the Member's base retirement benefit, as

calculated under subparagraph (1), multiplied by such smaller amount. Any benefit increase for a partial year in the Member's Deferral Period shall be pro-rated for each month, based on the full year increase.

(d) A Member under Plan C-79 with at least ten (10) years of Service may withdraw from Service and elect to leave such Member's contributions in the Retirement System until such time as such Member is eligible to receive a retirement benefit. If such Member has a Deferral Period of at least one (1) full month, such Member shall be entitled to a retirement benefit calculated as provided for above.

SECTION 15

Calculation of Retirement Benefit.

(a) Any Member in Plan A or Plan B having twenty (20) years or more of Service may make application to be retired, and if such application is made, the Board shall retire such Member and shall pay such Member a monthly benefit in an amount equal to fifty percent (50%) of such Member's Final Average Salary at date of his or her retirement, plus an additional two and one-half percent (2.50%) per year for each year above twenty (20) years up to a maximum of seventy-five percent (75%) of Final Average Salary. For purposes of computing a retirement benefit, unused Sick Leave will be added to Service so long as the computed benefit does not exceed seventy-five percent (75%) of Final Average Salary. The accumulated, unused Sick Leave shall not be used to meet the twenty (20) year Service requirement. A fractional period of Service of less than a full year shall be considered in the calculation of the benefit.

(b) Any Member in Plan C-79 having twenty (20) years or more of Service and who has attained the age of fifty (50) years may make application to be retired, and if such application is made, the Board shall retire such Member and shall pay such Member a monthly benefit in an amount equal to fifty percent (50%) of such Member's Final Average Salary at date of retirement, plus an additional two and one-half percent (2.50%) per year for each year above twenty (20) years up to a maximum of seventy-five percent (75%) of Final Average Salary. For purposes of computing the retirement benefit, unused Sick Leave will be added to Service so long as the computed benefit does not exceed seventy-five percent (75%) of Final Average Salary. The accumulated, unused Sick Leave shall not be used to meet the twenty (20) year Service requirement. A fractional period of

Service of less than a full year shall be considered in the calculation of the benefit.

(c) Any Member having ten (10) years and less than twenty (20) years of Service may become a Deferred Retiree by electing to leave such Member's contributions and interest, if any, in the Retirement System. If such Member leaves the Member's contributions and interest in the Retirement System until the Member reaches age fifty-five (55) years, the Member shall be entitled to a retirement benefit as calculated in Section 14(d) herein.

(Such benefit shall be calculated by multiplying the Member's years of Service by an amount equal to two and one-half percent (2.50%) and multiplying that product by the Member's Final Average Salary.) Upon retirement and commencement of the receipt of the retirement benefit, such Member shall not be entitled to any survivor's benefits.

SECTION 16

Military Service.

(a) Notwithstanding any provisions of this plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(b) Effective with respect to deaths occurring on or after January 1, 2007, while a Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a Member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the Member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the Member's death while employed.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(2) of the Internal Revenue Code, a Member receiving differential wage payments (while the Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated Members in a reasonably equivalent manner.

SECTION 17

Monthly Payments.

Any benefit hereunder shall be payable in monthly installments.

SECTION 18

Optional Annuity.

An optional annuity, as herein provided, means a benefit computed according to the approximate equivalent formula recommended by the actuary and adopted by the Board, payable during the lifetime of the specified beneficiary only if such beneficiary survives the Retiree who was receiving a reduced Service retirement annuity. If the specified beneficiary predeceases the Retiree, the Retiree's reduced Service retirement annuity shall revert to the Service retirement annuity calculated for the Member had the Member not selected the optional annuity. This recalculated Service retirement annuity shall be payable beginning the first of the month following notice of the beneficiary's death.

The amount of the optional annuity shall be that specified in the Member's notice of election, and shall not, in any event, be more than the amount of the Member's reduced Service retirement annuity.

The optional annuity shall begin on the day following the death of the Retiree.

SECTION 19

Permanent Service-Connected Disability Benefits.

Any Member, who shall, while engaged in the performance of his or her duties, be permanently injured or disabled, other than as the result of an occupational disease, and upon an examination by a physician or physicians appointed by the Board of Trustees, be found to be physically or mentally disabled as a result of such permanent Disability or injury so as to render him incapable to perform the duties of the position held by the Member at date of Disability, shall be entitled to be retired, and the Board of Trustees shall thereupon order such Member's retirement and upon being retired, the Member shall be paid a benefit equal to seventy-five percent (75%) of the Salary in effect on the date when Salary payments ceased. The benefit shall be established according to the charter ordinance that is in effect at the time Salary payments ceased.

Any Police or Fire Officer incurring an occupational disease due to service-connected causes, who upon examination by a physician or physicians appointed by the Board is found by at least two (2) out of three (3) such physicians to be physically or mentally disabled as the direct result and proximate cause of such disease so as to render him incapable to perform the duties of the position held by the Member at date of Disability, shall be entitled to be retired at a benefit equal to fifty percent (50%) of his or her Salary in effect upon the date when Salary payments ceased. The benefit shall be established according to the charter ordinance that is in effect at the time Salary payments ceased.

The Board of Trustees may, when they deem it advisable, call back for re-examination by a physician, any Member retired by reason of permanent Disability under the provisions of this ordinance, and if said examination discloses that said Member is then able to perform his or her duties in said department, he or she may be returned to Service; and if said Member, upon request, fails or refuses to return to duty, then all payments from said System shall cease.

The Disability benefit shall be recomputed when the Member attains age fifty-five (55). At such time the Member attains age fifty-five (55), the Disability benefit shall be recomputed in the same manner as a Service retirement benefit which would have been received had the Member been continuously in Service in the grade occupied at date absence on account of Disability began, subject to periodic Salary changes in such grade. In such a case, Service credit shall be granted during the period of payment of the Disability benefit, prior to attainment of age fifty-five (55), toward the recomputed Disability benefit.

SECTION 20

Non-Service Connected Disability.

Any Member having at least seven (7) years of credited Service, under the age of fifty-five (55) years, who becomes totally and permanently disabled due to any cause other than Service-Connected Disability, while an employee of the City, shall be entitled to a Non-Service Connected Disability benefit. The benefit shall be equal to thirty percent (30%) of the Final Average Salary plus one (1) percentage point for each year of Service above seven (7) years, up to a maximum of fifty percent (50%) of Final Average Salary. Accumulated unused Sick Leave will be added to Service so long as the computed benefit does not exceed fifty percent (50%) of Final Average Salary. The benefit shall be reduced by any amounts received by the Member from public funds as Salary, or other forms of compensation during Disability, exclusive of payments under Federal Social Security.

Non-Service Connected Disability shall be considered total and permanent if it results in some impairment of mind or body due to mental or physical incapacity resulting from external force, or violence, or disease that substantially precludes a Member from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that the Member would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

The benefit shall be payable during continuing Disability of the Member, but the Member shall be subject to periodic medical examinations as herein provided.

Should a Member recover from Disability and re-enter the Service of the City as a Police or Fire Officer, and shall render at least three (3) years of Service thereafter, the Member shall

be credited for Service retirement benefit purposes with the periods of time during which the Member shall have received a Non-Service Connected Disability benefit; otherwise, such Member re-entering Service shall not be entitled to Service credit for the periods of such Disability.

Disability incurred while in military service shall not be considered for benefits under the provisions of this ordinance.

A Non-Service Connected Disability shall begin to accrue upon commencement of Disability, provided that if the Member is receiving Salary, the benefit shall begin to accrue from the date Salary has ceased. If written application for the benefit shall not have been filed with the Board prior to the expiration of ninety (90) days from date of Disability, the benefit shall begin to accrue from the date application therefore has been filed, but in no event prior to the time when payments to the Member on account of Salary have ceased.

SECTION 21

Administration of Disability Annuities.

(a) The determination of Disability from any cause shall be made upon the basis of reports of examinations made by at least two (2) physicians designated by the Board.

(b) A Member receiving service-connected or non-Service Connected Disability benefits shall be required, at the discretion by the Board of Trustees, to submit to an examination at least once each year by a physician or physicians designated by the Board to establish that the Member is incapacitated for active Service as a Police or Fire Officer and is entitled to continue to receive a Disability benefit. The Board may terminate a Disability benefit upon evidence that the Member is no longer disabled for Service. If such termination occurs and the Member does not re-enter the Service, he or she shall be entitled to a refund of the excess, if any, of the contributions made by the Member, without interest, over the amounts received by the Member on the Disability benefit.

If medical examination or an investigation made by the Board discloses that the Member is engaged in or is able to engage in any gainful occupation resulting in earnings for services rendered in any capacity, payment of the Disability benefit shall be reduced to an amount which, when added to the Member's income from such gainful occupation, does not exceed the rate of Salary currently being paid for the rank similar to that held by the Member at commencement of Disability.

(c) Each Member in receipt of a Disability benefit shall submit to the Board at least once each year, an authenticated copy or duplicate original of the Member's complete United States Income Tax Return, being a statement of income from gainful occupation for the preceding twelve (12) months. Any adjustment in benefit payments, as aforesaid, shall be based upon such statement of income.

(d) Should any Member receiving a Disability benefit refuse to submit to a medical examination or supply the Board with required statements of income, as herein above provided, benefit payments by the Retirement System shall be discontinued until compliance with the provisions hereof. Should such refusal continue for one (1) year, all rights of the Member to any Disability benefit shall be revoked by the Board. Upon finding that a Member receiving a Disability benefit has deliberately falsified information contained in his or her statement of income, all rights of the Member in any Disability benefit shall be revoked by the Board.

SECTION 22

Backward Deferred Retirement Option Plan (DROP).

(a) Any Member eligible to retire on or after January 1, 2001 may, at the time of applying for retirement benefits, elect a backward DROP benefit with payment as provided herein. A Member electing a backward DROP must select an effective backward DROP date. The Member must be eligible to receive a Service retirement benefit on the effective backward DROP date.

(b) The maximum allowable DROP Period for a backward DROP is sixty (60) months. The DROP Period is the period between the Member's effective backward DROP date and the date of the Member's Withdrawal from Service.

(c) For purposes of benefit calculations, the Member's retirement date will be the effective backward DROP date.

(d) A Member's unused Sick Leave credit at the Member's date of election of the backward DROP may be added to the Member's Service at the Member's effective backward DROP date.

(e) The Member's monthly retirement benefit is calculated as of the Member's effective backward DROP date and is payable at the Member's Withdrawal from Service.

(f) The Member's DROP benefit is calculated by:

(1) multiplying the Member's monthly retirement benefit from (e), times the number of months selected by the Member as the backward DROP Period;

(2) plus any applicable post-retirement adjustments;

(3) plus interest at an annual rate of five percent (5%) compounded monthly.

(g) Application for withdrawal of the DROP account balance shall be made within ninety (90) days of the Member's Withdrawal from Service. Payment of the amount calculated in (f) shall be made only in a lump sum payment, a direct rollover, or some combination of the two.

SECTION 23

Service-Connected Death.

(a) Upon death of a Member, regardless of the Member's age or length of Service, resulting directly from service-connected causes; or an occupational disease if the Member had at least five (5) years of Service, and in the case of an occupational disease if death occurred within three (3) years from the date of commencement of the disease and the cessation of Salary payments to the Member, whichever is later, a surviving spouse shall be entitled to a benefit equal to fifty percent (50%) of the Member's final Salary at the date of the Member's death. This benefit payable to a surviving spouse hereunder shall be payable during such surviving spouse's lifetime.

(b) If such Member is also survived by a Minor Child or Minor Children, each such child shall be entitled to a benefit of ten percent (10%) of such Member's final Salary. Such benefit shall be paid to the custodial parent or guardian/conservator of each such child. The combined payments to a surviving spouse and Minor Children shall in no event exceed seventy-five percent (75%) of such Member's final Salary. In the event that the combined payments do exceed such amount, the benefit of the surviving spouse shall be reduced so that combined payments equal seventy-five percent (75%) of such Member's final Salary. At the time that combined payments no longer exceed such amount, the benefit of the surviving spouse shall be increased so that combined payments equal seventy-five percent (75%) of such Member's final Salary, but in no event shall the benefit of the surviving spouse be an amount greater than fifty percent (50%) of such Member's final Salary.

(c) If such Member dies leaving no surviving spouse, each Minor Child of such Member then surviving shall be entitled to a benefit of twenty percent (20%) of such Member's final Salary. Such benefit shall be paid to the custodial parent or guardian/conservator of each child. The combined payments on account of such Minor Children shall not exceed sixty percent (60%) of such Member's final Salary. In the event that combined payments exceed such amount, the benefits for such children shall be reduced pro rata so that total payments equal sixty percent (60%) of such Member's final Salary.(d) Benefits paid on account of Minor Children shall terminate upon the first to occur of the following:

(1) The Minor Child reaching the age of eighteen (18) years;

(2) Death of the Minor Child; or

(3) Marriage of the Minor Child.

(e) The determination of whether death is Service-Connected or not shall be made in the manner provided for in the administration of Disability benefits.

SECTION 24

Non-Service Connected Death.

(a) Upon death of a Member who has at least three (3) years of Service:

(1) whose death is not due to Service-Connected causes; or

(2) who is on Sick Leave receiving Salary on the date of death and whose death is not due to Service-Connected causes; or

(3) who is on approved leave of absence extending not more than twelve (12) continuous months on the date of death and whose death is not due to Service-Connected causes,

the surviving spouse of such Member shall be eligible to receive a benefit if such surviving spouse was the lawfully wedded spouse at the time of the death of such Member. Such surviving spouse shall continue to be eligible to receive a benefit for such spouse's lifetime. The amount of such benefit shall be as calculated in subparagraph (c) below and shall be subject to adjustment as provided in subparagraph (e) below.

(b) Upon death of a Retiree:

(1) who is receiving Service or Non-Service Connected Disability pension benefits on the date of death; or

(2) who is receiving a Service retirement benefit or is a Deferred Retiree and has at least twenty (20) years of Service at the date of death,

the surviving spouse of such Retiree shall be eligible to receive a benefit if i) such surviving spouse was the lawfully wedded spouse of such Retiree on the date such Retiree retired or began receiving either a Service or Non-Service Connected Disability pension benefit, and ii) such surviving spouse is at least forty (40) years of age at the time of the death of such Retiree, or if less than forty (40) years of age has, at the time of death of such Retiree, the care and custody of a Minor Child or Children of such Retiree. A surviving spouse who is not eligible to receive a benefit because such surviving spouse is less than forty (40) years of age shall become eligible to receive a benefit on the date that such surviving spouse attains the age of forty (40) years, so long as such surviving spouse has not remarried. A surviving spouse who is eligible to receive a benefit shall continue to receive a benefit for such spouse's lifetime so long as such surviving spouse does not remarry after the date such Retiree dies and prior to such surviving spouse attaining the age of forty (40) years. The amount of such benefit shall be calculated as provided in subparagraph (c) below and shall be subject to adjustment as provided in subparagraph (e) below.

(c) Subject to adjustment because of the requirements of subparagraph (e) below, the benefit to be paid to a surviving spouse who is eligible to receive such a benefit under either paragraph (a) or (b) above, shall be equal to thirty-five percent (35%) of such Member or Retiree's Final Average Salary, increased by one percentage point for each year of Service greater than three (3) years, up to a maximum benefit of fifty percent (50%) of Final Average Salary. Provided, however, for a Member or Retiree under Plan B, such benefit shall be equal to fifty percent (50%) of such Member or Retiree's final Salary.

(d) If a Member or Retiree dies under circumstances set out in subsection (a) or (b) above, each surviving Minor Child of such Member or Retiree shall be entitled to a benefit as calculated herein and subject to adjustment because of the requirements of subparagraph (e) below. The amount of such benefit, if a benefit is also being paid to a surviving spouse of such Member or Retiree, shall be ten percent (10%) of such Member or Retiree's Final Average Salary. The amount of such benefit, if no benefit is being paid to a surviving spouse of such Member or Retiree, shall be fifteen percent (15%) of such Member or Retiree's Final Average Salary. The benefit for a Minor Child shall be paid to the custodial

parent or conservator of each such Minor Child. When a Minor Child is receiving a ten percent (10%) benefit and the benefit being paid to a surviving spouse of the Member or Retiree on account of whose death each benefit was initially paid is terminated, the benefit to be paid to such Minor Child shall increase to fifteen percent (15%) of such Member or Retiree's Final Average Salary.

(e) (1) The combined monthly benefit payment to a surviving spouse and Minor Children shall not exceed sixty-six and two-thirds percent (66 2/3%) of the Final Average Salary of the Member or Retiree on account of whose death the benefits are being paid. In the event that the calculation of such benefit results in such combined monthly benefit payment in excess of that amount, the benefit of the surviving spouse shall be reduced so that the combined monthly benefit payment equals sixty-six and two-thirds percent (66 2/3%) of such Member or Retiree's Final Average Salary. The benefit for such surviving spouse shall be increased at such time as the combined monthly benefit payment no longer exceeds such sixty-six and two-thirds percent (66 2/3%) limit, but in no event shall such increase result in such surviving spouse's benefit exceeding the amount originally calculated under subsection (c). When no benefit is being paid to a surviving spouse because the benefit calculated for the surviving spouse has been reduced to zero because of the adjustment set out above, any adjustment to the benefits paid to Minor Children because the combined monthly benefit payments exceed sixty-six and two-thirds percent (66 2/3%) of such Member or Retiree's Final Average Salary shall be made pro rata among such Member or Retiree's Minor Children, and such adjustment shall continue until the combined monthly benefit payment can be paid to eligible Minor Children without exceeding such sixty-six and two-thirds percent (66 2/3%) limit.

(2) The combined monthly benefit payment to Minor Children where there is no benefit being paid to a surviving spouse because no surviving spouse is eligible for such a benefit shall not exceed fifty percent (50%) of the Final Average Salary of the Member or Retiree on account of whose death the benefits are being paid. In the event that combined monthly payments exceed such amount, the benefit of each such Minor Child

shall be reduced pro rata so that combined monthly payments equal fifty percent (50%) of such Member or Retiree's Final Average Salary. In no event shall the benefit paid a Minor Child exceed fifteen percent (15%).

(3) The combined monthly benefit payment to a surviving spouse and Minor Children or to Minor Children shall not exceed the amount of the monthly Service retirement or Disability retirement benefit being paid on the date of the death of the Retiree on account of whose death such benefit payments are being made. In the event that the calculation of such benefit results in a combined monthly benefit payment in excess of such amount, i) the benefit of the surviving spouse shall be reduced so that the combined monthly benefit payment equals such Service retirement or Disability retirement benefit; or ii) if no benefit payment is being paid to a surviving spouse, the benefits of all Minor Children shall be reduced pro rata so that the combined monthly benefit payment equals such Service retirement or Disability retirement benefit. Once reduced, these benefit payments shall be increased in the same manner and subject to the same limitations as set forth in (e) (1) and (e) (2) above.

(f) Benefit payments for a Minor Child shall terminate upon such child reaching eighteen (18) years of age, the death of such child, or the marriage of such child, whichever shall occur first.

(g) The surviving spouse of a Retiree who retired on or after January 1, 2000 and thereafter dies under circumstances set out in subsections (b)(1) or (b)(2) above, shall not be limited by either the age requirement or the remarriage limitations set forth in subparagraph (b) herein. Provided, however that such surviving spouse, in order to be eligible to receive a benefit, shall have been such Retiree's lawfully wedded spouse for at least twelve (12) months immediately preceding the death of such Retiree.

(h) A Member who, on or after January 1, 2000, selects an effective backward DROP date which is prior to January 1, 2000, shall nevertheless be considered to have retired on or after January 1, 2000 for the purposes of determining the eligibility of such Member's surviving spouse for a benefit.

(i) For a Member or Retiree under Plan B, benefit payments on account of Minor Children shall be paid only if such Member or Retiree dies leaving no surviving spouse or dies leaving a surviving spouse who remarries prior to age forty (40).

Under either such circumstance, the Minor Children of such Member or Retiree shall share equally a benefit equal to fifty percent (50%) of such Member or Retiree's final Salary.

SECTION 25

Post Retirement Adjustments.

For all Members retiring for any reason from and after February 1, 1974, upon completion of thirty-six (36) months of retirement, the monthly retirement benefits payable to such Retiree, or the monthly retirement benefits payable to the spouse or the Minor Child or Children of such Retiree, shall be increased two percent (2%) per year based on the original benefit, not compounded.

SECTION 26

Funeral Benefit.

The designated beneficiary of a Member who retired after November 21, 1973 under either Plan A, Plan B, or Plan C-79 shall be paid a funeral benefit of seven hundred fifty dollars ($750.00).

SECTION 27

Assignments Prohibited.

The right to a refund or a service retirement, Disability, death, or any benefit under the provisions of this ordinance, whatever name called, is personal with the recipient thereof, and the assignment or transfer of any such benefit, or any part thereof shall be void, except as may be provided herein. Any such refund or benefit shall not answer for debts contracted by the person receiving the same, and it is the intention of this ordinance that they shall not be subject to execution, attachment, garnishment, or affected by any judicial proceedings, except such benefit or any accumulated contributions due and owing from the System to any recipient are subject to claims of an alternate payee under a "qualified domestic relations order".

SECTION 28

Qualified Domestic Relations Orders.

As used in this section, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the Internal Revenue Code. The City of Wichita shall not be a party to any action under Article 10 of Chapter 60 of the Kansas Statutes Annotated but is subject to orders from such actions issued by the district court of the county where such action was filed and may also accept orders which it deems to be qualified under this section from courts having jurisdiction of such actions outside the State

of Kansas. Orders from such actions shall specify either a specific amount or specific percentage of the amount of the benefit or any accumulated contributions due and owing from the Fund and to be distributed to the alternate payee. The order must contain the following information:

(a) Name, address, and social security number of the employee and alternate payee;

(b) Clearly identifies the appropriate Police & Fire Retirement System and plan;

(c) Creates or recognizes the existence of an alternate payee's rights to, or assigns to an alternate payee the right to receive a portion of the benefits otherwise payable to the employee;

(d) The date of marriage and divorce/separation;

(e) Statement that the benefit is payable only at the time of retirement of the employee or at the time the employee withdraws from Service, if the employee withdraws his or her contributions from the Fund;

(f) That the benefit is payable only during the lifetime of the retired employee or alternate payee should the alternate payee predecease the employee;

(g) Payment to the alternate payee shall be a lump sum if payment to the employee is lump sum, monthly if payment to the employee is monthly; and

(h) An employee who elects to participate in the DROP shall be treated as having retired for the purposes of a qualified domestic relations order.

The order to be qualified cannot allow the calculation of the lump sum payment or monthly benefit to be calculated in a manner which results in a payment or benefit in excess of the limits of the plan; cannot allow the alternate payee to be named as a surviving spouse or a survivor at the death of the retired employee; and cannot allow the alternate payee to name a beneficiary.

SECTION 29

Current Retiree Benefit Catch-Up Provision.

For Retirees who have been receiving a Service or Disability retirement benefit for ten (10) years or more as of January 1, 2000, and for the surviving spouses of deceased Retirees who retired and began receiving a Service or Disability retirement benefit prior to January 1, 1990, the pension benefit payable to such Retirees and such surviving spouses shall be increased by a factor of two percent (2%) per year for each year since such Retiree or the deceased Retiree began receiving a Service retirement benefit. This increase is a one-time benefit adjustment. This increase shall be applied to both the base pension benefit and any post-retirement adjustment, combined. The increased pension benefit calculated under this section shall in no event exceed $8,183.00 annually.

SECTION 30

Special Provisions for Safety Officers Employed by the Wichita Airport Authority.

Safety officers employed by the Wichita Airport Authority of the City of Wichita on June 29, 1996 shall be transferred on that date from the Wichita Employees' Retirement Plans to the Police and Fire Retirement System's Plan C-79. Notwithstanding provisions of any other sections contained herein, the following provisions shall be applicable for such safety officers transferred as of June 29, 1996:

(a) Service credit under the Wichita Employees' Retirement Plans shall be considered Service for purposes of meeting Service eligibility requirements for benefits under the Police and Fire Retirement System Plan C-79;

(b) Service under the Wichita Employees' Retirement Plans shall not be considered in the determination of the amount of any benefit payable by the Police and Fire Retirement System Plan C-79; and

(c) Under no circumstances will the total retirement benefit payable to a safety officer as a result of this transfer exceed an amount equal to seventy-five percent (75%) of his or her Final Average Salary regardless whether the source of the benefit is the Wichita Employees' Retirement System or the Police and Fire Retirement System.

SECTION 31

Re-employment of Retirees.

(a) Any Member under the Retirement System who is receiving a retirement benefit and who is re-employed as a commissioned Police or Fire Officer with the City of Wichita, or in a non-commissioned position under the Wichita Employee's Retirement System, shall have such Member's retirement benefit immediately suspended, and no benefit payments shall be made during the entire time such Member is so employed. However, nothing is intended to prohibit such member from participation in the appropriate retirement system and the accrual of additional Service for credit.

(b) Upon termination of such employment as a commissioned officer, payment of the retirement benefit shall be resumed; provided, however, nothing herein shall be construed to prohibit the employment of a retired police or fire commissioned officer in an advisory or consultant capacity on an independent contractor basis.

(c) Under no circumstances will the total retirement benefit payable to a re-employed Member exceed an amount equal to seventy-five percent (75%) of his or her Final Average Salary regardless whether the source of the benefit is the

Wichita Employees' Retirement System or the Police and Fire Retirement System.

SECTION 32

Fraud.

Any person who knowingly makes a false statement in connection with the application for or the receipt of benefits, or falsifies or permits to be falsified, any record or records of this Retirement System, in an attempt to defraud the Retirement System, shall forfeit all rights to benefits hereunder. The Retirement System and the City shall have the right to recover by setoff or otherwise, any payments based on such false statement or falsified record.

SECTION 33

Limited Extension of Option and its Effective Date.

Any Police or Fire Officer who had previously elected to participate in Plan B shall have an option at any time prior to retirement to elect participation in Plan A by paying into the Retirement System a sum of money, without interest, equal to the difference in contributions which would have been paid by such Police or Fire Officer had they elected Plan A on January 1, 1965; provided, that once having made such election, such Police or Fire Officer shall not be permitted to revert back to Plan B.

SECTION 34

Benefit and Disability Rights Under Prior Laws Saved.

This ordinance shall not affect the rights nor decrease the Disability or retirement benefits of any Member or such Member's beneficiaries, who has died, been permanently disabled, or retired under any previously authorized and existing pension or retirement system. Any Member in service at the time of the effective date of this ordinance, who is at said time entitled to a benefit under any previously authorized pension or Retirement System shall not have such benefit reduced by virtue of the application of the provisions of this ordinance.

SECTION 35

Invalidity of Part.

If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are declared to be severable.

SECTION 36

Compliance with Code Section 415 Limitations on Contributions and Benefits.

a) Notwithstanding any other provisions of the Retirement System to the contrary, the Member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

(b) *Participation in Other Qualified Plans: Aggregation of Limits.*

(1) The 415(b) limit with respect to any Member who at any time has been a Member in any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by the Member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the Member has been a Member were payable from one (1) plan.

(2) The 415(c) limit with respect to any Member who at any time has been a Member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the Member's employer in this plan shall apply as if the total annual additions under all such defined contributions plans in which the Member has been a Member were payable from one (1) plan.

(c) *Basic 415(b) Limitation.*

(1) Before January 1, 1995, a Member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after January 1, 1995, a Member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the Retirement System. In no event shall a Member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

(2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to

Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) *Adjustments to Basic 415(b) Limitation for Form of Benefit.*

If the benefit under the plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the form of benefit to the Member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section

415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(e) *Benefits Not Taken into Account for 415(b) Limitation.*

For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(f) *Other Adjustments in 415(b) Limitation.*

(1) In the event the Member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

(2) In the event the Member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) *Ten Thousand Dollar ($10,000) Limit.*

Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such Member under this plan and under all other qualified defined benefit pension plans to which the Member's employer contributes, do not exceed ten thousand dollars ($10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the Member participated.

(h) *Effect of COLA without a Lump Sum Component on 415(b) Testing.*

Effective on and after January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code (the "Limit") to a Member with no lump sum benefit, the following will apply:

(1) a Member's applicable Limit will be applied to the Member's annual benefit in the Member's first limitation year without regard to any cost of living adjustments under Section 25;

(2) to the extent that the Member's annual benefit equals or exceeds the Limit, the Member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a Member's annual benefit, including any cost of living increases under Section 25, shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(i) *Effect of COLA with Lump Sum Component on 415(b) Testing.*

On and after January 1, 2009, with respect to a Member who receives a portion of the Member's annual benefit in a lump sum, a Member's applicable Limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(j) *Section 415(c) Limitations on Contributions and Other Additions.*

After-tax Member contributions or other annual additions with respect to a Member may not exceed the lesser of $40,000 (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the Member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, Member contributions, and forfeitures credited to a Member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that Member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

(3) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is

required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a Member's severance from employment or the end of the limitation year that includes the date of the Member's severance from employment if:

(I) the payment is regular compensation for services during the Member's regular working hours, or compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the Member while the Member continued in employment with the employer; or

(II) the payment is for unused accrued bona fide sick, vacation or other leave that the Member would have been able to use if employment had continued; or

(III) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Member at the same time if the Member had continued employment with the employer and only to

the extent that the payment is includible in the Member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to a Member who does not currently perform services for the employer by reason of qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the Member would have received if the Member had continued to perform services for the employer rather than entering qualified military service.

A Member who is in qualified military service (within the meaning of Section 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the Member would have received during such period if the Member were not in qualified military service, determined based on the rate of pay the Member would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the Member would have received during such period was not reasonably certain, the Member's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a Member's compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(k) *Service Purchases under Section 415(n).*

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a Member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

(1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section 415(b) of the Internal Revenue Code, or

(2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.

(3) For purposes of applying this section, the system will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit-

(A) recognized by the system for purposes of calculating a Member's benefit under the system,

(B) which such Member has not received under the system, and

(C) which such Member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the system.

(5) The system will fail to meet the requirements of this section if-

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the system.

(6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to-

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in Section 415(k)(3) of the Internal Revenue Code),

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(C) service as an employee of an association of employees who are described in clause (A), or

(D) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a Member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer)-

(A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.

(8) For an eligible Member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the

amount which was allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this paragraph an eligible Member is an individual who first became a Member in the system before January 1, 1998.

(l) *Modifications of Contributions for 415(c) and 415(n) Purposes.*

Notwithstanding any other provision of law to the contrary, the system may modify a request by a Member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Section 415 of the Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the Member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the system may either reduce the Member's contribution to an amount within the limits of those sections or refuse the Member's contribution.

(m) *Repayments of Cashouts.*

Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the Retirement System shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

(n) *Reduction of Benefits Priority.*

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different

manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such Member.

SECTION 37

Direct Rollovers of Defined Benefit Plan Distributions.

(a) Except as otherwise indicated herein, this section shall apply to all rollovers made after December 31, 2001.

(b) For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than $200 during the year. Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for

the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code. Effective January 1, 2002, the definition of an eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Section 408(a) of the Internal Revenue Code;

(B) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;

(C) an annuity plan described in Section 403(a) of the Internal Revenue Code;

(D) a qualified trust described in Section 401(a) of the Internal Revenue Code;

(E) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;

(F) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the Retirement System; or

(G) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to

an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Rollover contributions and/or direct rollovers of distributions made after December 31, 2001 will be accepted for the purchase of prior or future service credit from the types of plans specified.

(d) The plan will accept a direct rollover of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(e) The plan will accept a participant contribution of an eligible rollover distribution from:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

(f) The plan will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408 (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

SECTION 38

The Original of Charter Ordinance No. 205 of the City of Wichita, Kansas, is hereby repealed.

SECTION 39

Publication.

This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

SECTION 40

Petition for Referendum.

This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Constitution of Kansas, in which case the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2009.

Carl Brewer, MayorATTEST:

_____

_____

Karen Sublett, City Clerk

Approved as to Form:

_____

Gary E. Rebenstorf, Director of Law

Agenda Report No. III-3.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Federal Edward Byrne Memorial Justice Assistance Grant E-Citation Program.

INITIATED BY: Wichita Police Department, Municipal Court

AGENDA: New Business

Recommendation: Approve the grant application.

Background: On May 5th, 2009, the Wichita City Council approved a Memorandum of Understanding between the Wichita Police Department and Sedgwick County Sheriff's Office to share grant funding directly allocated to jurisdictions through the Edward Byrne Memorial Justice Assistance Grant (JAG). The Federal Edward Byrne Memorial JAG also allocated grant funds to the State of Kansas for which jurisdictions within the state can compete to support innovative projects and/or proven programs related to planning, evaluation, and technology improvements.

E-Citation
The Wichita Police Department is working toward the implementation of automated citations. The City-wide Environmental Scan conducted by Wichita State University identified E-Citations as a cost-saving, innovative technology. The E-Citation Program would enhance the Department's aggressive traffic safety program designed to reduce traffic fatalities through targeted enforcement at high accident locations and selected sites. E-Citations reduce the time officers spend on car stops, maximizing their proactive patrol time. Electronic citations also improve efficiency in Municipal Court by eliminating handwriting misinterpretations and data entry errors. The Department anticipates the program will compensate for personnel lost to budget constraints and/or hiring slowdowns within the Police Department and Municipal Court.

SPSS Software
The Wichita Police Department currently employs one Planning Analyst to provide analytical and predictive services to a department of 857; including 669 commissioned officers. Crime analysis is also requested by community members, outside police agencies within the County, City Departments, and elected officials. Updating the Department's capabilities to provide predictive analysis through the use of SPSS predictive and statistical software will improve the Department's ability to economically and effectively focus limited resources on specific crime trends.

Transcription contract
The District Attorney's office requires typed transcripts of suspect interviews, and in some cases victim and witness interviews, before charging a case. In many instances this requires interviews be transcribed within 24-48 hours of the interview. Current economic restraints have precluded the hiring of Records personnel tasked with transcribing interviews and taped reports. Outsourcing some transcription services ensures cases are charged in a timely manner, and that violent offenders are not released back into the community.

Analysis: Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide for implementation of an E-Citation program, the acquisition of predictive software from SPSS, and for transcription services to deal with a backlog in interview transcription resulting from personnel shortages. The acquisition of the equipment and services immediately follows the awarding of the grant.

Financial Considerations: The Wichita Police Department is applying for $855,976.73 in 2009 Edward Byrne Memorial Justice Assistance Grant funding. There is no local match requirement.

e-Citation automated ticket program	780,842.73
SPSS statistical software & training	15,134.00
Transcription Services	70,000.00
Total	**$855,976.73**

Goal Impact: Under the City of Wichita's Safe and Secure Initiative, the grant funding will help to insure the police department can continue its emphasis on the community policing philosophy through the use of technology to improve service and reduce costs. The Wichita Police Department's community policing philosophy stresses proactive and preventative law enforcement in partnership with citizens, in an effort to prevent, solve, and reduce crime, and address quality-of-life issues within the community.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the grant application.

Attachments: Program Narrative to be submitted with grant application.

Program Narrative

The Wichita City Council has identified several key goals for the City of Wichita. One of the goals is to provide a Safe and Secure Community. In working towards this goal the Wichita Police Department strives to provide professional public safety services in partnership with citizens to identify, prevent and solve the problems of crime, fear of crime, social disorders and neighborhood decay, thereby improving the quality of life in our community.

The Wichita Police Department has identified projects designed to proactively address the public safety needs for the City of Wichita. The department's goal is to maintain Wichita's status as one of the safest cities in the United States by maintaining and/or improving response times and crime rates, using the Community Policing Philosophy to focus on crime prevention and youth initiatives, enhancing traffic safety through education and enforcement, and maintaining and/or improve citizen's perception of public safety.

Under the City of Wichita's Safe and Secure Initiative, the funding received from the Edward Byrne Memorial Justice Assistance Grant will provide for implementation of an E-Citation program, the acquisition of predictive software from SPSS, and for transcription services to supplement existing Record's Bureau personnel. The acquisition of the equipment and services immediately follows the awarding of the grant.

E-Citation Program: The E-Citation Program is designed to enhance the Department's aggressive traffic safety program, designed to reduce traffic fatalities through targeted enforcement at high accident locations and selected sites. The E-Citation Program reduces the amount of time officers spend on car stops, maximizing their proactive patrol time. The electronic citations also improve accuracy by eliminating handwriting misinterpretations and data entry errors. The Department anticipates the program will compensate for personnel lost to budget constraints and/or hiring slowdowns within the Police Department and Municipal Court.

SPSS Software: The Wichita Police Department currently employs one Planning Analyst to provide analytical and predictive services to a department of 857; including 669 commissioned officers. Crime analysis is also requested by other police agencies, City Departments, and elected officials. Updating the Department's capabilities to provide predictive analysis through the use of SPSS predictive and statistical software will improve the Department's ability to economically and effectively focus limited resources on specific crime trends.

Transcription Services: The District Attorney's office requires typed transcripts of suspect interviews, and in some cases victim and witness interviews, before charging. In many instances this requires interviews be transcribed within 24-48 hours of the interview. Current economic restraints have precluded the hiring of Records Bureau personnel tasked with transcribing interviews and taped report. Outsourcing some transcription services ensures cases are charged in a timely manner, and that violent offenders are not released back into the community.

Implementation Timeline

The timeline established for the equipment projects are as follows:

Project	Month/Year
SPSS Predictive Software	October 2009
E-Citation	April 2010
Transcription Services	Immediate

Performance Measures:

1. Maintain clearance rates for all Part 1 crimes which equal or exceed the national average rate based on Federal Bureau of Investigation's 2007 percent of offense cleared by arrests of exceptional means for cities with a population between 250,000 and 499,000.

2. Monitor injury accident and traffic fatality rates comparing Wichita to cities of comparable size (Wichita = 10.07 accidents/100,000; National = 9.23 accidents/100,000).

3. Track the number of moving citations issued Citywide.

4. Track the backlog of police reports in queue for transcription.

5. Document anecdotal successes for predictive analysis related to Part 1 offenses.

Agenda Report No. III-4.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Federal Recovery Act Edward Byrne Memorial Justice Assistance Grant Crime Analyst Program.

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Approve the grant application.

Background: On May 5th, 2009, the Wichita City Council approved a Memorandum of Understanding between the Wichita Police Department and Sedgwick County Sheriff's Office to share grant funding directly allocated to jurisdictions through the Edward Byrne Memorial Justice Assistance Grant (JAG). The Federal Edward Byrne Memorial JAG also allocated grant funds to the State of Kansas for which jurisdictions within the state can compete. These funds are directed toward hiring criminal justice personnel and promoting economic growth by improving the effectiveness and efficiency of criminal the justice system.

Analysis: The Wichita Police Department currently employs one Planning Analyst to provide statistical, analytical, and predictive services to a Department of 857, including 669 commissioned officers. Additionally, the Analyst handles ad hoc requests for crime statistics and related information from the community, other City Departments, and elected officials. During 2008 the Department's Planning Analyst handled 510 requests for statistical information, density maps, and crime trend analysis, as well as requests for technical assistance, such as password resets and help with the Department's databases and portal. The addition of a second Planning Analyst would improve the level of customer service to officers and community, with the ultimate goal of reducing crime and fear of crime in Wichita. Funding received from the Recovery Act Edward Byrne Memorial Justice Assistance Grant will provide for one additional Planning Analyst, analytical and predictive software, related training, and IT charges for the new position. Increasing the Department's capabilities in the field of predictive crime analysis will improve the Department's ability to economically and effectively focus limited resources on specific crime trends.

Financial Considerations: The Wichita Police Department is applying for $155,716.10 in Recovery Act Edward Byrne Memorial Justice Assistance Grant funding. There is no local match or retention requirement. At the conclusion of the 2-year grant period, the Wichita Police Department will re-evaluate the position and make the appropriate budget recommendations. Should the position be retained, local funds would be required to fund salary, benefits and IT fees would continue at approximately $72,462.00 per year, plus applicable increases.

	7-1-09 to 6-30-10	7-1-10 to 6-30-11	Total
Planning Analyst Salary & Benefits	62,766.54	66,204.56	**128,971.10**
Necessary analytical and predictive software	4,385.00		**4,385.00**
Software training (Microsoft Excel, Crystal Reports 9, ArcView, Spatial Analyst, i2, and Microsoft SQL Server)	6,000.00	4,000.00	**10,000.00**
IT charges	6,102.00	6,258.00	**12,360.00**
Total	79,253,54	76,462.56	**155,716.10**

Goal Impact: Under the City of Wichita's Safe and Secure Initiative, the grant funding will help to insure the police department can continue its emphasis on the community policing philosophy by increasing the Department's ability to provide statistical and predictive information to officers and the community. The Wichita Police Department's community policing philosophy stresses proactive and preventative law enforcement in partnership with citizens, in an effort to prevent, solve, and reduce crime, and address quality-of-life issues within the community.

Legal Considerations: None

Recommendations/Actions: It is recommended that the City Council approve the grant application.

Attachments: Program Narrative to be submitted with grant application.

Program Narrative

The Wichita City Council has identified several key goals for the City of Wichita. One of the goals is to provide a Safe and Secure Community. In working towards this goal the Wichita Police Department strives to provide professional public safety services in partnership with citizens to identify, prevent and solve the problems of crime, fear of crime, social disorders and neighborhood decay, thereby improving the quality of life in our community.

The Wichita Police Department consistently develops innovative programs designed to proactively address the public safety needs for the City of Wichita. The Department's goal is to maintain Wichita's status as one of the safest cities in the United States by maintaining and/or improving response times and crime rates, using the Community Policing Philosophy to focus on crime prevention and youth initiatives, enhancing traffic safety through education and enforcement, and maintaining and/or improve citizen's perception of public safety.

Under the City of Wichita's Safe and Secure Initiative, the funding received from the Recovery Act Edward Byrne Memorial Justice Assistance Grant will provide funding for one additional crime analyst, related analytical and predictive software, training, and IT charges for that new position. The Wichita Police Department currently employs one Planning Analyst to provide statistical, analytical, and predictive services to a Department of 857, including 669 commissioned officers. Additionally, the Analyst handles ad hoc requests for crime statistics and related information from the community, other City Departments, and elected officials. During 2008 the Department's Planning Analyst handled 510 requests for statistical information, density maps, and crime trend analysis, as well as requests for technical assistance, such as password resets and help with the Department's databases and portal. The addition of a second Planning Analyst would improve the level of customer service to officers and community, with the ultimate goal of reducing crime and fear of crime in Wichita. Hiring for the position immediately follows the awarding of the grant.

Funding received from the Recovery Act Edward Byrne Memorial Justice Assistance Grant will provide for one additional Planning Analyst, analytical and predictive software, related training (to include Microsoft Excel, Crystal Reports 9, ArcView, Spatial Analyst, i2, and Microsoft SQL Server), and IT charges for the new position. Increasing the Department's capabilities in the field of predictive crime analysis will improve the Department's ability to economically and effectively focus limited resources on specific crime trends.

Implementation Timeline

	2 weeks	4 weeks	8 weeks	10 weeks
Grant Awarded	Advertise Position	Interview Applicants	Conditional Job Offer	Implementation of new position

Performance Measures:

1. Increase the level of predictive analysis provided to the Investigations and Patrol Bureaus related to Part 1 offenses.

2. Reduce response time to ad hoc requests for statistical and predictive analysis related to immediate community concerns and crime trends.

3. Track the number of requests made to the Planning Analysts, number of requests completed, and average time required to complete each request.

4. Document anecdotal successes for predictive analysis related to Part 1 offenses.

Agenda Item No. III-5.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Heartland Preparedness Center. (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

- -

Recommendation: Adopt the Resolution, approve the Contract and Agreement.

Background: Since 2002, the City and County have engaged in a partnership effort with the Kansas Army National Guard (KSARNG) and, later, the United States Marine Corps Reserve (USMCR), to locate a joint military training center in Wichita (Heartland Preparedness Center). The current project will bring together consolidated elements of the KSARNG and USMCR in a center that will support eight distinct units and 674 authorized personnel. Construction start is planned for October 2010. The City has provided approximately 30 acres in the vicinity of I-135 and K-96 for the facility. Federal guidelines for these kinds of National Guard/Reserve projects will allow payment for design and construction of the military components, but not basic site infrastructure or land purchase. The City and County developed an understanding to fund equally the design and construction of necessary infrastructure to make the site usable.

Analysis: KSARNG has retained the Topeka firm of HTK Architects to do the design, construction documents and construction administration of their facility. Their project schedule is to have 100% bid documents complete by June 2010 with a bid opening in July 2010. This will allow a contract to be awarded to a general contractor in October 2010 when their construction dollars become available.

To allow construction to start immediately in October 2010, the City and County envision infrastructure design occurring in 2009, followed by construction - principally in 2010 - to be complete well before October 2010. As the lead agency, the City has project management responsibility and is ready to engage architectural/engineering services. To ensure clarity in the City/County partnership, an agreement was created. This agreement provides a maximum financial commitment (subject to Board of County Commissioners (BoCC) and City Council action), and the basic methodology for expending the funds set aside for this purpose.

Subject to City Council approval of the agreement, the BoCC has approved the expenditure of their share of design funds at $161,455. The County has reserved in their CIP a maximum of $1,911,862 for the design and construction of the infrastructure improvements.

A contract has been negotiated with the firm of Gossen Livingston Architecture (GLA) to provide the Law Enforcement Training facility design coordination and infrastructure design/construction/bid documents in an amount not to exceed $322,910, which will be split equally between the City and County at $161,455 each. This new contract with GLA was negotiated because they were first selected through the City's official selection process in June 2002, Formal Proposal 200055, and approved by City Council

on September 17, 2002 for the initial 35% design of this project. The work GLA will do under this new contract is directly related to their earlier involvement.

The City has reserved in their CIP a maximum of $1,950,000 for the design and construction of the infrastructure improvements. The total amount reserved City and County for the design and construction of the infrastructure improvements is $3,861,862. As the design and construction documents cost is $322,000, the balance for construction to be shared between the City and County is $3,539,862.

Financial Considerations: The Heartland Preparedness Center Project is authorized in the adopted 2007-2016 Capital Improvement Program (CIP) as follows:

Year	Funding Source		Total CIP Budget
	GO	Other	
2009	200,000	200,000	400,000
2010	1,750,000	1,750,000	3,500,000
2011	0	28,000,000	28,000,000
2012	2,200,000	28,000,000	30,200,000
2013	2,210,000	28,000,000	30,210,000
Total	6,360,000	85,950,000	92,310,000

Only 2009 and 2010 GO funds are being initiated at this time for a total of $1,950,000 (Project No. 435450, OCA No. 792529).

Goal Impact: The Heartland Preparedness Center satisfies the Safe and Secure Community Goal by combining the National Guard, Marine Reserves, City/County law enforcement, and community needs into a facility that will put Wichita and Sedgwick County in a position of national leadership in meeting the needs of local Homeland Defense.

Legal Considerations: The Law Department has approved the Resolution, Contract and Agreement as to form.

Recommendations/Actions: It is recommended that the City Council adopt the Resolution, approve the Contract and Agreement and authorize the necessary signatures.

Attachments: Resolution, Contract, and Agreement.

792529

First Published in the Wichita Eagle on June 12, 2009

RESOLUTION NO. 09-167

A RESOLUTION APPROVING THE INITIATION OF A PROJECT TO DESIGN AND CONSTRUCT THE HEARTLAND PREPAREDNESS CENTER AND DECLARING IT TO BE THE INTENTION OF THE CITY TO ISSUE GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED $1,950,000.00 TO PAY ALL OR A PORTION OF THE COSTS OF SUCH PROJECT.

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

SECTION 1. The City Council approves the initiation of a project to construct the Heartland Preparedness Center on property owned by it and generally located north of 27th Street North; east of Interstate I-135; south of K-96 Highway; and west of Hillside Avenue in the City of Wichita, Kansas.

SECTION 2. The governing body hereby declares it to be its intention to issue and sell, in the manner provided by law, general obligation bonds in an amount not to exceed $1,950,000.00, exclusive of the costs of interest on borrowed money, under the authority of K.S.A. 13-1024c, as amended by City of Wichita Charter ordinance No. 156, to pay all or a portion of the cost of such project.

SECTION 3. This Resolution shall take effect and be in force from and after its passage and shall be published in the official City paper.

ADOPTED at Wichita, Kansas, this 9th day of June, 2009.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

CONTRACT FOR ARCHITECTURAL SERVICES

THIS AGREEMENT, Made and entered into this _____day of _____, 2009,

BY AND BETWEEN THE CITY OF WICHITA, KANSAS, A Municipal Corporation, hereinafter referred to as "**OWNER**"

AND GOSSEN LIVINGSTON ARCHITECTURE, hereinafter referred to as "**ARCHITECT**"

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

WHEREAS, the **OWNER** desires to have plans and specifications prepared and to complete Professional Services for the Heartland Preparedness Center hereinafter referred to as the "PROJECT"; and

WHEREAS, **ARCHITECT** wishes to provide professional services to the **OWNER** to do such evaluation, preparation of plans and specifications, and related services therefore:

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

I. PURPOSE:

The **OWNER** employs the **ARCHITECT** and he agrees to perform all necessary professional services hereinafter set forth in connection with the "PROJECT" of the City of Wichita, Heartland Preparedness Center, located generally at I-135 and New York, Wichita, Sedgwick County, Kansas.

II. BASIC SERVICES:

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

III. THE ARCHITECT AGREES

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

B. To attend meetings with the **OWNER** and other local, State and Federal agencies as necessitated by the SCOPE OF SERVICES (Exhibit "A").

C. To make available during regular office hours, all calculations, sketches and drawings such as the **OWNER** may wish to examine periodically during performance of this Agreement.

D. To save and hold **OWNER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **ARCHITECT**, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by **ARCHITECT** and, where relevant to method of payment, to make such material available to the **OWNER**.

F. To comply with Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the **OWNER'S** Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article V and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with the tasks as outlined in the SCOPE OF SERVICES (Exhibit "A").

H. To complete the services to be performed by **ARCHITECT** within the time allotted for the PROJECT in accordance with Paragraph VI, Time of Completion; EXCEPT that the **ARCHITECT** shall not be responsible or held liable for delays occasioned by the actions or inactions of the **OWNER** or other agencies, or for other unavoidable delays beyond the control of the **ARCHITECT**.

I. Covenants and represents to be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the **ARCHITECT** under this Agreement. **ARCHITECT** further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by **ARCHITECT**, its agents, employees and subcontractors, under this Agreement, including any addition, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. **ARCHITECT** shall procure and maintain such insurance as will protect the **ARCHITECT** from damages resulting from the negligent acts of the **ARCHITECT**, its officers, and employees in the performance of the professional services rendered under this Agreement. Such policy of insurance shall be in an amount not less than $1,000,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

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

Further, a comprehensive general liability policy shall be procured and maintained by the **ARCHITECT** that shall be written in a comprehensive form and shall protect **ARCHITECT** against all claims arising from injuries to persons (other than

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

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

   The designated Project Manager SHALL coordinate ALL aspects of this Project through the **OWNER'S** Project Manager. Any requests from any other staff agency, which would affect the **ARCHITECTS** time or expense relative to this Project, **MUST** be approved by the **OWNER'S** Project Manager.

IV. THE OWNER AGREES:

A. To furnish all available data pertaining to the PROJECT now in the **OWNER'S** files at no cost to the **ARCHITECT**. Confidential material so furnished will be kept confidential by the **ARCHITECT**.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the **ARCHITECT**, except as specified in EXHIBIT “A”.

C. To pay the **ARCHITECT** for his services in accordance with the requirements of this Agreement.

D. To provide the right-of-entry for **ARCHITECT'S** personnel in performing field surveys and observations.

E. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The **OWNER** agrees to advise, the **ARCHITECT**, in writing, of the person designated as Project Manager with the issuance of the notice to proceed on the work required by this Agreement. The **OWNER** shall also advise the **ARCHITECT** of any changes in the person designated Project Manager. Written notification shall be provided to the **ARCHITECT** for any changes exceeding one week in length of time.

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

G. To save and hold **ARCHITECT** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or cause by errors, omissions, or negligent acts of **OWNER**, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Contract.

V. PAYMENT PROVISIONS:

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

A. For the complete architectural, mechanical, plumbing, electrical, structural and civil engineering services and other related items including those items identified in SCOPE OF SERVICES, EXHIBIT "A" a single stipulated lump sum fee of Three Hundred Twenty-Two Thousand Nine Hundred Ten Dollars ($322,910.00) which shall constitute complete compensation for the services. This is an inclusive fee and all reimbursable expenses are included. (See Exhibit "C" Fee Schedule) Division of costs will be $161,455 City of Wichita (**OWNER**) and $161,455 Sedgwick County. The **ARCHITECT** will invoice each agency directly for their costs.

B. Payments are payable to the **ARCHITECT** within thirty (30) working days from the date of receipt of invoice. If any invoice is outstanding for more than thirty (30) working days from the date due, the **ARCHITECT** shall have the right, in addition to any and all other rights provided, to refuse to render further services to the **OWNER** and such act or acts shall not be deemed a breach of this agreement. Continued performance and/or completion of work by the **ARCHITECT** under this agreement are contingent upon payment of fees by the **OWNER**. The **OWNER** shall reimburse the **ARCHITECT** for all costs incurred in collection of unpaid accounts, including, without limitation, all reasonable attorney and legal expenses.

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

   1. **ARCHITECT** or witness for the **OWNER** in any litigation, administrative hearing, and other legal proceedings related to the PROJECT.

   2. Additional design services not covered by the scope of this Agreement.

   3. Construction staking, material testing, observation and administration related to the PROJECT.

   4. A major change in the SCOPE OF SERVICES for the PROJECT.

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

E. If services are rendered by the **ARCHITECT** for the PROJECT(s) or portions of the PROJECT(s), but the **OWNER** elects to cancel the PROJECT(s) or portions thereof the **ARCHITECT** shall be compensated at an amount in proportion to the services rendered as stated in Paragraph A above, multiplied by the percentage completed.

F. This fee shall be payable in monthly installments, and in proportion to the services performed, payable upon the satisfactory performance of the service.

VI. TIME OF COMPLETION:

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

A. Project schedule will coincide with the Kansas Army National Guards project schedule (See Exhibit "D") pending availability of **OWNER** and staff.

B. The **OWNER** agrees to cooperate with the **ARCHITECT** in considering drawings and data submitted and to make necessary decisions promptly to facilitate completion in the stipulated time and the **OWNER** agree to furnish promptly to the **ARCHITECT** upon written request any approvals and instructions required to be given by the **OWNER** to the **ARCHITECT** under the terms of the Contract.

VII. REVISIONS OF PLANS:

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

VIII. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the **OWNER** to terminate this Agreement, upon fourteen days prior written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the **ARCHITECT'S** inability to proceed with the work, or because the services of the **ARCHITECT** are unsatisfactory; PROVIDED, however, that in any case the **ARCHITECT** shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this Agreement, in no case shall payment be more than the **ARCHITECT'S** actual costs plus a fee for profit based upon a fixed percentage of the **ARCHITECT'S** actual costs. The **ARCHITECT** may terminate this Agreement upon giving the OWNER 14 days prior written notice for breach by the OWNER of any material term, including but not limited to payment terms.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the **OWNER** upon completion or termination of the **ARCHITECT'S** services and payment in full of monies due the **ARCHITECT**, in accordance with this Agreement. The **OWNER** shall not re-use or make any modification of the plans and specifications without the prior written authorization of the **ARCHITECT**. The **OWNER** agrees to hold the **ARCHITECT** harmless from all

claims, liability or cost, including reasonable attorney fees and defense costs, which arise out of such further use without the participation of the **ARCHITECT**.

C. That the services to be performed by the **ARCHITECT** under the terms of this Agreement are personal and cannot be assigned sublet or transferred without specific consent of the **OWNER**. The **OWNER** shall not assign or transfer rights or interest in this Agreement without specific consent of the **ARCHITECT**.

D. In the event of unavoidable delays in the progress of the work contemplated by this Agreement, reasonable extensions in the time allotted for the work will be granted by the **OWNER**, provided, however, that the **ARCHITECT** shall request extensions, in writing, giving the reasons therefore.

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

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

G. The rights and remedies of the **OWNER** and the **ARCHITECT** provided for under this Agreement are in addition to any other rights and remedies provided by law.

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

I. Unless otherwise stipulated in this Agreement, all subcontractors retained to assist **ARCHITECT** in performing his duties will be paid by the **ARCHITECT**.

J. The **ARCHITECT** agrees to employ structural, mechanical, civil, and electrical engineers, if necessary, as determined by the **ARCHITECT** and **OWNER** jointly, for design and analysis and to pay the fees as contracted for with the individual engineers for such services. These fees are not reimbursable expenses.

K. Special Consultants or Subcontractors are those who provide services other than those provided by the **ARCHITECT**. If it is requested that any Special Consultants or Subcontractors be retained on the **OWNER'S** behalf, their charges will be paid separately and directly by the **OWNER**. Invoicing and payment shall be arranged separately between the **OWNER** and the Special Consultants or Subcontractors.

L. If a firm or firms are separately engaged by the **OWNER** to work under the general direction of the **ARCHITECT**, the **ARCHITEC**T shall have no responsibility or technical sufficiency of the services of such separately engaged firms.

M. It is further agreed that this Agreement and all Contracts entered into under the provisions of this Agreement shall be governed by the laws of the State of Kansas.

N. Unless otherwise provided in this Agreement, the **ARCHITECT** and employees, or subcontractors shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

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

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

GOSSEN LIVINGSTON ARCHITECTURE

_____
Karen Sublett
City Clerk

by_____
Mike Kandt, AIA, CSI
Senior Vice-President

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

EXHBIT "A"

SCOPE OF SERVICES
FOR
HEARTLAND PREPAREDNESS CENTER
FOR
CITY OF WICHITA AND SEDGWICK COUNTY

General

The general scope of this contact is to address the infrastructure related aspects of the Heartland Preparedness Center to include but not be limited to the following:

- City/County Law Enforcement Training Center facility coordination with Guard facility.
- Access from Hillside along the south side of UP right-of-way with an engineered road to serve the Guard facility.
- Coordination with UP Railroad staff to coordinate the road design and City/UP lease agreement.
- Finalization of the Heartland plat whereby the vacation of 29th Street will be included.
- Relocation of the Petroleum Line within the Right-of-Way.
- Utility investigation for extension of all utilities to the Guard site.
- Improvement of New York Street as it comes thru the I-135 overpass to the Guard site.
- Perform field survey for the project site including comprehensive topographical survey and location of existing utilities.
- Obtain soil borings and provide geotechnical report for the project site.
- Provide a fencing plan design.
- Provide a paving design.
- Provide design/specifications for a sanitary sewer lift station and force main.
- Provide 12" waterline design.
- Hydrologic and hydraulic evaluation of K-96 lakes.
- Storm water sewer system design.
- Site electrical.
- Coordination with HTK Architects P.A. for Guard facility/site.

The ARCHITECT will provide architectural, structural, mechanical/plumbing, electrical and civil engineering professional services for the Heartland Preparedness Center infrastructure, City/County Law Training Facility, final plat in connection with HTK Architects, P.A. and Kansas Army National Guard (KANG). The ARCHITECT will consult with the OWNER and prepare the detailed construction drawings and specifications after full consideration has been given to the KANG design. The drawings and specifications will also identify work to be done by the OWNER using their employees or other contracted entities. The documents will be sufficient for bidding and construction by a General Contractor under a single contract.

The ARCHITECT will obtain approvals of State or other agencies as necessary to the drawings and specifications.

Federal and State laws prohibit discrimination based on disability. Section 504 of the Rehabilitation Act

of 1973, as amended (504), and the Americans with Disabilities Act of 1990 (ADA) require that the City of Wichita and all organizations or firms contracting with the City of Wichita, except those providing tangible goods, comply with ADA/504 accessibility requirements. I understand that reasonable accommodation is required in both program services and employment, except where to do so would cause an undue hardship or burden. I also agree that all new construction, alterations, or additions to City of Wichita buildings or facilities, performed by my organization or its subcontractors, must comply with all City, State, and Federal laws, including related building guidelines/codes, and specifically the Americans with Disabilities Accessibility Guidelines (ADAAG).

The ARCHITECT will prepare proposals, forms, and notices to bidders. Set forth in detail and prescribe the work to be done; the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical/plumbing, electrical, service connected equipment, and site work, and contract documents satisfactory to the OWNER for the effective coordination and efficient execution of the proposed construction projects.

The ARCHITECT will use the OWNER'S Modified Construction Contract and General Conditions packages (AIA 101 and 201 modifications) that have been approved by the City of Wichita, Law Department, when American Institute of Architects (AIA) form documents are used in connection with the City's bid and specification documents.

The ARCHITECT will furnish a formal written estimate of the probable cost of construction the Project according to the completed drawings and specifications as approved by the OWNER.

The ARCHITECT will conduct the necessary code analysis, consult with governing authorities having jurisdiction over the Project, and incorporate their requirements into the construction documents for the Project.

Reproduction of the completed plans and specifications for use in bidding will be the responsibility of the OWNER and the OWNER will pay for all reproduction and associated costs directly.

The ARCHITECT will review bidding documents for completeness and coordination before release for bids. The OWNER will issue bidding documents to the bidders.

The ARCHITECT will provide guidance to the OWNER and to prospective bidders, write and coordinate and otherwise aid in the issuance of addenda or provide clarifications as required.

The ARCHITECT will furnish a formal written estimate of probable construction costs to the OWNER'S Project Manager two days before the bid opening. ARCHITECT will also provide bid tabulation sheet(s) to the OWNER'S Project Manager for use in receiving bids two days before the bid opening.

During the Construction Phase, the ARCHITECT will be responsible for providing periodic monitoring of the construction in accordance with professional standards. In addition, the ARCHITECT will condemn work, which fails to conform to the Contract Documents, prepare certificates of payments due the contractor, provide consultation and advice to the OWNER and contractor during construction, issue necessary interpretations and clarifications of the Contract Documents, and review shop drawings for conformation with the bid documents.

The ARCHITECT will not be responsible for the contractor(s) scheduling, means or methods of construction or be responsible for the safety of the site and/or workplace.

EXHIBIT "B"

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

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

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal

Employment Opportunity in all employment relations, including but not limited to employment,

upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City, are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AN AGREEMENT TO SHARE COST FOR INFRASTRUCTURE DESIGN AND CONSTRUCTION FOR A JOINT SERVICES "HEARTLAND DEFENSE" TRAINING CENTER

This agreement is entered into this _____ day of _____, 2009 by Sedgwick County, Kansas ("County) and the City of Wichita, Kansas ("City), a municipal corporation.

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, finding that the establishment of a large joint services training center, which includes Kansas National Guard and Marine Reserve Units to be located in the City of Wichita, would advance economic development in Sedgwick County, desire to partner to support the establishment of such center; and

WHEREAS, construction of necessary infrastructure is a prerequisite to the execution of the project and

WHEREAS, County and City find that such an expenditure is for a public purpose; and

WHEREAS, City is designated lead agency for managing infrastructure design and construction.

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

1. **Purpose.** The purpose of this Agreement is to provide for the engineering, construction and financing of street, water, sanitary sewer and storm water sewer systems and general infrastructure improvement work on 23 acres of City-owned land located in the vicinity of junction of K-96 and I-135 highways in the City of Wichita. Said property will be leased to the Kansas National Guard through a 99-year lease agreement.

2. **Compensation.** City and County will participate equally (50%) in cost of design and infrastructure improvements to a maximum of $1,911,862.00, the total amount County has reserved for this purpose in its Capital Improvement Plan ("CIP") budget. County has not additional financial commitment to the project, without the approval of the Board of County Commissioners, beyond this agreement. In the even final costs are higher than estimated, the difference will be shared equally by City and County, subject to approval by the Board of County Commissioners. Should any reimbursements, rebates or refunds to this project occur, City and County will equally share the benefit.

3. **Billing and Payment Method.** City will not enter contracts for this project without County's prior authorization ***for County's share*** of expenditures. As lead agency, City will insure that itemized vendor invoices show both City and County charges for service. City agrees to require vendors to invoice County separately for County's share of expenses. Invoices shall show both City's and County's costs. County will process payments according to established budgeting, purchasing and accounting procedures of County.

4. **Project Management.** City shall be responsible for all bidding of projects, day-to-day project management, legal, engineering, regulatory and administrative duties, and testing and inspection required for this project that are not the responsibility of the contractors. County will be invited to and have input into design meetings, decision-making and vendor selection forums and appropriate.

5. **Environmental Issues.** In the event contaminated soil is found, City shall bear responsibility for remediation and removal at its sole expense.

6. **Maintenance.** County shall not bear any responsibility for continuing maintenance of improvements.

7. **Records.** Any records or electronic data created as a result of this agreement shall be maintained by the City and made available upon request to County.

A. **Documentation of Costs.** City agrees that all costs incurred by contractors for which contractors purport to be entitled to reimbursement shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible to both parties to this agreement.

B. **Maintenance of Records.** Except as otherwise authorized by County, City shall ensure that contractors shall retain such documentation for a period of three (3) years after receipt of the final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance records beyond this three (3) year period.

C. **Reports.** During the term of this contract, City shall ensure that contractors shall furnish to County, in such form, as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to contractors will be withheld by County if contractor fails to provide all required reports in a

timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.

D. **Audit.** City shall ensure that contractors shall provide for an annual independent audit of financial records which apply to this Contract only and shall provide a copy of said audit to County, if requested.

E. A**vailability of Records.** City shall ensure that contractors agree to make any and all of its records, books, papers, documents and data available to County, or the authorized representative of a /state agency with statutory oversight, authority, for the purpose of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies, and transcriptions at any time during the terms of this contract and for a three (3) year period following final payment under the terms of this contract.

8. **Indemnification.** To the extent permitted by law, the parties hereby release, discharge, indemnify and hold harmless each other, their agents, servants and employees from any and all liability and damages arising from their own negligent acts and omissions. This release and indemnity shall survive termination of this agreement.

9. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

10. **Term.** The duration of this Agreement is until the completion of the design and construction of the necessary infrastructure.

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

SEDGWICK COUNTY, KANSAS	THE CITY OF WICHITA, KANSAS
_____	_____
KELLY PARKS Chairman, Board of County Commissioners, Sedgwick County	CARL BREWER Mayor
ATTEST:	ATTEST:
_____	_____
KELLY B. ARNOLD County Clerk	KAREN SUBLETT City Clerk
APPROVED AS TO FROM:	APPROVED AS TO FORM:
_____	_____
JENNIFER MAGANA Deputy County Counselor	GARY REBENSTORF City Attorney

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
PUBLIC WORKS	BUILDING SERVICES	5/8/2009	HEARTLAND PREPAREDNESS CENTER I-135 AND K-96

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC	Date
PB-	PROJ. #435450 OCA #792529	2007 - 2016	NO	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
2009	2013	

12. Project Cost Estimate

ITEM	GO	SA	OTHER	TOTAL
CONSTRUCTION	1,600,000.00			1,600,000.00
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Other DESIGN	350,000.00			350,000.00
Totals	1,950,000.00			1,950,000.00
Total CIP Amount Budgeted	1,950,000.00			1,950,000.00
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required	X	
Lot Split		
Petition		
Ordered by WCC	X	

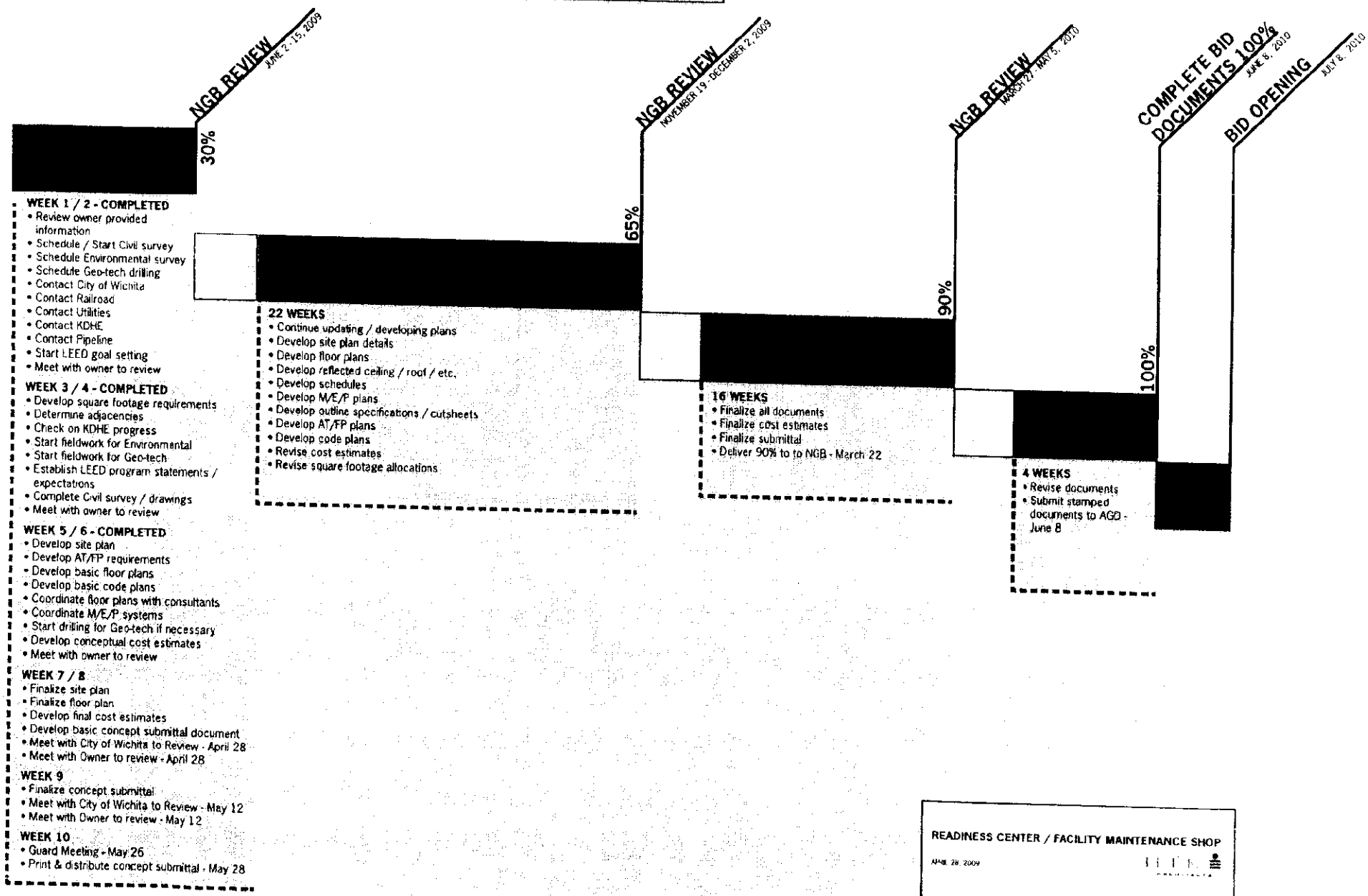
Remarks: THE KANSAS ARMY NATIONAL GUARD IS PLANNING TO BUILD A NEW FACILITY ON CITY OWNED LAND IN WICHITA. THE CITY AND COUNTY WILL JOINTLY SHARE COMMON SPACE AND BUILD A LAW TRAINING FACILITY IN CONJUNCTION WITH THE PROJECT. THE CITY AND COUNTY WILL ALSO PROVIDE THE INFRASTRUCTURE TO THE SITE.

13. Recommendation: APPROVE THE PROJECT, ADOPT THE RESOLUTION, APPROVE THE CONTRACT AND AUTHORIZE THE NECESSARY SIGNATURES.

Division Head	Department Head	Budget Officer	City Manager
for Ed Martin		Date	Date

EXHIBIT "D"

PROJECT SCHEDULE



PROPOSAL FOR A/E SERVICES

GOSSEN LIVINGSTON ASSOCIATES, INC.

HEARTLAND PREPAREDNESS CENTER

GLA PROJECT NO.

01-Apr-09

1063.020

TASK			*TOTAL*
1	Represent the C.O.W.'s interest and provide coordination for the new Law Enforcement Training Center.	$	52,770
2	Coordinate with the UP railroad on the easement for the road to Hillside.	$	11,140
3	Provide design for infrastructure (offsite drainage for the ponds, utilities, roads, etc.) Include additional survey for road to Hillside.	$	241,354
4	Finalize the plat based on site plans developed by HTK and vacated hydraulic and 29th streets.	$	17,643
TOTAL PROPOSED DESIGN FEE			$322,907.32
ROUNDED			**$322,910.00**

DIVISION OF COSTS *

National Guard	0.0%	$0.00
City of Wichita	50.0%	$161,455.00
Sedgwick County	50.0%	$161,455.00
		$322,910.00

Represent the C.O.W.'s interest and provide coordination for the new Law Enforcement Training Center

	GLA - ARCHITECTURAL, INTERIORS, LANDSCAPE												
	PIC	*PM*	*Arch Sr*	*Arch Jr*	*Int*	*LA Sr*	*LA Jr*	*SW*	*CADD Sr*	*CADD Jr*	*III*	*WP*	*Total $*
Labor													
Meet w/ Team Weekly													
PIC - 20 Mtgs; ASr 15 Mtgs (6 hrs ea). Includes travel time to Topeka	120		90										
Review meeting reports	20		15									35	
Status Reports to COW/SC (10)	20		20										
Update Law Enforcement Training Center Plan to coordinate with ARNG plan	32		48	40					40				
TOTAL	192	0	173	40	0	0	0	0	40	0	0	35	
	140.21	124.37	98.54	77.18	59.21	91.18	40.70	90.14	69.64	52.85	75.12	46.56	
	26920	0	17047	3087	0	0	0	0	2786	0	0	1630	
												Total Labor	$ 51,470

EXPENSES		
Car rental	20 day trips @ $ 60 / day =	$ 1,200
Printing, Postage		$ 100
		$ 1,300
TOTAL		$ 52,770

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

924 North Main
Wichita, Kansas 67203

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

www.rbkansas.com
info@rbkansas.com

March 26, 2009

Mike Kandt, AIA, CSI
Senior Vice President
Gossen Livingston Associates, Inc.
420 S. Emporia
Wichita KS 67202

Re: Revised Heartland Preparedness Center plat

Dear Mr. Kandt,

Pursuant to our recent discussion, we propose herein to provide additional professional services to complete the platting process for the referenced City of Wichita property. We understand that overall design of the site will be controlled by another design firm, and that additional coordination and meetings will be required in order to reach agreement on details of the revised plat.

Once a site configuration is established, we will be able to prepare and submit revised plats to the Wichita-Sedgwick County Metropolitan Area Planning Department within four weeks. It is expected that both revised preliminary and revised final plats will be required, but that a one-step Subdivision Committee hearing process can be utilized. Necessary coordination with utility companies, stormwater management, and other interested agencies will need to occur prior to that hearing. Barring unanticipated delays in MAPD hearing schedules or other approvals, the process usually takes four to five months from submittal to recording of the plat.

Our fee for these services will be a lump sum of $14,000.00. This proposal is conditioned on the limits of the plat not being expanded beyond the area previously included in the final plat approved by Subdivision Committee on May 29, 2008. Application fees, title work, printing and any other outside costs will be billed in addition at our cost plus 10%. We will bill you monthly and upon completion of our services, and our invoices will be due upon receipt.

This proposal when authorized replaces our current agreement dated April 8, 2008. If it is acceptable, please acknowledge below and return a signed copy. Call me at 264-8008, ext. 114, if you have questions, or email truggles@rbkansas.com.

Regards,

Ruggles & Bohm P.A.

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

Work and terms authorized this date_____

Gossen Livingston Associates, Inc.

by_____

RUGGLES & BOHM RB WICHITA

Professional Engineering Consultants, P.A.

March 31, 2009

Gossen Livingston Associates, Inc.
420 South Emporia
Wichita, KS 67202

Attention: Mike Kandt

Reference: Heartland Preparedness Center Infrastructure Improvements
PEC Project No. 35-09000-0259

Dear Mr. Kandt:

This letter is written to serve as an agreement between Gossen Livingston Associates, Inc. (CLIENT) and Professional Engineering Consultants, P.A. (PEC) to provide professional services for civil design portion of Heartland Preparedness Center Infrastructure Improvements hereinafter called the PROJECT.

Specifically, PEC proposes to perform the Scope of Services as outlined in Paragraph A. below, which are provided for your review and approval.

A. Scope of Services:

1. **PRELIMINARY INVESTIGATIONS**

1a. Design Kickoff Meeting – Participate in a design kickoff meeting with CLIENT and City of Wichita to formalize design criteria and PROJECT scope, review design considerations and establish contact information.

1b. Utility Investigation – Review all existing maps and previous studies. Obtain existing mapping of the area, which will include aerial maps, plats, and plans of existing infrastructure in the PROJECT area. Research existing utilities within the PROJECT corridor and request utility maps from appropriate utility agencies.

1c. Survey – Perform field survey for the PROJECT site including comprehensive topographical survey and location of existing utilities which are field located and flagged. Plot field survey and develop a base map in electronic CADD format.

1d. Geotechnical Study – Obtain soil borings and provide geotechnical report for the PROJECT site. The locations and number of borings will be dependent on the PROJECT scope. The report will include laboratory results of soil characteristics, evaluations and depth of groundwater, as well as recommendations for excavation, placement and compaction.

303 SOUTH TOPEKA WICHITA, KANSAS 67202 316-262-2691 FAX 316-262-3003 ■ www.pec1.com
WICHITA TOPEKA TULSA LAWRENCE PITTSBURG

2. PRELIMINARY DESIGN SERVICES

2a. Preliminary Plans – Provide base sheets with property lines, survey and proposed alignment for determining easement needs. Submit plans to the City and utility agencies for review. Meet with the City of Wichita to review plans as required.

2b. Paving Design (Access Road from the Heartland Preparedness Center Site to Hillside Avenue, approximately 3,250 L.F.) – Prepare preliminary demolition, geometry, grading and paving plans for the PROJECT, and review with the CLIENT and City of Wichita Staff. Geometry plan will include property line and easement information. Paving plan design fee is based on a thirty (30) foot wide concrete pavement section with reinforced crushed rock base. Also included in this portion of the design will be concrete pavement, erosion control and storm water sewer details, concrete joint layout, erosion control and storm water sewer plans and typical pavement section and compaction details for the PROJECT. Design will also include lighting layout design and details.

2c. Fencing Plan Design (from the Heartland Preparedness Center Site to Hillside Avenue, approximately 3,250 L.F.) – Develop fencing plan layout and details for the PROJECT, and review with the CLIENT and City of Wichita Staff.

2d. Sanitary Sewer Lift Station and Force Main (approximately 400 L.F.) – Prepare lift station and force main plan layout and details for the PROJECT, and review with the CLIENT and City of Wichita Staff. Review flow information and confirm final sizing of lift station and force main. Develop plan and profile sheets along the proposed alignment of the force main and design details of generator set for lift station.

2e. 12" Waterline Design (27th Street North & Grove to 600' south of the under pass at I-135 and New York Avenue, approximately 3,400 L.F.) – Prepare preliminary alignment mapping and proposed valve/fire hydrant location and connections to existing water lines for the PROJECT, and review with the CLIENT and City of Wichita Staff.

2f. Hydrologic and Hydraulic Evaluation (KTA Lakes to Wichita and Valley Center East Branch Interception Canal) – Prepare a preliminary analysis to evaluate the hydrologic and hydraulic effects of two possible outlet modifications to an existing pond located north of the railroad, east of Interstate 135, south of the K-96 Bypass. Document the analysis; prepare a design memo; and present results and recommendations to the CLIENT. Establish the basin boundaries draining into the existing pond. Evaluate potential for future upstream development. Obtain LIDAR mapping and contour coverage of the watershed. Develop an "Existing Conditions" hydrologic model of the basin. Evaluate the effects of proposed construction of two

alternatives. Consider the relative benefits and costs associated with the two alternatives; decide which is preferable (for the future scope). Determine the permits that will be required for the construction (for the future scope).

2g. Storm Water Sewer System Design (KTA Lakes to Wichita and Valley Center East Branch Interception Canal) – Prepare plans sufficient for construction of the alternative selected in the previously described scope; submit permit applications to DWR. Develop structural plans and specifications. Develop any special provisions needed out the inlets and outlets. Prepare the permit applications (submitted to DWR and the USACE).

2h. Hike and Bike Path Underpass/Overpass Study – Prepare concept geometric layout of underpass/overpass, and review with the CLIENT and City of Wichita Staff. Provide cost estimates for the alternative concepts of an underpass versus an overpass based on historical prices and the findings in the survey and geotechnical study.

2i. Retaining Wall Design (at Wichita and Valley Center East Branch Interception Canal bend) – Prepare preliminary geometric and structural plans for a block retaining wall or alternative bank stabilization and review with the CLIENT and City of Wichita Staff.

2j. Site Electrical – Prepare site electrical layout plans and details for the entrance gate at Hillside Avenue, power to lift station and generator, and street lighting along the access road.

2k. Permitting – Initiate contact with regulatory agencies such as the Corps of Engineers (COE), Division of Water Resources (DWR), Kansas Department of Health (KDHE) and Environment to determine permitting requirements. Develop storm water pollution prevention plan (erosion control) and assist with completion of KDHE Notice of Intent form. Prepare permit applications for the applicable permits as determined by the above mentioned regulatory agencies. Submit these applications to the appropriate agencies for review.

2l. Easements – Upon review of the preliminary alignments, the required temporary construction and permanent easements will be determined and easement descriptions with tract maps will be provided to the City of Wichita for acquisition of the required easements. These will include tract descriptions for railroad right of way and park property.

2m. Coordination with Utilities – Initiate contact with utility companies and other administrative agencies. Attend the necessary review meetings with utility companies, CLIENT and City of Wichita Staff as necessary. Coordinate relocation of utilities with utility companies.

2n. Coordination with Heartland Preparedness Center Site Design Team – Plan to attend four meetings in Topeka with the Heartland Preparedness Center Site Design Team to coordinate preliminary design layouts and alignments.

2o. Preliminary Cost Estimate – Provide preliminary quantity and cost estimates for the PROJECT.

3. **FINAL DESIGN SERVICES**

3a. Final Plans – Provide final plans to the CLIENT for CLIENT's use in printing bid sets. Plans will be prepared in electronic CADD format to City of Wichita standard specifications. The construction drawings shall include plan, profile and standard detail sheets adequate to convey the intent of the design. The construction drawings shall also show property lines, proposed easements, existing recorded easements and all known structures, utilities and other appurtenances that may be affected by the construction of the PROJECT. Provide final sealed and electronic files to the City of Wichita per requirements.

3b. Final Cost Estimate – Provide final quantity and cost estimates for the PROJECT.

3c. Final Permitting – Upon agency review of applicable permits (COE, DWR, KDHE) edit applications as necessary to obtain permits for construction of the PROJECT. Attend the necessary review meetings with regulatory agencies, CLIENT and City Staff.

B. Responsibility of CLIENT:

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

1. Participate in a concept meeting to formalize design criteria and PROJECT scope.
2. Electronic (if available) concept site layouts and geometry plans showing roads, parking lots, hike and bike paths, sidewalks and fencing.
3. Prompt review of plans submitted by PEC.
4. Payment for services in accordance with the requirements of the Agreements.
5. Coordinate and attend all progress meetings. All meeting notes will be by CLIENT.
6. Provide legal documents for necessary land acquisition and exchange.
7. Provide entrance gate design. Power and lighting layout will be provided by PEC.

C. Exclusions:

The following shall be specifically excluded from the Scope of Services to be provided by PEC.

1. Alternative designs for the site. If this is required during the design phase, additional fees will be negotiated.
2. Platting, zoning or the associated filing fees.
3. Staking services.
4. As-built drawings.
5. Inspection services.
6. Responsibilities for all bidding phases.

D. Payment Provisions:

PEC proposes to perform the Scope of Services on the basis of a lump sum amount of $229,000. A breakdown of the lump sum fee is per work item as follows:

• Survey	$23,000
• Geotechnical Study	$4,500
• Paving Design	$62,500
• Sanitary Sewer Lift Station and Force Main	$24,500
• 12" Waterline Design	$23,000
• Hydrologic and Hydraulic Evaluation	$11,500
• Storm Water Sewer System Design	$40,000
• Hike and Bike Path Underpass/Overpass Study	$27,500
• Retaining Wall Design	$4,500
• Site Electrical	$8,000

Unless otherwise agreed upon, billings will be made once a month for work completed the previous month. Taxes are not included in stated fees. CLIENT shall reimburse PEC for any sales, use and value-added taxes, which apply to these services.

E. Time of Performance:
PEC proposes to begin work on the PROJECT within fourteen (14) days following receipt of an executed copy of this Agreement and to complete the Scope of Services in accordance with a mutually agreed schedule exclusive of any delays beyond the control of PEC.

This letter and the "Standard Conditions" attached hereto comprise the entire Agreement between the CLIENT and PEC. They may be altered only by Supplemental Agreement.

Thank you for contacting us to provide professional services on the subject PROJECT. Should you have questions or if additional information is required, please do not hesitate to call. Return receipt of an executed copy of this letter will serve as our contract and notice to proceed with the work.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

Benjamin M. Mabry, I.E.
Design Engineer

BMM/sb

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

By: _____
Rod R. Young, P.E., Principal

Date: 3/31/09

ACCEPTED:

GOSSEN LIVINGSTON ASSOCIATES, INC.

By: _____

Title: _____

Date: _____

PEC STANDARD CONDITIONS

1. STANDARD OF CARE: Professional Engineering Consultants, P.A. ("PEC") shall provide professional services according to the agreed upon scope of services. PEC will perform the services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances at the time the services are performed, and in the same locality.

2. USE OF DOCUMENTS: Drawings, specifications, reports, programs, manuals, cost estimates, or other documents, including documents on electronic media, prepared under this Agreement are instruments of service and as such are only applicable to the subject PROJECT. Use of these documents for any other purpose without written authorization and consent of PEC is prohibited. PEC shall retain ownership thereof.

3. INSURANCE: PEC and the Client agree to each maintain statutory Worker's Compensation, Employer's Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC's negligent acts, errors, or omissions in providing services pursuant to this Agreement. If the Client is a design professional, then the Client agrees to maintain Professional Liability Insurance for its negligent acts, errors, or omissions in providing services pursuant to this Agreement. If a project is Design-Build, the Client and all subcontractors providing professional design or other services (e.g., architects, engineers, inspectors) shall maintain professional or similar liability insurance for claims arising from its negligent performance of said services. Proof of insurance shall be provided, upon request, prior to commencement of said services.

4. NO GUARANTEE: PEC does not provide a warranty or guarantee, express or implied, for any portion of the scope of services including drawings, specifications, reports, programs, manuals, cost estimates, or other documents of service. Items of beneficial use to the owner, whether or not included in the contract documents, shall not be the responsibility of PEC.

5. INDEMNIFICATION/HOLD HARMLESS: PEC agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client and its employees from any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) resulting from PEC's negligent acts, errors, or omissions through services provided pursuant to this Agreement by PEC or anyone for whom PEC is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless PEC, its employees and subconsultants from any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) resulting from the negligent acts, errors, or omissions by Client or those contractors, subcontractors, consultants, or anyone for whom Client is legally liable, and arising from the project(s) that is the subject of this agreement. PEC is not obligated to indemnify the Client in any manner whatsoever for the Clients' own negligence. If any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) result from the concurrent negligence of PEC and the Client, this indemnification shall only apply to the extent of each party's proportion of the responsibility.

6. DISPUTES: Any action or claims arising out of or related to this Agreement or the project that is the subject of this Agreement shall be governed by Kansas law. Good faith negotiation and mediation are express conditions precedent to the filing of any legal action. Mediation shall be conducted in accordance with the latest edition of the Construction Mediation Rules of the American Arbitration Association.

7. ASSIGNMENT OR SUBLETTING OF CONTRACT: Client shall not assign, transfer, or sublet any rights, duties, or interests accruing from this Agreement without the prior written consent of PEC. This Agreement shall be binding upon the Client, its successors and assigns.

8. NON PAYMENT/TERMINATION OF AGREEMENT: If the Client fails to make payment for services and expenses within 30 days following receipt of an invoice, PEC may, after giving seven days written notice to the Client, without liability for delay charges, suspend services under this Agreement until PEC has been paid in full for all amounts due. Each party to this Agreement reserves the right to terminate the Agreement at any time, without cause, upon 15 days written notice and subject to payment to PEC for the value of services rendered up to the time of termination.

9. EXTRA WORK: Services not specified in the Scope of Services set forth in this Agreement or due to regulatory changes shall be considered "extra work". No "extra work" will be performed without additional compensation per a supplemental agreement.

10. FORCE MAJEURE: The Client shall not hold PEC responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of PEC, or that could not have been reasonably foreseen and prevented including, but not limited to, fire, weather, floods, earthquakes, epidemics, war, riots, terrorism, strikes, and unanticipated site conditions.

11. AGREEMENT SOLELY FOR PARTIES' BENEFIT: This agreement is solely for the benefit of PEC and Client. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of PEC or Client in favor of such third parties.

12. LIMITATION OF LIABILITY: To the fullest extent permitted by law, PEC's total liability to Client is limited to the greater of $50,000 or two times PEC's fee, for any and all damages or expenses arising out of this Agreement from any cause(s) or under any theory of liability. In no event shall PEC be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by Client or its subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

September 2004

Agenda Item No. III-6.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: 17th Street and Hillside Intersection Improvement (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the increased budget.

Background: The 2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to improve 17th Street from Hillside to Grove. On November 4, 2008, the City Council approved the project. To adequately improve the drainage in this area, it became necessary to design a new storm water sewer to extend ¼ mile west of Grove. The amount of pavement removal and replacement associated with this is much greater than anticipated. The storm sewer system was also expanded to include a pavement under drain system for the length of the project, which will help in removing groundwater that currently surcharges through the pavement. In addition, the pavement reconstruction limits on the majority of the side streets to the north were extended to provide a reasonable approach grade to 17th Street; and landscaping was added on the WSU property in exchange for needed road right-of-way.

Analysis: The project will provide left turn lanes on all approaches to the 17th Street at Hillside intersection and reconstruct 17th Street west to Grove. Traffic signals will be upgraded to provide left turn signal phases at all four approaches to the Hillside intersection. Drainage will be improved. Construction is planned for 2009.

Financial Considerations: The existing budget is $3,000,000 with $1,000,000 paid by the City and $2,000,000 paid by Federal Grants administered by the Kansas Department of Transportation. The proposed increased budget is $4,500,000, with $2,500,000 paid by the City and $2,000,000 by Federal Grants. The Federal contribution is capped at $2,000,000. The funding source for the City share is General Obligation Bonds. The additional City cost is programmed in the 2009-2018 CIP.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow and safety at a major intersection.

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

Recommendation/Actions: It is recommended that the City Council approve the increased budget, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet and ordinance.

132019

Published in the Wichita Eagle on 6/19/2009

ORDINANCE NO. 48-345

AN ORDINANCE AMENDING ORDINANCE NO. **48-110** OF THE CITY OF WICHITA, KANSAS DECLARING **THE INTERSECTION OF 17TH ST. NORTH AND HILLSIDE AND 17TH ST. NORTH, BETWEEN HILLSIDE AND GROVE (472-84766)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

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

SECTION 1. SECTION 3 of Ordinance **48-110** is hereby amended to read as follows:

"SECTION 3. The costs of the construction of the above described improvements is estimated to be **Four Million Five Hundred Thousand Dollars ($4,500,000)** exclusive of the cost of interest on borrowed money, with $2,500,000 paid by the City of Wichita and $2,000,00 paid by Federal Transportation Grants. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689."

SECTION 2. The original of SECTION 3 of Ordinance No. **48-110** is hereby repealed.

SECTION 3. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2009.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

N HILLSIDE AVE
HILLSIDE AVENUE
N LORRAINE AVE
N CHAUTAUQUA AVE
ERIE AVE
N ERIE AVE
17TH STREET NORTH
E 16TH ST N
N VOLUTSIA AVE
N ESTELLE AVE
N GREEN AVE
N GREEN ST
N POPLAR AVE
E 10TH ST N
N GROVE AVE
GROVE AVENUE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	4/15/2009	17th/Hillside Intersection Improvement

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-200405		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$2,500,000		$2,000,000	$4,500,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Railroad				
Totals	$2,500,000		$2,000,000	$4,500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84766

13. Recommendation: Approve the increased budget and amending Ordinance

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Item No. III-7.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Meridian Street Improvement, Between 47th Street South and 31st Street South (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the project.

Background: The 2007-2016 Capital Improvement Program (CIP) adopted by the City Council includes a project to improve Meridian, between 47th Street South and 31st Street South. On December 13, 2005, the City Council approved a contract with Baughman Company for the preparation of construction plans. On June 4, 2008, District IV Advisory Board sponsored a neighborhood hearing on the project. The Board did not have a quorum, but it was the consensus of those present to support the project. On July 15, 2008, the City Council approved the project design concept and right-of-way acquisition funding.

Analysis: The project will provide a five lane roadway with four through lanes and a center two-way left turn lane between 47th Street South and 33rd Street South. Meridian will remain a four lane roadway between 33rd Street South and 31st Street South. Left turn lanes will be provided at the 31st Street South and Meridian intersection and the traffic signals will be upgraded. Traffic signals will be installed at the I-235 access ramps. Drainage improvements will be included with the project as well as 5' wide sidewalks on both sides of Meridian, except for the west side between 33rd Street South and 31st Street South. During construction, traffic on Meridian will be limited to one north bound lane between 47th Street South and 31st Street South. One lane of traffic in each direction will be maintained at all times between 31st Street South and MacArthur. Construction is planned to begin this summer and be completed in summer, 2010.

Financial Considerations: The City Council previously approved $1,400,000 for design and right-of-way acquisition costs. Estimated budget needed for construction of the project is $7,000,000, for a total budget of $8,400,000. The budget contained in the 2007-2016 CIP is $7,600,000 with the total funded by General Obligation (G.O.) Bonds. The $800,000 additional cost is programmed in the 2009-2018 CIP with G.O. funding.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow and safety through an important transportation corridor.

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

Recommendation/Actions: It is recommended that the City Council approve the increased budget and place the amending ordinance on first reading.

Attachments: Map, CIP sheet, ordinance.

132019

Published in the Wichita Eagle on

ORDINANCE NO.48-346

AN ORDINANCE AMENDING ORDINANCE NO. **47-936** OF THE CITY OF WICHITA, KANSAS DECLARING **MERIDIAN BETWEEN 47TH STREET SOUTH AND 31ST STREET SOUTH (472-84302)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

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

SECTION 1. SECTION 1 of Ordinance **No. 47-936** is hereby amended to read as follows:

"SECTION 1. SECTION 2 of Ordinance No. **46-849** is hereby amended to read as follows:

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **Meridian between 47th Street South and 31st Street South (472-84302)** as a main trafficway in the follow particulars:

The design, construction, relocation of utilities and acquisition of right-of-way as necessary for a major traffic facility."

SECTION 2. SECTION 2 of Ordinance **No. 47-936** is hereby amended to read as follows:

"SECTION 2. SECTION 3 of Ordinance **No. 46-849** is hereby amended to read as follows:

SECTION 3. The cost of the construction of the above described improvements is estimated to be **Eight Million Four Hundred Thousand Dollars ($8,400,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689."

SECTION 3. The original SECTIONS 1 and 2 of Ordinance **No. 47-936** are hereby repealed.

SECTION 4. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the Governing body of the City of Wichita, Kansas this _____ day of _____, 2009.

_____
Carl Brewer, Mayor

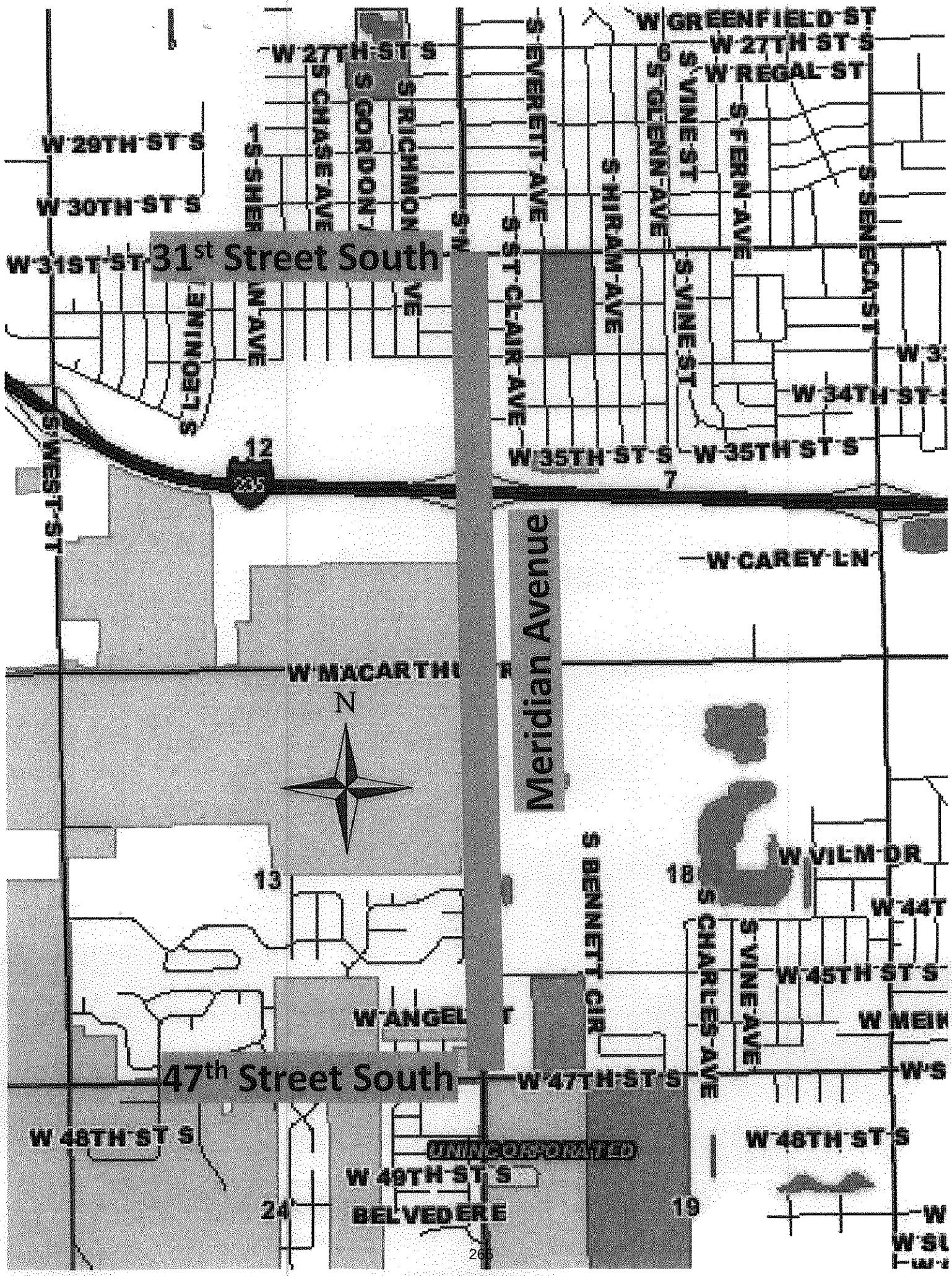
ATTEST:

_____
Karen Subleltt, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary Rebenstorf
Director of Law



31st Street South
47th Street South
Meridian Avenue
N
W GREENFIELD ST
W 27TH ST S
W REGAL ST
W 29TH ST S
W 30TH ST S
W 31ST ST
S CHASE AVE
S GORDON AVE
S RICHMOND AVE
S EVERETT AVE
S ST CLAIR AVE
S HIRAM AVE
S GLENN AVE
S VINE ST
S FERN AVE
S SENECA ST
S LEONINE
S WEST ST
W 34TH ST
W 35TH ST S
W CAREY LN
W MACARTHUR
W VILM DR
W 44T
W 45TH ST S
W MEIK
S BENNETT CIR
S CHARLES AVE
S VINE AVE
W ANGEL
W 47TH ST S
W 48TH ST S
W 49TH ST S
BELVEDERE
UNINCORPORATED
1
6
7
12
13
18
19
24
235

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	5/12/2009	Meridian, 47th St South - 31st St. South

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-200507		2009	

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

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$8,400,000			$8,400,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Railroad				
Totals	$8,400,000			$8,400,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84302

13. Recommendation: Approve the budget increase and amending Ordinance

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

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

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the petition.

Background: The signatures on the petition represent 2 of 3 (67%) resident owners and 65% of the improvement district area. District VI Advisory Board sponsored a May 4, 2009 neighborhood hearing on the project. Due to citizen opposition, the Board voted 9-1 to recommend that the petition not be approved. However, since the petition is a valid petition, the City Council should consider whether or not to proceed with the project. The property owners have been notified of the City Council public hearing date.

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

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

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

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

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

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

132019

First Published in the Wichita Eagle on June 12, 2009

RESOLUTION NO. 09-168

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

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

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

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

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

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

WALNUT GROVE ADDITION

Tract 1: West 126.6 feet of lot 15

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

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

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

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

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

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

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

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

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

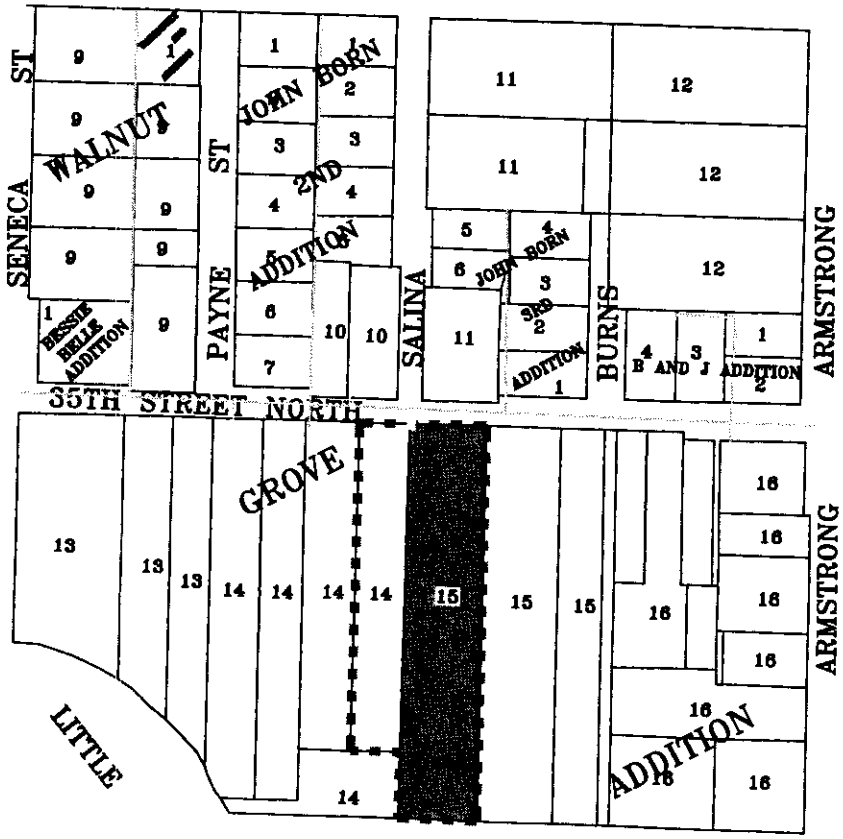
PASSED by the governing body of the City of Wichita, Kansas, this 9th day of June, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

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



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

IMPROVEMENT DISTRICT BOUNDARY

PROPOSED SANITARY SEWER

EXISTING SANITARY SEWER

THE CITY OF WICHITA

CITY ENGINEER'S OFFICE

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

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

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

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

12. Project Cost Estimate

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

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

65% Petition

* Sanitary Sewer Utility

468-84613

13. Recommendation: Approve the Petition and Adopt the Resolution

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

Estimated assessments for Sanitary Sewer to serve

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

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

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

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

SANITARY SEWER PETITION

L154 M4 SS#23
05/21/2009

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

468-84613

Walnut Grove Addition

Tract 1: West 126.6 feet of lot 15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AFFIDAVIT

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

Lacey A Miller
Andrew D Miller
Name

1231 W 38th N
Address

316-992-6614
Telephone Number

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

Deborah A Wadlock
Deputy City Clerk

Agenda Report No. III-9.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: FP800102 Outsourcing Print Shop and Mail Room Services.

INITIATED BY: Department of Finance/Information Technology Department

AGENDA: New Business

Recommendation: Approve the contract.

Background: The City of Wichita operates an internal operation providing printing services for departmental projects, printing services for individual jobs, mail room services, and printing and mail services for water bills. A Request for Proposal (RFP) was developed to solicit proposals from qualified vendors to provide offsite printing, mail services and printing and mail services for water bills. The RFP had three parts: Part I Outsourcing the Processing of the Water Bills, Part II Outsourcing the Print Shop and Part III Outsourcing the Mail Room. Parts II and III are combined and Part I will be addressed in a separate approval request.

The City's printing needs are currently being met by the internal Print Shop and through outsourcing. The Print Shop is currently staffed by three employees. Much of the equipment in the internal Print Shop has been in use for over 30 years. The bulk of the equipment is nonfunctioning and parts are no longer available to repair the equipment.

Proposals were also received to replace the current equipment to continue providing services that meet the majority of the City's printing needs. The equipment, not including maintenance, would costs approximately $1.7 million taking lowest bids; not a viable alternative at this time.

Analysis: Five (5) proposals were received for the "General Printing" and two (2) proposals were received for the "Mailing Service". The staff screening and selection committee evaluated all the proposals and interviewed the top two for general printing and mailing service.

Outsourcing of the Print Shop to QuikPrint is recommended for the City of Wichita based on expertise, qualifications in printing and being a local vendor in business for 46 years.

1. QuikPrint will utilize the existing space in the basement and assume the current equipment lease payments at $100,000 per year through December 2010.
2. QuikPrint has offered to buy the out dated and broken equipment for $10,000.
3. QuikPrint offered the required services at the most competitive price overall.
4. QuikPrint will complete the daily mail room function for $25.00 daily.

Outsourcing will result in three (3) positions eliminated from the budget; two (2) of those positions will be absorbed within the City organization. The third position has three alternatives:

- Accept a position with the contract vendor (reduced salary).
- Continue through transition period to identify opportunities within City organization.
- Pursue opportunities outside the City organization.

The employee has 60 days to determine the best alternative.

Financial Considerations: QuikPrint will operate from the basement of City Hall as a transition for City employees. QuikPrint will assume the current lease payments of $100,000 for the Xerox copiers through December 2010 and will purchase the outdated equipment for $10,000. The savings to the city will be generated through a reduction in per copy charges. All City departments will be required to utilize the services of QuikPrint.

If the 2008 copies were utilized to compare the difference in per copy charge between the City of Wichita (internal Print Shop) and QuikPrint, the following savings would be achieved City-wide.

Printing Costs			
Number of 2008 Copies			
Offset B/W	Offset Color	Xerox B/W	Xerox Color
350,780	422,376	2,843,339	389,909
	COW	QuikPrint	Savings
Offset B/W	$ 22,486	$ 21,441	$ 1,045
Offset Color	$ 56,720	$ 44,087	$ 12,633
Xerox B/W	$ 221,372	$ 83,014	$ 138,358
Xerox Color	$ 90,331	$ 91,721	$ (1,390)
TOTALS	$ 390,909	$ 240,263	$ 150,646

Goal Impact: This project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increased Productivity, plus the reduction to the City of Wichita financially.

Legal Considerations: The Department of Law will review the contract and approve as to form.

Recommendation/Action: It is recommended that the City Council approve the contract with QuikPrint from July 1, 2009 through December 31, 2010 with an option to renew for four (4) successive one (1) year terms.

Attachments: Contract for Outsourcing Print Shop and Mail Room Services.

CONTRACT
for
OUTSOURCING PRINT SHOP AND MAIL ROOM SERVICES

BLANKET PURCHASE ORDER BP9300

THIS CONTRACT entered into this 9th day of June, 2009, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"**, and **QUIK PRINT** (Vendor Code Number 808584-001)), 217 Pennsylvania, Wichita, KS 67214, Telephone Number (316) 942-2208, hereinafter called **"CONTRACTOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Outsourcing Print Shop and Mail Room Services** for the IT / IS Department /Print Shop Division (Formal Proposal – FP800102); and

WHEREAS, CONTRACTOR has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY.**

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. CONTRACTOR** shall provide to the **CITY** all those services specified in its response for Outsourcing Print Shop and Mail Room Services to Formal Proposal Number – FP800102, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP800102, shall be considered a part of this contract and is incorporated by reference herein. The Cost of Services for all items listed on pages 14 through 17 of **VENDOR's** proposal shall be modified to be as listed on Exhibit B and Exhibit C. All other aspects of that proposal shall remain the same. As long as this contract is in effect, the **CONTRACTOR** can occupy the space at City Hall in the basement (currently known as the Print Shop) with no cost or expense in the form of rent payments for the space occupied.

2. **Compensation. CITY** agrees to pay to **CONTRACTOR** pricing as per **Exhibit B** for **Outsourcing Print Shop and Mail Room Services** to meet the requirements in the proposal, plans, specifications, addenda and Contractor's proposal of January 12, 2009 and as approved by the City Council on June 9, 2009. **CITY agrees to pay CONTRACTOR'S invoice in net 10 days, after presentation of statement closing on the 25th of each month. The total amount of invoice is to be paid, less $1,000.00 each month, until the total sum $10,000.00 is paid in full for equipment purchase as agreed to in Exhibit B.**

In addition, CONTRACTOR agrees to assume liability on the equipment leases fully described in Exhibit B.

Print Job Pricing ESCALATING – DE-ESCALATING PRICES –
FIRM FOR ONE (1) YEAR
Excluding paper cost and other volatile printing materials
with written justification and approval by the City of Wichita

3. **Term.** The term of this contract shall be from **July 1, 2009 through December 31, 2010** with an option to renew for four (4) successive one (1) year terms by mutual agreement of both parties. This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **CONTRACTOR.**

4. **Indemnification and Insurance.**

a. **CONTRACTOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract. **The City will hold the CONTRACTOR harmless for any damage done to on-premise equipment by a city employee.**

5. **Independent Contractor.** The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws. CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. **No Assignment.** The services to be provided by the **CONTRACTOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. **Non-Discrimination. CONTRACTOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment/ Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration**. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

12. **Representative's Authority to Contract.** By signing this contract, the representative of the contractor or **CONTRACTOR** represents the he or she is duly authorized by the contractor or **CONTRACTOR** to execute this contract, and that the contractor or **CONTRACTOR** has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

Janis Edwards
Deputy City Clerk

CITY OF WICHITA, KANSAS

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

QUIK PRINT

Signature

JOHNNY TARRANT
Print Signature Name

PRESIDENT
Title *(President or Corporate Officer)*

EXHIBIT A

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.

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

1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

	Quick Print **Option 2** Quantity	Contract Pricing Outsourcing Print Shop Price per Copy
B&W Copies		
8.5x11	1-500	$0.03
	501-2500	$0.03
	2501-10000	$0.03
	10000 +	$0.03
8.5x14	1-500	$0.03
	501-2500	$0.03
	2501-10000	$0.03
	10001 +	$0.03
11x17	1-500	$0.06
	501-2500	$0.06
	2501-10000	$0.06
	10001+	$0.06
		$0.50
Color copies		
8.5x11	1-50	$0.25
	51-300	$0.25
	301-500	$0.25
	501-1500	$0.25
	1501+	$0.25
		$1.25
8.5x14	1-50	$0.25
	51-300	$0.25
	301-500	$0.25
	501-1500	$0.25
	1501+	$0.25
		$1.50
11x17	1-50	$0.50
	51-300	$0.50
	301-500	$0.50
	501-1500	$0.50
	1501+	$0.50
		$2.50

Exhibit B
Option 2 (continued)

Additional Charges		
Color paper		$0.010+$0.023
Brites		$0.046+$0.023
Additional Charges		
Cover 65#		$0.026+$0.023
Cover 80#		$0.027+$0.023
3 hole drilled		$0.007+$0.023
Stapling		$0.03 (N/C inline)
Transparencies		$1.00+$0.023
		1.284
Lithographic	**See Exhibit C** for extended pricing module	300/1000
1/0 black ink		$24/$50
1/1 black ink		$36/$82
2/0 black & 1 pms		$48/$90
2/2 black & 1 pms		$60/$122
		FLAT
non standard ink		$20 min
Setup & Wash up		N/C
Del. Proof bef print		N/C
		500/1000/add'l 1000
Business Cards		
black one side		$25/$40/$30
black & 1 pms 1 side		$45/$60/$50
thermography		$10/$10/$10
Add'l each name		N/C
PMS vs. black ink		$15/$15/$15
Digital CYMK 1 side		$45/$70/$45
Digital black		$25/$40/$30
disk submissions		attach to online form
Desktop Services		
disk preflight		N/C
CD of files/copy		N/C
Desktop design		$50/hr ($15 min)
Typesetting		$50/hr ($15 min)
Display posters		Duplicates/set up
max 60" 4 color		$1.95 sq. ft./$30

Exhibit B
Option 2 (continued)

manipulate./file repairs		$35 hr/$15 min
Mounting		
8.5x11 foam		$2.95
11x17 foam		$5.95
18x24 foam		$13.00
24x36 foam		$26.00
spray mount		$3.00/sq ft
detail cutting		$48.00/hr
straight cutting		$1.00/cut
mounting		$2.50/sq ft
grommets		$.20 each
Lamination		$1.00 each
Bindery		1000/minimum
cutting		$2.50/$2.50
business card		included above
3 hole punch		$7.50/$5.00
padding/chipboard		$.25/$.25 per pad
perforate/score		$20/$15
collate		$20/$10 (N/C inline)
hand fold		$50/$15
machine fold		$10/$10
saddle stitch		$50/$25
heavy duty staple		$.03 each
PC/D-L Wire/GBC...		Max $1.25 per book
clear acetate cover		$0.20
white vellum		$0.05
linen/premium		$0.10
Graphic Art		$50/hr
Delivery Fee		Free
Pickup schedule	Anytime	

Exhibit B
Option 2 (continued)

Add'l comments

Will buy remaining equipment in the Print Shop for $10,000 (as listed herein), remove from premises and take over existing leases for Model # 120PSSCNC and P4110CPC for the two (2) Xerox production printer/copiers as per contract specifications.

Equipment List

- Xerox comb binder
- GBC comb binder
- Itek 430 camera plate processor
- Amergraph 283 platemaker/plateburner
- Hamada 700 2-color press
- Hamada 661 2-color press
- Multigraphics 1250 1-color press
- Challenge Champion 30-inch cutter
- Bind-fast5 standard padding machine
- Ultrafold Braum 714 folder
- Bostitch stapler/stitcher
- Challenge paper drill
- AB Dick collator 7824PS
- Electrojog jogger (2)
- Rhin-o-tuff punch machine
- Envelope feeder
- Envelope delivery table

Option 3

Mail Room

$25.00 daily charge Monday through Friday

The City maintains the mail machine, maintenance, postage and will furnish supplies.

Exhibit C
Extended Pricing for Copies Vs Offset Press Costs

24#/60# White Opaque

Quantity		300	1000	5000	10,000
1/0	Print	$24.00	$50.00	$200.00	$375.00
	Copy	$9.90	$33.00	$165.00	$330.00
1/1	Print	$36.00	$82.00	$375.00	$600.00
	Copy	$16.80	$56.00	$280.00	$560.00
2/0	Print	$48.00	$90.00	$225.00	$400.00
	Copy	$75.00	$250.00	$1,250.00	$2,500.00
2/2	Print	$60.00	$122.00	$400.00	$650.00
	Copy	$150.00	$300.00	$2,500.00	$5,000.00
4/0	Print	$176.00	$196.00	$362.00	$569.00
	Copy	$75.00	$250.00	$1,250.00	$2,500.00
4/4	Print	$216.00	$242.00	$462.00	$741.00
	Copy	$150.00	$300.00	$2,500.00	$5,000.00

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: FP800102 Option I: Outsourcing Water Bills

INITIATED BY: IT/IS and Water Utilities

AGENDA: New Business

Recommendation: Approve outsourcing the printing and mailing of water bills.

Background: The City of Wichita operates an internal operation providing printing services for departmental projects, printing services for individual jobs, mail room services, and printing and mail services for water bills. A Request for Proposal (RFP) was developed to solicit proposals from qualified vendors to provide printing, mail services, printing and mail services for water bills. The RFP had three parts: Option I Outsourcing the Processing of the Water Bills, Option II Outsourcing the Print Shop and Option III Outsourcing the Mail Room. Option II and III will be discussed separately on another agenda.

Option I: Currently the Print Shop, in conjunction with Water Utilities, processes the water bills. The printing of the water bills comprises 25% of the operation of the Print Shop. Currently bills are not able to be processed from a single pass. The shell has been outsourced through a contract and must be printed offsite. The shell is then brought in to the Print Shop and the water bill information is printed on them. Water Utilities is requesting to outsource this operation to save financially on producing and mailing the water bills.

Analysis: Eight proposals were received for Option I. The staff screening and selection committee evaluated all the proposals and interviewed the top four proposals. High Cotton was recommended as the vendor of choice to outsource the processing of the water bills based on expertise, qualifications and knowledge of the current billing software (Banner) used by Water Utilities.

1. High Cotton will receive a file electronically and process the water bills at their facilities and mail the bills using the lowest automation rates for postage.
2. High Cotton will provide all equipment necessary to process the water bills at a competitive price.
3. High Cotton has the ability to provide electronic bill presentment to the Water Utilities' customers. That process will require additional programming but will be negotiated as part of the contract. This additional feature will further reduce the mailing costs and has been a widely requested service from our current customers.

Financial Considerations: The City will not be paying maintenance fees and rental charges for the current machine in the sub-basement or consider buying newer equipment to mail the water bills. In addition, two (2) part-time positions will be eliminated. The current cost to produce a water bill is $.53 each (2007 cost estimate). The proposed cost with High Cotton producing the water bill would be $.4279 each (current pricing). The number of bills printed per year is 2,000,706. The annual savings would be $204,272 to the City.

Goal Impact: This project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increased Productivity, plus the reduction to the City of Wichita Financially.

Legal Considerations: The Department of Law has reviewed the contract and approved it as to form.

Recommendation/Action: It is recommended that the City Council approve outsourcing to High Cotton for Option I (printing and mailing of the water bills).

CONTRACT
for
OUTSOURCING WATER BILLS – OPTION I of
OUTSOURCING PRINT SHOP AND MAIL ROOM SERVICES
BLANKET PURCHASE ORDER

THIS CONTRACT entered into this 9th day of June, 2009, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY"**, and **HIGH COTTON USA, INC.** (Vendor Code Number 823483-001) 2901 Alton Way, P. O. Box 101568, Birmingham, Alabama 35219, Telephone Number (205) 838-2345, hereinafter called **"CONTRACTOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Outsourcing Print Shop and Mail Room Services** for the IT / IS Department /Print Shop Division (Formal Proposal – FP800102); and

WHEREAS, CONTRACTOR has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY.**

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. CONTRACTOR** shall provide to the **CITY** all those services specified in its response for Outsourcing Print Shop and Mail Room Services for Formal Proposal Number – FP800102, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP800102, shall be considered a part of this contract and is incorporated by reference herein. The Cost of Services for all items listed on page 9 of **VENDOR's** proposal shall be modified to read as listed below under compensation.

2. **Compensation. CITY** agrees to pay to **CONTRACTOR** for **Outsourcing Water Bills – Option I** as per the proposal, plans, specifications, addenda and Contractor's proposal of January 12, 2009 and as approved by the City Council on June 9, 2009. .

DESCRIPTION (Ongoing Costs)	**PRICE PER UNIT COST**	
	OPTION I	**OPTION II**
Cost per Printed Bill	**$0.112**	**$0.0929**
Mailing Costs per Printed Bill	**$0.335**	**$0.3350**
Total per Printed Bill (includes all materials, i.e. paper, envelopes, ink)	**$0.447**	**$0.4279**

Manual Pulling Costs	**$0.000 $0.0000**
Variable 'highlight color'- red or blue or green (optional)	**$0.02 per image/page**
PDF creation – PDF(s) placed into a secure FTP folder for upload (optional)	**$0.02 per image**
FastForward – Automatic address correction & updating	**$0.03 per corrected**
Custom programming after initial set-up	**$125.00 per hour**
Data suppression	**Waived**
Intelligent insertion of inserts	**$0.010 per insert**
Annual License Fee (Per Year)	**$0.000 $0.00000**
Monthly Hosting	**$395.00**
DESCRIPTION (One-Time Costs)	**PRICE PER UNIT COST**
Server Costs	**$0.000 $0.000**
Software Upgrade	**$0.000 $0.000**
Additional Fees for Electronic Bill Presentment	
Implementation Fee	**Waived**
Presentment Fee	**$0.15 (charged only for customers registered for eBill)**
Twelve (12) month archival	**$0.015 per Image**
Payments (via billing site)	**$0.20**
Miscellaneous – Re-fax or re-email bill via customer care (optional)	**$0.15**

ESCALATING – DE-ESCALATING PRICES – FIRM FOR ONE (1) YEAR
Cap on Consumer Price Index (CPI) to be set at five percent (5%) per year
Billing Terms – Net Thirty (30) Days

a. **Postage.** The "City" agrees to furnish and pay all postage charges with respect to any and all materials mailed and processed pursuant to this Agreement. A postage deposit equal to the estimated cost of two (2) months of mailing will be required prior to the commencement of services for the "City" and shall be maintained at the level throughout the term of this Agreement. High Cotton is authorized to expend funds from the postage deposit, and the "City" will promptly reimburse the postage deposit fund, for any withdrawals made by High Cotton to pay for postage.

3. **Term.** The term of this contract shall be from **July 1, 2009 through December 31, 2010** with an option to renew for four (4) successive one (1) year terms by mutual agreement of both parties. This contract is subject to cancellation by the

CITY, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **CONTRACTOR.**

4. **Indemnification and Insurance.**

a. **CONTRACTOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

5. **Independent Contractor.** The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws. CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7 **No Assignment.** The services to be provided by the **CONTRACTOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. **Non-Discrimination. CONTRACTOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment/ Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration**. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

12. **Representative's Authority to Contract.** By signing this contract, the representative of the contractor or **CONTRACTOR** represents the he or she is duly authorized by the contractor or C**ONTRACTOR** to execute this contract, and that the contractor or C**ONTRACTOR** has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

Janis Edwards
Deputy City Clerk

CITY OF WICHITA, KANSAS

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

HIGH COTTON USA, INC

Signature

Print Signature Name

Title *(President or Corporate Officer)*

EXHIBIT A

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.

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

1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: SUB 2008-29 -- Plat of Broad Street Industrial Park Addition located west of West Street and south of MacArthur Road. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)

Background: This site, consisting of one lot on 80.9 acres, is a replat of the Broad Street Addition along with adjoining unplatted property. This site has recently been annexed into Wichita's city limits and is zoned LI Limited Industrial.

Analysis: A Petition, 100 percent, and a Certificate of Petition have been submitted for water improvements. An Access Easement has been submitted to provide ingress and egress to and from Broad Street.

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

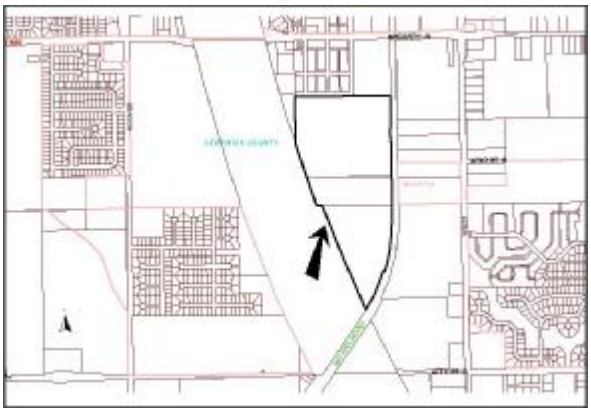
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

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

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

Attachments: Certificate of Petition and Access Easement.



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First Published in the Wichita Eagle on June 12, 2009

RESOLUTION NO. 09-169

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-89718 (SOUTH OF MACARTHUR, WEST OF WEST STREET) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-89718 (SOUTH OF MACARTHUR, WEST OF WEST STREET) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 02-452 adopted on October 1, 2002 and Resolution No. 09-093 adopted on April 7, 2009 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Water Distribution System Number 448-89718 (south of MacArthur, west of West Street).

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Ninety-Three Thousand Dollars ($93,000) exclusive of the cost of interest on borrowed money, with 100 percent of the total cost payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after February 1, 2009, exclusive of the costs of temporary financing.

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

BROAD STREET INDUSTRIAL PARK ADDITION
Lots 1 and 2, Block A

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a square foot basis.

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

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

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

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

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

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

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of June, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

CERTIFICATE OF PETITION

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

We, James K. Snook, as Trustee of the James K. Snook Trust Agreement dated September 22, 1997, owners of BROAD STREET INDUSTRIAL PARK, Wichita, Sedgwick County, Kansas do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Water Line Improvements

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within the Broad Street Industrial Park, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 21st day of April, 2009.

James K. Snook Trust Agreement
dated September 22, 1997

By: James K. Snook
James K. Snook, Trustee

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 21st day of April, 2009, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came James K. Snook, as Trustee of the James K. Snook Trust Agreement dated September 22, 1997, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-09)

JUDITH M. TERHUNE
Notary Public - State of Kansas
My Appt. Expires 11-7-09

ACCESS EASEMENT

THIS ACCESS EASEMENT made this 21st day of May, 2009, by James K. Snook, as Trustee of the James K. Snook Trust Agreement dated September 22, 1997, (hereafter "Snook Trust").

WITNESSETH

WHEREAS, Snook Trust is the owner of the following described real properties, to wit:

Tract I
Lot 2, Block A,
Broad Street Industrial Park,
Wichita, Sedgwick County, Kansas,

and,

Tract II
Lot 1, Block A,
Broad Street Industrial Park,
Wichita, Sedgwick County, Kansas,

and,

WHEREAS, Snook Trust as owner of Tract I desires a means of ingress and egress to and from said Tract I to Broad Street, and whereas the undersigned is willing to grant an easement for that purpose at this time.

NOW, THEREFORE, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Snook Trust, does hereby grant an easement over, on and across Tract II, for the purpose of enabling said owners of Tract I and Tract II, their successors, heirs, transferees, lessees, and assigns, to have and enjoy a means of ingress and egress to and from said Tracts to Broad Street, and for no other purpose, over and across the following described portion of said Tract II.

Access Easement

That part of Lot 1, Block A, Broad Street Industrial Park, Wichita, Sedgwick County, Kansas described as follows: Beginning at the NW corner of Reserve "A" in said Broad Street Industrial Park; thence S00°39'40"E along the west line of said Reserve "A", 388.83 feet to the SW corner of said Reserve "A", said SW corner also being the NW corner of Lot 2 in said Block A; thence continuing S00°39'40"E along the west line of said Lot 2, 288.86 feet to the SW corner of said Lot 2, said SW corner also being the NW corner of a drainage easement as granted in said Broad Street Industrial Park; thence continuing S00°39'40"E along the west line of said drainage easement, 275.00 feet to the SW corner of said drainage easement; thence S89°07'55"W along the westerly extension of the south line of said drainage easement, 70.00 feet; thence N00°39'40"W, 932.84 feet to a point on the north line of said Lot 1; thence N89°15'15"E along the north line of said Lot 1, 70.00 feet to the point of beginning.

It is understood and agreed that by this grant the grantor herein confers only a private easement for the benefit of said owners of Tract I and Tract II, their successors, heirs, transferees, lessees, and assigns, and that this grant does not constitute a dedication of said strip described above for use for road purposes by the public in general.

It is agreed that such access easement shall remain in place until and unless amended, revoked, or released by all of the parties in interest or their successors or assigns and that the same shall be a covenant running with the land and shall be binding upon the grantor herein, their grantees, their heirs, assigns, licensees, transferees, successors, and assignees in interest unless later amended, revoked, or released.

It is further contracted and covenanted that such access easement shall be for driveway, ingress, and egress purposes only and such easement shall not be used for parking purposes or utilized in any manner so as to impede or inconvenience the use of Tract I and Tract II by the owners thereof for the purposes herein set forth. Maintenance of said easement shall be in the mutual interest and responsibilities to all party's interest and their successors, heirs, and/or assigns and may be addressed by future recorded revisions or amendments to this Access Easement.

In testimony whereof the undersigned has set his hand this 21st day of May, 2009.

James K. Snook Trust Agreement
dated September 22, 1997

By: James K. Snook
James K. Snook, Trustee

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 21st day of May, 2009, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came James K. Snook, as Trustee of the James K. Snook Trust Agreement dated September 22, 1997, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-09)

JUDITH M. TERHUNE
Notary Public - State of Kansas
My Appt. Expires 11-7-09

Agenda Item No. V-2.

City of Wichita
City Council Meeting
June 9, 2009

To: Mayor and City Council

Subject: VAC2009-00012 - Request to vacate a portion of a platted setback; generally located on the north side of Hale Avenue, between Country Acres and Denmark Avenues (north of Central Avenue, west of Ridge Road). (District V)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicants propose to vacate the interior 5 feet of the platted 30-foot front yard setback, resulting in a 25-foot front yard setback on the SF-5 Single-family Residential ("SF-5") zoned lot; Lot 8 Block 26, Country Acres Second Addition. The Unified Zoning Code's minimum front yard setback for the SF-5 zoning district is 25 feet, which is what the applicants propose. There are no platted easements within the platted setback. There are no franchised utilities, manholes, sewer or water lines within the described portion of the platted setback. The house that was on the lot was destroyed by fire and the applicants propose to rebuild, including a new fountain, thus the request. The Country Acres Second Addition was recorded with the Register of Deeds on June 21, 1955.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.

City of Wichita
City Council Meeting
June 9, 2009

TO: Wichita Airport Authority

SUBJECT: Terminal East Data Center: Supplemental Agreement - Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the budget and Supplemental Agreement No. 6.

Background: This project is identified in the Airport Capital Improvement Program (CIP), and is an enabling project preparing for the new terminal project.

The following table depicts the original contract with HNTB and the supplemental agreements to date. HNTB was selected through the Staff Screening Process as the design team to integrate and sequence on a campus-wide basis various related elements of the overall terminal area redevelopment program. The intent was that supplemental agreements would be entered into each time a new element was added, some being funded from budget sources separate from the main Air Capital Terminal 3 (ACT 3) project:

	Amount	Description	Date
Contract	12,660,000.00	ACT 3 Design Contract	6/18/2006
SA#1	128,709.00	North Shuttle Lot, Construction Related Services	2/7/2008
SA#2	311,767.00	Apron Phase I, Resident Engineering	8/5/2008
SA#3	53,137.00	Customs Federal Inspection Facilities Design	9/23/2008
SA#4	43,594.00	North Shuttle Lot, Additional Construction Related Services	1/27/2009
SA#5	74,369.00	Interim Customs Construction Related Services (CRS)	5/12/2009
SA#6	42,414.00	East Data Center Design, Bid & CRS	

Analysis: A construction project in the existing terminal basement is required to accommodate a data center for communication cabling and equipment prior to the terminal project. This part of the existing building will be retained after the new terminal is constructed.

Financial Considerations: The cost of the design, bid and construction phase services with HNTB is a not-to-exceed amount of $42,414. A budget of $410,000 is requested for this project and it will be funded with a combination of Passenger Facility Charges (PFCs) and General Obligation bonds paid for with Airport Revenue.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow uninterrupted airport services to be provided.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the budget and supplemental agreement, and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 6.

SUPPLEMENTAL AGREEMENT NO. 6

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

THE WICHITA AIRPORT AUTHORITY, "OWNER",

AND

HNTB ARCHITECTURE, "CONSULTANT",

WITNESSETH:

WHEREAS, there now exists a Contract, dated July 18, 2006, between the two parties covering professional services to be provided by the CONSULTANT in conjunction with the construction of improvements to Wichita Mid-Continent Airport.

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

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

NOW THEREFORE, the parties hereto mutually agree as follows:

A. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE I of the referenced Contract is hereby amended to include the following:

Architectural and MEP engineering services for the new East Data Center.

Remodel the area of the basement of the existing terminal building identified in Exhibit SA6-B to support the initial installation of equipment for the Deployment of Security Systems and final deployment of equipment in the East Data Center as required for the Air Capital Terminal 3 (ACT 3) project. A preliminary layout of the East Data Center is shown in TY401 of Exhibit SA6-B. Reconstruction and renovation of the remaining areas of the existing terminal building and connection of the East Data Center to mechanical and electrical systems in the new terminal are not included in this scope. The construction of the East Data Center needs to occur prior to renovation of other basement areas. The project includes:

- Partial demolition.
- New walls, doors and finishes.
- Stand-alone HVAC for the East Data Center.
- Power and lighting, including centralized UPS.

- Gaseous fire protection.
- Pathway for connection of East Data Center to existing server room in terminal basement.

Architectural and engineering services to be provided include the following:

- Architectural, MEP and fire protection design and preparation of construction documents.
  - Attend meetings with design team, owner and telecom sub-consultant.
  - Perform pre-design site visit to establish observable existing conditions.
  - Perform HVAC loads calculations, based on the loading data provided by the telecom sub-consultant.
  - Make HVAC equipment selections, incorporating recommendations from the telecom sub-consultant.
  - Perform electrical load calculations, based on the loading data provided by the telecom sub-consultant.
  - Make UPS and emergency equipment selections, incorporating recommendations from the telecom sub-consultant.
  - Prepare architectural, fire protection, HVAC, electrical drawings, details and specifications for bidding as a separate bid package.
  - Provide for existing equipment in the East Data Center that is to remain in service during and after construction.
  - Meet with Central Inspection for preliminary code review.
  - Field review design when drawings are near completion.
  - Preparation of cost estimates by design professionals (format not required to match base project).
- Bid phase services, including pre-bid meeting, responding to Contractor's questions and preparing addenda as required during bidding.
- Construction phase services, including:
  - Review of shop drawings.
  - One interim and one final construction observation site visit for architectural, HVAC and electrical disciplines.
- Record drawings in AutoCAD and specifications in MS Word.

The following services are not included in the scope of this Supplemental Agreement:

- Infrastructure systems, including MEP and fire protection, for areas of the existing terminal building outside the East Data Center.
- Design of network and communications systems to be housed in the East Data Center.

Refer to Exhibit SA6-C for the anticipated schedule for completion of design and construction documents.

B. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended to include the following:

Payment to the CONSULTANT for the performance of the professional services as outlined in this Supplemental Agreement shall be made on the basis of a lump sum for the amount of $42,414.00 (Exhibit SA6-A).

C. PROVISIONS OF THE ORIGINAL CONTRACT

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

IN WITNESS WHEREOF, the OWNER and the CONSULTANT executes this Supplemental Agreement as of this _____ day of _____, 2009.

ATTEST:

By: _____
Karen Sublett, City Clerk

By: _____
Victor White, Director of Airports

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Carl Brewer, President
"OWNER"

ATTEST:

By: _____
Title: Principal Architect

HNTB ARCHITECTURE
715 KIRK DRIVE
KANSAS CITY, MO 64105

By: _____
Title: BECKY COTTON, SR. VICE PRESIDENT

APPROVED AS TO FORM: _____ Date: _____
Director of Law

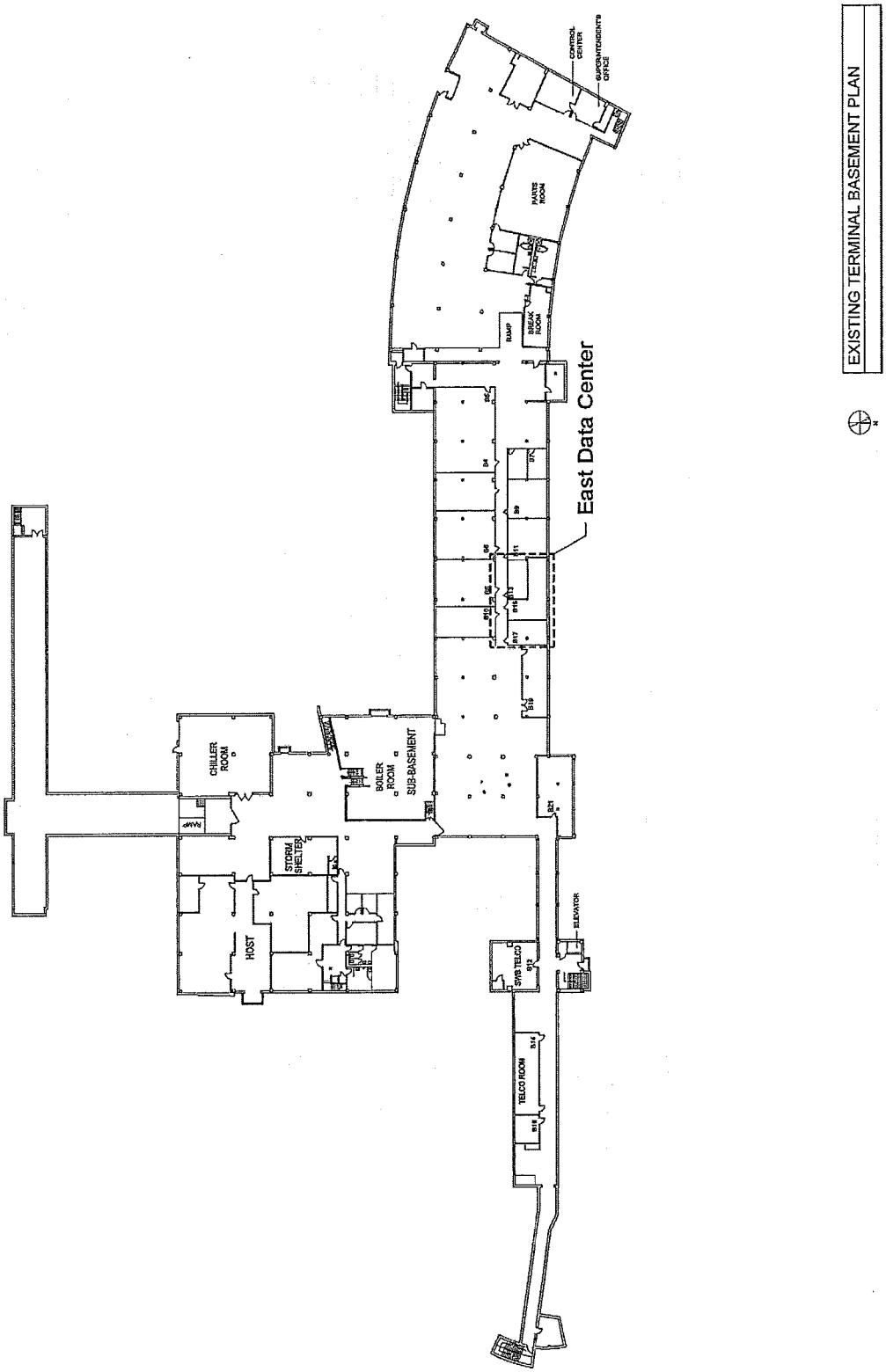
ATTACHMENTS: EXHIBIT SA6-A – FEE SCHEDULE
EXHIBIT SA6-B – EXISTING TERMINAL BASEMENT PLAN AND PRELIMINARY EAST DATA CENTER PLAN
EXHIBIT SA6-C – SCHEDULE

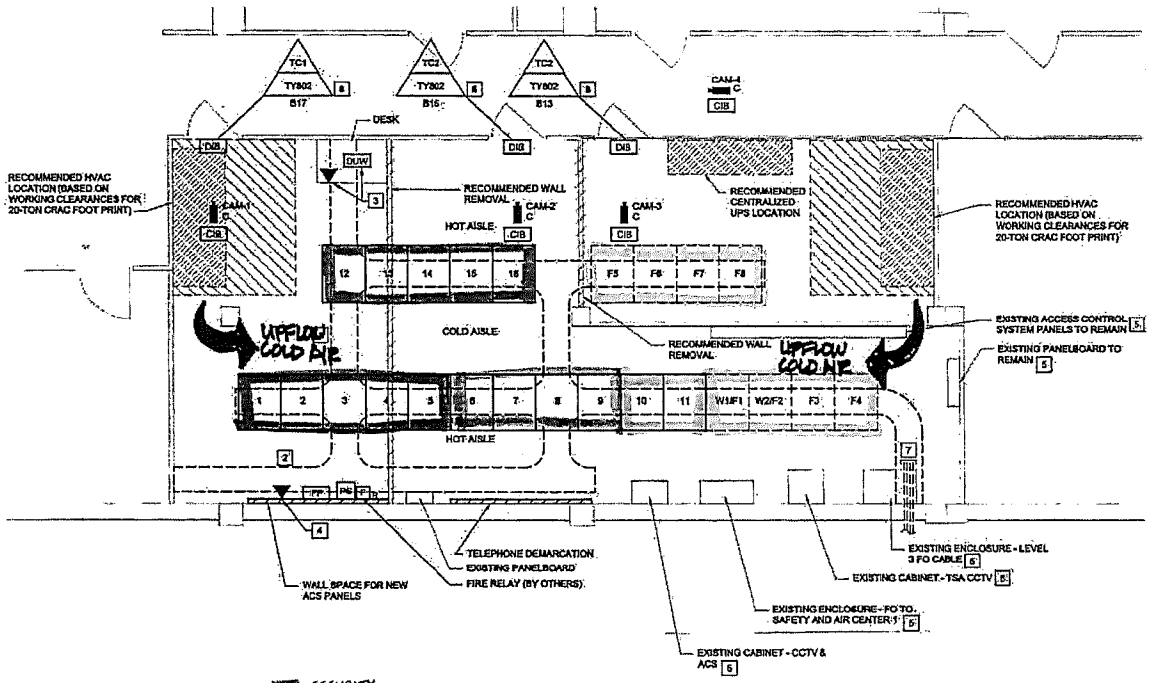
Wichita Mid-Continent Airport - Terminal Area Redevelopment Project
Estimated Cost of Consultant's Services
HNTB Architecture 5/12/2009

Architecture and MEP for East Data Center
Additional Services Request No. 11a (rev 3)
HNTB Project 34912-DS-007

		Hours	Avg Rate	Cost
1.	**Direct Salary Costs**			
	Total Direct Salary Costs	30	52.78	$1,584
2.	**Labor and General & Administrative Overhead**			
	Percentage of Direct Salary Costs	196.47%		$3,111
3.	**Total Labor Cost - Subtotal of Items 1 and 2**			$4,695
4.	**Fixed Fee**	14.90%		$699
5.	**Subtotal of Items 3 and 4**			$5,394
6.	**Direct Non-Salary Expenses**			
	Transportation and Subsistence		0	
	Printing and Deliveries		400	
	Other Expenses		0	
	Total Direct Non-salary Expenses			$400
7.	**Subtotal of Items 5 and 6**			$5,794
8.	**Subconsultant Costs**			
	Gossen Livingston Associates		9,012	
	Professional Engineering Consultants (MEP)		25,868	
	FSC, Inc.		1,740	
				$36,620
	Total Proposed Cost			$42,414

Exhibit SA6-B





CABINET	SYSTEM OR USE
1	SECURITY SAN SERVER
2	SECURITY SAN SERVER
3	SECURITY SAN SERVER
4	FUTURE SAN
5	SECURITY BLADE SERVERS
6	NETWORK
7	FIBER DISTRIBUTION
8	HORIZONTAL DISTRIBUTION
9	HORIZONTAL DISTRIBUTION
10	TELEPHONE - PBX
11	TELEPHONE - PBX
12	OTHER WAA SYSTEMS
13	OTHER WAA SYSTEMS
14	OTHER WAA SYSTEMS
15	OTHER WAA SYSTEMS
16	GENERAL BLADE SERVERS
W1/F1	WEST DATA CENTER - SECURITY
W2/F2	WEST DATA CENTER - SECURITY
F3	FUTURE
F4	FUTURE
F5	FUTURE
F6	FUTURE
F7	FUTURE
F8	FUTURE

GENERAL NOTES:

1. SEE EAST DATA CENTER PROJECT FOR ARCHITECTURAL AND MEP MODIFICATION FOR USE BY THIS PROJECTS SYSTEMS.

KEYED NOTES:

1. WAA TO REMOVE SHELVES, DESKS, AND OTHER ITEMS FROM ROOM B17.
2. CABLE TRAY AND PERMANENT MOUNTING OF CABINETS BY FUTURE DATA CENTER PROJECT.
3. COORDINATE EXACT LOCATION OF USER WORKSTATION WITH WAA.
4. DATA OUTLET FOR IFP LAN CONNECTIVITY.
5. EXISTING EQUIPMENT TO REMAIN UNTIL NEW TERMINAL IS OPERATIONAL.
6. EXISTING EQUIPMENT TO BE REMOVED AS PART OF PACKAGE 11: DATA CENTER FIT-OUT.
7. FUTURE CABLES TO BE INSTALLED IN PACKAGE 3: LANDSIDE UTILITIES - PHASE I. CABLES TO BE COILED TO UNDERSIDE OF CEILING. TERMINATION TO OCCUR AS PART OF PACKAGE 11: DATA CENTER FIT-OUT.
8. EXISTING DOORS SHOWN FOR REFERENCE ONLY. NEW DOORS TO BE FURNISHED AND INSTALLED AS PART OF PACKAGE 5: DATA CENTERS.

SECURITY

INFRASTRUCTURE

TELEPHONE

GENERAL SERVERS

TRANSITION FOR WEST DATA CENTER (W1/W2)
FUTURE RACKS (F1...F8)

NOTE:

1. DOOR OPENINGS SHOWN ARE EXISTING. NEW DOORS TO BE DEFINED IN PACKAGE 5: DATA CENTERS.
2. CABLE TRAY SHOWN IS RECOMMEND LAYOUT. NEEDS TO BE VALIDATED FOR EXISTING CONDITIONS TO REMAIN IN PACKAGE 5: DATA CENTERS.
3. RECOMMENDED WALL REMOVAL TO BE PART OF PACKAGE 5: DATA CENTERS.
4. HVAC REQUIREMENTS TO BE VALIDATED AS PART OF PACKAGE 5: DATA CENTERS.
5. ELECTRICAL REQUIREMENTS TO BE VALIDATED AS PART OF PACKAGE 5: DATA CENTERS.

EAST DATA CENTER

Exhibit SA6-C

SCHEDULE

Design development documents	five weeks
Owner review	two weeks
Construction documents	four weeks
Owner review	two weeks
Final bid documents	two weeks

City of Wichita
City Council Meeting
June 9, 2009

TO: Wichita Airport Authority

SUBJECT: Bevan Rabell – Supplemental Agreement No. 4

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: Bevan-Rabell has operated on Mid-Continent for more than 50 years—changing its name from Bevan Radio to Bevan-Rabell in the 1970s. This company is an aviation electronics FAA certified repair station and occupies Hangar 3 located at 1880 Airport Road. The current lease agreement expires on May 31, 2009.

Analysis: This facility is composed of offices and two hangar bays which encompass 24,390 sq. ft., and is situated on 129,816 sq. ft. of land. Bevan-Rabell has requested a three-year lease extension, with one, two-year renewal option. Per WAA policy, facilities are leased at fair market rental value. Steve Martens of the Martens Companies has provided a Broker's Opinion of Value to determine the rental rate during the three-year lease period.

Financial Considerations: The recommended rental rate is $73,170.07 for the first year. This reflects a $3.00 per sq. ft. rate which is split between facility rent ($32,444.56) and land rent ($40,725.51). Facility rent remains the same during the three-year term; however, land rent will increase 5% each year, per WAA policy. Total revenue to the WAA for the three-year period is $225,717.48.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through maintaining 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 Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 4, and authorize necessary signatures.

Attachments: Supplemental Agreement No. 4.

SUPPLEMENTAL AGREEMENT NO. 4

By and Between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas

and

BEVAN-RABELL, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 4, made and entered into this June 9, 2009, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and BEVAN-RABELL, INC., hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated June 3, 1991 for the use of Hangar No. 3 on Wichita Mid-Continent Airport; Supplemental Agreement No. 1 dated June 17, 1996; Supplemental Agreement No. 2 dated July 24, 2001; and Supplemental Agreement No. 3 dated November 16, 2004, and

WHEREAS, the parties hereto are now desirous of amending this agreement for the purpose of modifying certain Agreement language, extending the term and adjusting the rentals.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1. **Term.** The term of this Agreement shall be extended for a three-year period, commencing on June 1, 2009 and terminating May 31, 2012.

2. **Rental.** Rental for the facility during the extended term shall be $32,444.56 per year, payable in advance in monthly installments of $2,703.72 per month, for the term of this extension.

   In addition to the foregoing facility rental, Lessee agrees to pay land rental for the leased premises containing approximately 129,816 square feet, as reflected on Exhibit "A", which is attached hereto and made a part hereof. Basic land rental during the term of this agreement shall be as follows:

Term	Rate Per Sq. Ft.	Monthly	Annual
06/01/09 – 12/31/09	$.3073	$3,324.38	$23,270.66*
01/01/10 – 12/31/10	$.3227	$3,490.97	$41,891.63
01/01/11 – 12/31/11	$.3388	$3,665.14	$43,981.66
01/01/12 – 05/31/12	$.3557	$3,847.97	$19,239.85*

*Partial Year

3. **Renewal Option**. Lessee shall have and is hereby given the right and option to extend the term of this Agreement for one additional term of two years, provided that (i) Lessee shall give Lessor written notice of its intention to exercise such option at least 180 days prior to the expiration of the previous term, and (ii) Lessee is not in default hereunder in the payment of rent at the time it gives Lessor such notice or at the time such additional term commences. In the event that Lessee fails to give required notice to Lessor, this Agreement shall automatically terminate at the end of the previous term of this Agreement.

4. **Rental during Renewal Option**. In the event Lessee exercises its option for the additional term, subject to the provisions for adjustments in rents, as set forth in this paragraph, all terms, covenants, and provisions set forth in this Agreement shall be in full force and effect and binding upon Lessor and Lessee during such additional term.

   Facility rental for the period 06/01/12– 05/31/14 shall be the facility rental during the previous three years, modified by the percentage change of the CPI-U over the previous three years, except that the annual facility rental shall be no less than $32,444.56 per year.

   It is understood and agreed that basic land rental during the additional term, if exercised, for the 129,816 sq. ft., shall be at the following land rental rates:

Term	Rate Per Sq. Ft.	Monthly	Annual
06/01/12-12/31/12	$.3557	$3,847.97	$26,935.79*
01/01/13-12/31/13	$.3735	$4,040.53	$48,486.28
01/01/14-05/31/14	$.3922	$4,242.82	$21,214.10*

*Partial Year

5. **Use, Rights & Privileges.** Article 4 of the Agreement shall be modified to include the following language:

   It is understood and agreed that the premises shall be used and occupied for aviation purposes or purposes incidental or related thereto. Lessee hereby agrees that the described premises may be utilized by Lessee for the sole purpose wherein Lessee and its personnel may perform the activities outlined in this and Article 4 of the Agreement.

   Lessee, its affiliated entities, employees, agents, representatives, contractors, subcontractors, will not transact or otherwise engage in any other activities, business, and/or services, except as described in this Agreement at or on the Airport, unless such is provided for by a separate written approval, agreement, or amendment to this Agreement, subject to approval by Lessor, which approval may be withheld.

6. **Lessor's Rights & Privileges.** Lessor expressly reserves from the premises:

   (a) Mineral Rights. All gas, oil and mineral rights in and under the soil.

   (b) Air Space. A public right of flight through the air space above the surface of the premises. This public right of flight will include the right to cause or allow in said

airspace, any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport. No liability on the part of Lessor will result from the exercise of this right.

(c) Navigational Aids. The right to install, maintain and modify and/or permit others to install, maintain and modify on the premises navigational aids.

(d) Utility Right-of-Way. The right to install, maintain and modify utilities and to grant utility rights of way to others over, under, through, across or on the premises located within 25 feet of the outside boundary lines.

(e) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the premises. Revenue-producing communication systems or systems not directly applicable to Lessee's operations on the premises are prohibited except upon the specific approval of the Lessor.

Provided that exercise by Lessor of any such reserved rights (a) through (d) will be without expense to the Lessee and will not unreasonably or materially interfere with Lessee's use of the premises and will not delay Lessee in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance. Lessor shall give Lessee notice in writing of the exercise of its rights under (c) and (d).

7. **Utility Right-of-Way.** In addition to the Lessor's rights and privileges set out in Paragraph 6(d) of this supplemental agreement, Lessor reserves unto itself the right to install, maintain, repair, replace, or remove and replace water and sewer pipes, electrical lines, gas lines, telephone or fiber cable, or any other utility or service located on, or as may be located on, the premises as necessary or appropriate, in the Lessor's judgment, to make such utilities available to Lessee, Lessor, or to other tenants. Any interference with Lessee's use of the premises shall be temporary, and Lessor shall use diligent efforts to cause all work on the premises to proceed expeditiously. Lessee shall be given reasonable notice before commencement of any work on the premises. Such work shall not result in the closure of Lessee's business on the premises. In the event the installation or maintenance of such future utilities causes any damage to the premises, or any portion thereof, including but not limited to pavements, curbs, sidewalks, and landscaping, the same shall be repaired by the Lessor at its expense, if not so repaired by the installing or maintaining party. Lessor shall not be liable to Lessee for damages arising out of any cessation or interruption of water, sewer, electrical, gas, telephone, fiber cable, or other utility service during the initial term or option term, unless said damages were caused by Lessor and/or its employees, agents, or contractor's negligence, acts of commission, or acts of omission.

8. **Non-interference with Operation of Airport.** Lessee covenants and agrees that it will not allow any condition on the premises, nor permit the conduct of any activity on such premises, which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities; nor will Lessee use or permit the premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard. If any proscribed or prohibited condition or activity,

as described above, shall be permitted to exist on the premises, or on any part thereof, then, as an alternative to termination of this Agreement the Lessor, after giving 10 days written notice to Lessee, during which period Lessee may abate or correct the omission or objection, so set forth in Lessor's notice, may thereupon correct such omission or objection by entering the premises, or by its agents or employees, without such entering causing or constituting a termination of this Agreement or an interference with possession of premises by Lessee, and the Lessor may cause abatement of such proscribed or prohibited condition or activity; and, in such event, the Lessee agrees to pay the Lessor the expenses of the Lessor incurred in the above connection as additional rent within 30 days after submission of an invoice showing the reasonable expenditure or the incurring of any such reasonable expenditure by the Lessor.

9. **Minimum Standards for Commercial Aeronautical Activities.** Lessor may, with due notice, from time-to-time, adopt and enforce reasonable minimum standards for Commercial Aeronautical Activities, and amendments thereto, and the Lessee agrees to observe and comply with the same. However, any minimum standards which may be developed and promulgated in the future and during the initial term of this Agreement shall not have the effect of imposing additional facilities, services or standards beyond that set forth in this initial Agreement.

10. **Security Regulations.** Lessee shall comply with all applicable regulations and standard operating procedures relating to Airport security. Lessor shall be held harmless for any and all breaches of the Federal Aviation Administration or the Transportation Security Administration's policies and regulations and Lessor's security rules or regulations caused by the Lessee, its agents or employees, or that occur on the Lessee's premises except to the extent caused by Lessor.

    Lessee must obtain Airport Security Identification and Access Media (I.D. Media) for its employees, subcontractors, suppliers, agents, and representatives requiring access to the sterile areas, secured air operations area (AOA), and security identification display area (SIDA), or other secured areas as may be identified in the Airport Security Program, and pay any related costs associated with this privileges as set forth under this Section. Said I.D. Media will be valid as set forth under the Airport Security Program, and must be returned to the Airport Public Safety Division, at 2193 Air Cargo Road within twenty-four (24) hours after expiration, suspension, and/or termination of this Agreement. Said I.D. Media will be valid for no longer than the period of this Agreement.

    Lessee covenants that it will at all times maintain the integrity of the Airport Security Program and comply with all applicable provisions of 49 CFR Parts 1500, 1544, 1546, 1548, and 1550 as promulgated, and that it will always maintain the security of the Airport, premises, and/or any AOA access which Lessee maintains. Lessee hereby agrees that it shall also be responsible for conducting and verifying any and all required background checks for I.D. Media for any and all of its employees, subcontractors, suppliers, agents, and/or representatives. Lessee also hereby agrees that it shall be responsible for any and all of the actions of its employees, subcontractors, suppliers, agents, and/or representatives and shall provide any and all necessary escorts, as outlined in the Airport Security Program. Lessee hereby agrees that it will immediately implement any and all security changes that are directed

either directly or indirectly by the Transportation Security Administration ("TSA"), Federal Aviation Administration ("FAA"), or Lessor.

Should Lessee, its employees, subcontractors, suppliers, agents, and/or representatives cause any security violations, and should Lessor be cited for a civil fine or penalty for such security violation, Lessee agrees to reimburse Lessor for any monetary civil fine or penalty, which may be imposed on Lessor by TSA, however, nothing herein shall prevent the Lessee from contesting the legality, validity or application of such fine or penalty to the full extent Lessee may be lawfully entitled. Lessee may have I.D. Media/access privileges immediately suspended and/or revoked by Lessor for failure to adhere to the Airport Security Program, or for failure to return all I.D. Media within the time-frames specified herein. Such actions may also be grounds for termination of this Agreement for non-compliance, at the sole discretion of Lessor, if such failure by Lessee is not cured by Lessee within thirty (30) days after receiving notice from Lessor of such failure.

In accordance with the Airport Security Program, Lessee must obtain Airport Security Identification and Access Media and fingerprinting (if required) for their eligible employees, subcontractors, suppliers, agents, and/or representatives.

11. Portable Storage Containers/Structures. Unless specifically approved in writing, and under conditions specified by Lessor, Lessee shall not place or allow to be placed upon premises, any type of portable storage container, trailer, unit, box, or barrel which is used to store merchandise and/or equipment and supplies outside of an enclosed permanent building or structure, which does not qualify as a building or structure under Title 18 of the Code of the City of Wichita. Lessor will not unreasonably withhold approval of such container(s) if such is of a temporary nature for the purpose of supporting construction, alteration or improvement activity, or at the discretion of Lessor, is shielded from public view by means of location, fencing, or other such approved shielding methods.

Unless specifically approved, and under conditions specified by Lessor, Lessee shall not place or allow to be placed upon premises, any type of portable or temporary structure, mobile home, modular structure or device. Lessor will not unreasonably withhold approval of such structure(s) if such is of a temporary nature for the purpose of supporting construction, alteration or improvement activity, or other approved project.

12. Alterations. Article 11, "Alterations" and Article 12, "Equipment Installation" of the Agreement shall be superseded and replaced with the following language:

Lessee shall have the right during the term hereof, at Lessee's expense, at any time and from time to time, to construct fixed improvements as it may deem necessary or desirable in connection with its operation under this Agreement; provided, however, that Lessee shall first submit plans and specifications for such facilities to the Lessor for approval, which approval shall not be unreasonably withheld or unduly delayed. Lessor retains the right to ask for special submittals, as needed, to fully understand the proposed improvements. Improvements within the secured area shall confirm to FAA standards and criteria for design, construction, inspection and testing. Improvements in other areas shall conform to Lessor's criteria.

Lessee shall use commercially reasonable efforts to coordinate the construction of the Improvements with time schedules established by the Lessor**,** should other construction be occurring at the Airport, which may be impacted by this project**;** provided that Lessee shall not be liable for any delays in construction occasioned by this coordination with the Lessor that are outside of the control of the Lessee.

All such alterations, additions, or improvements shall be performed in a workmanlike manner in accordance with all applicable governmental regulations, building codes, Airport rules and regulations, Authority design and construction standards, standard operating procedures, Airport security program and all other applicable regulations, codes, and requirements, and will not weaken or impair the structural strength, or lessen the value of the building and the premises, or change the purposes for which the building or any part thereof, may be used. Any such alterations, additions, or improvements shall be erected at the sole cost and expense of Lessee, and Lessee shall have no right, authority, or power to bind Lessor or any interest of Lessor in the premises, for the payment of any claim for labor or material or for any charge or expense incurred in the erection, construction, operation, or maintenance of said improvements and premises.

It shall be the responsibility of Lessee, to file all necessary alteration and construction forms with the Director of Airports, as the Lessor's representative, for submission to the Federal Aviation Administration for approval, which approval shall not be unreasonably withheld or unduly delayed by the Director of Airports. Further, design and construction specifications and documents must be reviewed by the City of Wichita Office of Central Inspection and/or the Planning Department or other departments as may be identified from time to time, as may be applicable, prior to the issuance of a building permit.

Lessee warrants that the Improvements, when completed, will be necessary or useful in its development for use by Lessee for its purposes. Lessee agrees to proceed diligently to complete the Improvements.

13. <u>Liens</u>. Lessee shall take or cause to be taken all steps that are required or permitted by law in order to avoid the imposition of any lien upon the premises or any improvements thereon.

Should Lessee cause any improvements to the premises, Lessee shall cause any contract with any, contractor, designer or other person providing, work, labor or materials to the premises to include the following clause:

"Contractor agrees on behalf of itself, its subcontractors, suppliers, and consultants and their employees that there is no legal right to file a lien upon Wichita Airport Authority owned property and will not file a mechanic's lien or otherwise assert any claim against Authority's real estate or any leasehold interest thereon on account of any work done, labor performed, or materials furnished under this contract. Contractor agrees to indemnify, defend and hold City of Wichita and Wichita Airport Authority harmless from any liens filed upon the Authority's property, and shall promptly take all necessary legal action to ensure the removal of any such lien at Contractor's sole cost."

However, should any lien be placed on the premises or any improvements made thereon, Lessee will cause to be removed any and all liens of any nature including, but not limited to, tax liens and liens arising out of or because of any construction or installation performed by or on behalf of Lessee or any of its contractors or subcontractors upon Lessee's premises or arising out of or because of the performance of any work or labor to it or them at said premises or the furnishing of any materials to it or them for use at said premises. Should any such lien be made or filed, Lessee will bond against or discharge the same within thirty (30) days after written request by Lessor.

14. <u>Landscaping</u>. Lessee shall provide and install appropriate landside landscaping and screening, including lawn, shrubbery, trees, bushes, vines and other plantings and screening on the premises. All proposed landscaping plans and screening designs shall be submitted to the Director of Airports for review and approval. Lessee further agrees to provide any further landscaping that may be required, during the term hereof, by the Director of Airports for the purpose of screening from view any area of the premises.

Such landscaping shall be in accordance with the Airport's design guidelines in effect at that time; i.e. standard operating procedures, and shall not be installed and maintained in such a manner so as to create a wildlife hazard to aircraft operations. Lessee agrees to maintain and/or replace landscaping on the premises throughout the term of this Agreement or any extension thereof.

15. <u>Maintenance & Repair</u>. Article 15, "Maintenance & Repair, of the Agreement shall be supplemented to include the following language:

Lessee shall be responsible for the removal and disposal of garbage, debris, contaminants and any other waste material (whether solid or liquid) arising out of its occupancy of the premises, or out of its operation. Such removal will conform with all governmental requirements and regulations as more fully described in Article 17, "Environmental" of this Supplemental Agreement. Such removal and disposal of garbage, debris, contaminants, or other waste material is understood to include routine, daily clean-up of the surrounding areas. Lessee shall immediately react and take prompt corrective actions to remove and dispose of any paper, garbage and debris on premises upon demand of Lessor. Lessee shall provide, and screen from public view, suitable covered receptacles for all garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets or other similar items in an unsightly or unsafe manner on or about the premises is forbidden.

In addition to other rights and remedies of the Lessor hereunder, should Lessee fail to perform its upkeep, maintenance and repair responsibilities, Lessor may, but is not obligated to, perform maintenance and make repairs thereon and thereto which it determines to be necessary, charging the same to the expense of Lessee upon thirty (30) days prior written notice of its intent to do so; except in case of emergency for which no notice is necessary, plus a fifteen percent (15%) administrative fee. Such amount shall be paid by the Lessee to Lessor no later than thirty (30) days after the date of invoice from the Lessor to the Lessee for such costs.

16. Snow Removal. Lessee shall be responsible for snow and ice removal on the premises and aircraft parking ramps. At no time shall Lessee engage in snow and ice removal beyond the areas identified above without the prior knowledge and approval of the Lessor.

Snow piles, windrows or other accumulations of snow shall not:

(a) Be closer than 25 feet from any security fence;

(b) Block any access gates or controls;

(c) Block or impede any taxiway or taxi lane;

(d) Impose an obstruction within the object free area (OFA) of any taxiway or taxi lane;

(e) Infringe upon, block or interrupt the business of other airport tenant leaseholds.

Snow piles and accumulations requiring removal may be stored on pre-arranged designated paved areas, to be removed by Lessor when time and equipment availability permit, so long as such piles/accumulations comply with a. through e. of this Section.

Only FAA approved dry and liquid chemicals may be used for de-icing or snow removal on aircraft operating surfaces, as set forth in Advisory Circular 150/5200-30, current edition, or as may be amended, *Airport Winter Safety and Operations*, Section 4-6 *Approved Chemicals*, current edition, or as may be amended.

The use of snow and ice removal contractors may be authorized subject to prior written approval by Lessor, and subject to acceptable completion of contractor employee training, and other reasonable safety requirements and standards that Lessor may impose, including but not limited to compliance with Airport rules and regulations, and standard operating procedures. All such snow and ice removal contractors shall maintain a general liability insurance policy of not less than $1,000,000 limit, naming Lessee, the Wichita Airport Authority and the City of Wichita as additional insureds.

17. Environmental.

(a) The Lessee hereby covenants that it will not cause or permit any hazardous substances to be placed, held, located or disposed of, on, under or at the premises, other than in the ordinary course of business and in compliance with all applicable laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided to the Lessor hereunder, the Lessee hereby agrees to indemnify and hold harmless the Lessor and the City of Wichita, Kansas from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Lessor and the City of Wichita, Kansas by any person or entity for or arising out of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the premises during any term of this Agreement of any hazardous substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the

Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any hazardous substance) if such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the Lessee, or persons within the control of the Lessee, its officers, employees, agents, and/or licensees, or if such hazardous substance was owned by, or located on the premises by, the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(c) If, during the term of this Agreement, the Lessee receives any notice of (i) the happening of any event involving the use (other than in the ordinary course of business and in compliance with all applicable laws), spill, release, leak, seepage, discharge or cleanup of any hazardous substance on the premises or in connection with the Lessee's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting the Lessee (an "Environmental Complaint") from any persons or entity (including, without limitation, the United States Environmental Protection Agency (the "EPA") or the Kansas Department of Health and Environment ("KDHE")), the Lessee shall immediately notify the Lessor and the Trustee in writing of said notice.

(d) The Lessor shall have the right, but not the obligation, and without limitation of the Lessor's other rights under this Agreement, to enter the premises or to take such other actions as deemed necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any hazardous substance or Environmental Complaint following receipt of any notice from any person, including, without limitation, the EPA or KDHE, asserting the existence of any hazardous substance or an Environmental Complaint pertaining to the premises or any part thereof which, if true, could result in an order, suit or other action against the Lessee and/or which, in the reasonable judgment of the Lessor, could jeopardize its interests under this Agreement. If such conditions are caused by circumstances within the control of the Lessee or if such circumstances result from a hazardous substance owned by, or located on the premises by, the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release) all reasonable costs and expenses incurred by the Lessor in the exercise of any such rights shall be payable by the Lessee upon demand.

(e) The Lessor hereby agrees to indemnify and hold harmless the Lessee from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Lessee by any person or entity for, arising out of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the premises during the period prior to the term of this Agreement of any hazardous substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any hazardous substance) unless such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the Lessee, or persons within the control of the Lessee, its

officers, employees, agents, invites and/or licensees, or if such hazardous substance was owned by, or placed upon the premises by the Lessee (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(f) The provisions of this Section shall survive the termination of this Agreement.

18. Assignment. Article 30, "Assignment" of the Agreement shall be superseded and replaced with the following language:

Lessee shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of Lessor. Any assignment or delegation so permitted and so made shall be subject to all terms, conditions and other provisions of this Agreement. Any attempted assignment or delegation in violation of this provision shall be void and have no force or effect whatsoever.

19. Subleases. Lessee will not sublease, rent or permit any persons, firms or corporations to occupy any part of the premises, or to provide any type of commercial operation, aviation or otherwise, on the premises without having first received the prior written consent of Lessor, and under the following conditions:

(a) Any arrangements must be in the form of a written instrument and must be specifically for purposes and uses of the premises as authorized under this Agreement, and shall be subject to the provisions of this Agreement. Lessee shall submit a copy of such proposed instrument at the time of requesting consent of Lessor.

(b) All subleases will be reviewed for compliance by Lessor. Any arrangement for the subleasing of space must be in conformance with the "Use, Rights & Privileges" outlined in this Agreement, unless expressly approved otherwise in writing by Lessor.

(c) Lessee hereby agrees that it shall incorporate language acceptable to Lessor into all of its future sublease agreements and, any similar restrictions, which Lessee may create in relation to the use of the premises by its affiliated entities, contractors, subcontractors, sublessees, permittees, and/or tenants. Lessee shall also incorporate and make reference to this Agreement, as may be amended from time to time, to ensure sublessee's operations and conduct are subject to and are in compliance with the terms and conditions of this Agreement, as may be amended from time to time.

(d) Lessee shall at all times during the term(s) of approved subleases, remain responsible to Lessor for the compliance of its sublessees of the terms and conditions of this Agreement.

(e) Consent to one sublease will not be deemed consent to any subsequent sublease. Prior written consent of the Lessor will be required for each sublease executed by the Lessee.

20. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the provisions of this Agreement.

21. Non-Waiver. The waiver by Lessor of any breach of the Lessee of any term, covenant, provision, or condition hereof shall not operate as a waiver of any subsequent breach of the same or a waiver of any breach of any other covenant, term, provision, or condition hereof, nor shall any forbearance by Lessor to seek a remedy for any breach by Lessee be a waiver by Lessor of its rights and remedies with respect to such or any subsequent breach of the same or

with respect to any other breach.

22. <u>Non-Arbitration</u>. Notwithstanding any thing to the contrary contained in this Agreement, the Lessor shall not be subject to arbitration and any clause relating to arbitration contained in this Agreement, as supplemented, shall be null and void.

23. <u>Other Terms</u>. It is understood an agreed that except as modified herein, all other terms and conditions of the Original Agreement and subsequent supplemental agreements 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 _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

BEVAN-RABELL, INC.

By _____

Title _____

By _____

Title _____
"LESSEE"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

Agenda Item No. XII-4a.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: Petition for Sanitary Sewer in Second East 54 Addition (south of Kellogg, west of 127th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will provide a sanitary sewer for a commercial development located south of Kellogg, west of 127th Street East.

Financial Considerations: The petition totals $20,000. The funding source is special assessments.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for a commercial development.

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

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

Attachments: Map, CIP sheet, petition and resolution.

132019

First Published in the Wichita Eagle on June 12, 2009

RESOLUTION NO. 09-170

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 420, FOUR MILE CREEK SEWER (WEST OF 127TH ST. EAST, SOUTH OF KELLOGG) 468-84603 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 420, FOUR MILE CREEK SEWER (WEST OF 127TH ST. EAST, SOUTH OF KELLOGG) 468-84603 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 420, Four Mile Creek Sewer (west of 127th St. East, south of Kellogg) 468-84603.

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

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Twenty Thousand Dollars ($20,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2009, exclusive of the costs of temporary financing.

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

SECOND EAST 54 ADDITION

Tract A – That part of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, being described as follows:
BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING, EXCEPT, The north 200.00 feet of the east 250.00 feet of thereof.

Tract B - The north 200.00 feet of the east 250.00 of that part of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, being described as follows:
BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING.

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

> The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Tract A within SECOND EAST 54 ADDITION shall pay 80% of the total cost payable by the improvement district. Tract B within SECOND EAST 54 ADDITION shall pay 20% of the total cost payable by the improvement district.

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

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

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

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

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

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

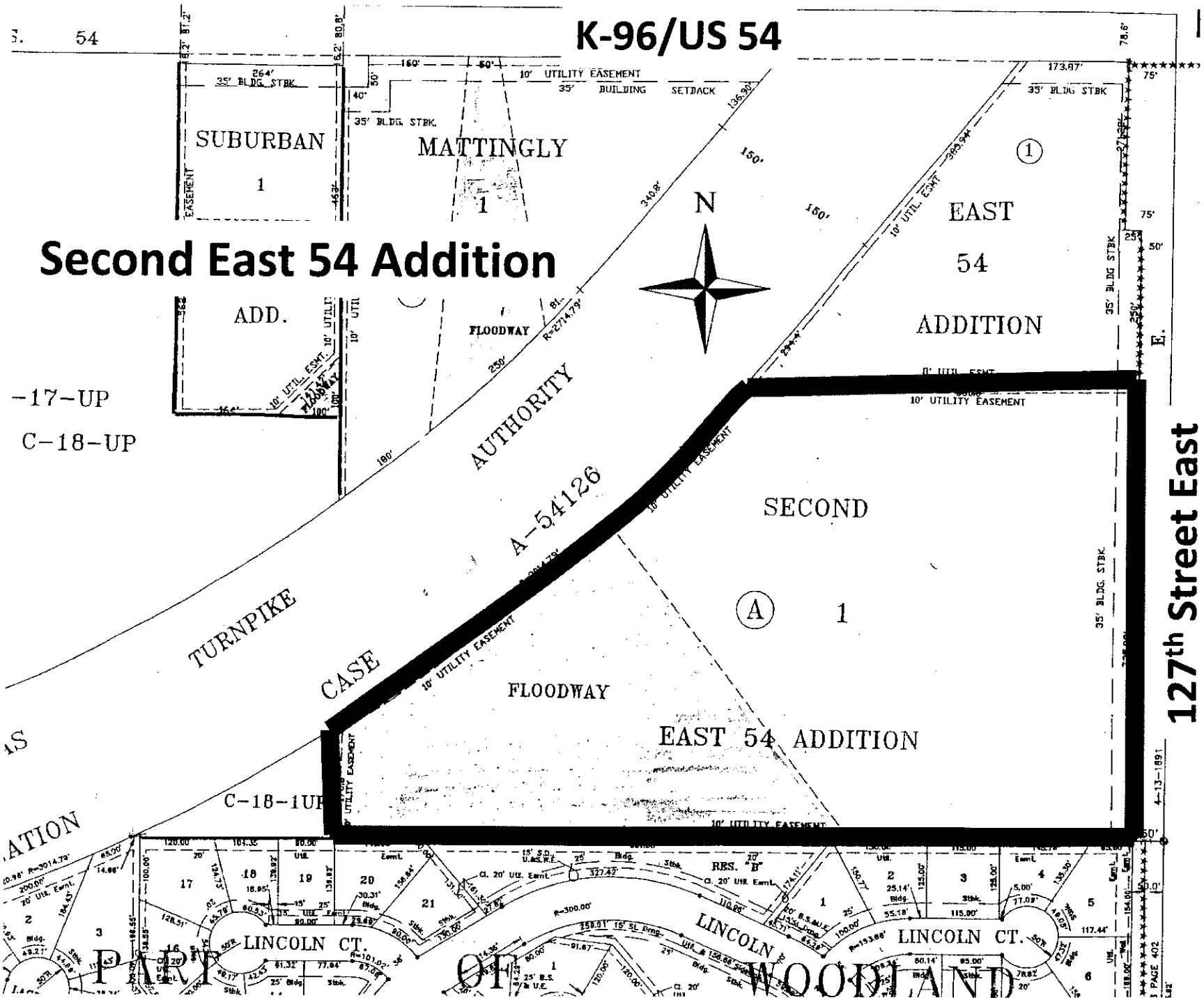
PASSED by the governing body of the City of Wichita, Kansas, this 9th day of June, 2009.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)


K-96/US 54
Second East 54 Addition
127th Street East
SUBURBAN
1
MATTINGLY
1
ADD.
FLOODWAY
AUTHORITY
A-54126
TURNPIKE
CASE
-17-UP
C-18-UP
C-18-1UP
N
EAST
54
ADDITION
SECOND
1
FLOODWAY
EAST 54 ADDITION
10' UTILITY EASEMENT
35' BLDG. STBK.
35' BUILDING SETBACK
LINCOLN CT.
LINCOLN
PART OF WOODLAND

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	5/18/2009	Sanitary Sewer for Second East 54 Addition

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

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

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		$20,000		$20,000
Sidewalk				
Water				
Other				
Totals		$20,000		$20,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split	X	
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

* Sanitary Sewer Utility

Lateral 420, FMC

468-84603

13. Recommendation: Approve the Petition and Adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
Jan Aenoer	[signature]	Catherine Hilly	
		Date 5-26-09	Date

SANITARY SEWER PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

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

468-84603

SECOND EAST 54 ADDITION

Tract A –
That part of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, being described as follows:
BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING, EXCEPT, The north 200.00 feet of the east 250.00 feet of thereof.

Tract B - The north 200.00 feet of the east 250.00 of that part of Lot 1, Block A, Second East 54 Addition, Sedgwick County, Kansas, being described as follows:
BEGINNING at the southeast corner of said addition; thence north along the east line of said Lot, 306.4 feet; thence west parallel with the south line of said Lot, 687.34 feet; thence southeasterly, 386.77 feet to a point on the south line of said Lot, said point being 450 feet west of beginning; thence east 450 feet to BEGINNING.

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

Lateral 420, fmc (West of 127th St. East, South of Kellogg)

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

(b) That the estimated and probable cost of the foregoing improvements is Twenty Thousand Dollars **($20,000.00)** exclusive of the cost of interest on borrowed money, with 100% percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after April 1, 2009.

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

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this

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

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Tract A within Second East 54 Addition shall pay 80% of the total cost payable by the improvement district. Tract B within Second East 54 Addition shall pay 20% of the total cost payable by the improvement district.

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

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

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

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the

Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

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

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

LEGAL DESCRIPTION	SIGNATURE	DATE
Second East 54 Addition Tracts A and B within Second East 54 Addition, Sedgwick County, Kansas.	By: _____ Fernando Salgado, Sole Member SWSA, LLC, a Kansas Limited Liability Company	4-20-2009

AFFIDAVIT

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

Glen Roth
Name

411 N. WEBB RD.
Address

689-9600
Telephone Number

Sworn to and subscribed before me this 27th day of April, 2009

Karen Dubert, CMC
~~, Deputy~~ City Clerk

STATEMENTS OF COSTS:

Grove Park Phase I Master Plan 2000. Total Cost - $420,574.86 (Plus temp note interest - $1,895.44; idle fund interest - $3,586.30; Less gain from sale of investments - $288.30; less financing previously issued - $155,268.30 and Private or other contributions- $61,000). Financing to be issued at this time - $209,500. (785008/390-140).

Skate Park 2002. Total Cost - $197,292.75 (Plus temp note interest - $2,471.94; idle fund interest - $672.15; and loss from sale of investments - $803.50; less financing previously issued - $197,54 0.34). Financing to be issued at this time - $3,700. (785027/392-159).

Garvey Park 2002. Total Cost - $329,931.72 (Plus temp note interest - $868.30; less idle fund interest - $310.03; and plus loss from sale of investments - $252.94; less financing previously issued - $327,942.93). Financing to be issued at this time - $2,800. (785031/392-163).

Adult Soccer field 2003. Total Cost - $292,467.66 (Plus temp note interest - $326.23; idle fund interest - $1,556.20; and less gain from sale of investments - $289.38; less financing previously issued - $288,360.71). Financing to be issued at this time - $5,700. (785039/393-171).

Playground Improvements 2004-2005. Total Cost - $196,954.87 (Plus temp note interest - $0; idle fund interest - $1,851.62; and loss from sale of investments - $1,686.08; less financing previously issued - $196,692.57). Financing to be issued at this time - $3,800. (785045/394-177).

Parking Lots and Entry Drives 2005. Total Cost - $450,000 (Plus temp note interest - $7,968.46; idle fund interest - $2,551.14; and loss from sale of investments - $3,180.74; less financing previously issued - $441,079.34 and Private or other contributions- $22,621). Financing to be issued at this time - $0. (785048/395-180).

Park Facilities Renovations 2005. Total Cost - $378,811.14 (Plus temp note interest - $6,694.66; idle fund interest - $1,798.94; and loss from sale of investments - $2,246.22; less financing previously issued - $382, 002.73 and Private or other contributions- $148.23). Financing to be issued at this time - $7,400. (785052/395-184).

Grove Park Phase II 2005. Total Cost - $495,499.75 (Plus temp note interest - $6,931.96; idle fund interest - $2,625.72; and loss from sale of investments - $2,742.57; less financing previously issued - $394,000). Financing to be issued at this time - $113,800. (785053/395-185).

Watson Park 2005. Total Cost - $739,993.77 (Plus temp note interest - $11,255.24; idle fund interest - $5,951.18; and loss from sale of investments - $7,199.81; less financing previously issued - $498,000). Financing to be issued at this time - $266,400. (785059/395-191).

Lincoln Park 2005. Total Cost - $109,935.47 (Plus temp note interest - $602; idle fund interest - $262.64; and less gain from sale of investments - $0.11; less financing previously issued - $0). Financing to be issued at this time - $110,800. (785062/395-194).

Planeview Park 2005/2006. Total Cost - $499,910.18 (Plus temp note interest - $4,975.22; idle fund interest - $3,610.60; and loss from sale of investments - $3,004; less financing previously issued - $325,000). Financing to be issued at this time - $186,500. (785065/395-197).

Irrigation System Upgrades or Renovations 2005. Total Cost - $389,565.31 (Plus temp note interest - $6,858.72; idle fund interest – 2,905.57; and loss from sale of investments - $4,270.40; less financing previously issued - $381,000). Financing to be issued at this time - $22,600. (785071/395-203).

Park Swimming Pool Improvements 2006. Total Cost - $99,928.06 (Plus temp note interest - $907.14; idle fund interest - $506.48; and loss from sale of investments - $658.32; less financing previously issued - $51,000). Financing to be issued at this time - $51,000. (785067/396-199).

Parking Lots and Entry Drives 2006. Total Cost - $362,780.85 (Plus temp note interest - $7,080.68; idle fund interest - $2,646.33; and loss from sale of investments - $3,892.14; less financing previously issued - $358,000). Financing to be issued at this time - $18,400. (785070/396-202).

South Arkansas River Access Study 2006. Total Cost - $90,404.94 (Plus temp note interest - $433.38; less idle fund interest - $125.44; and gain from sale of investments - $212.88; less financing previously issued - $28,000 and Private or other contributions- $60,500). Financing to be issued at this time - $2,000. (785076/396-208).

Park Swimming Pool Improvements 2007. Total Cost - $97,925.32 (Plus temp note interest - $3,120.47; less idle fund interest - $786.45; and plus loss from sale of investments - $140.66; less financing previously issued - $87,000). Financing to be issued at this time - $13,400. (785082-785092/397-213).

Park Lighting Improvements 2007. Total Cost - $109,645.64 (Plus temp note interest - $790.20; idle fund interest - $991.99; and loss from sale of investments - $872.17; less financing previously issued - $62,000). Financing to be issued at this time - $50,300. (785094-785096, 785108/397-215).

Irrigation System Upgrades or Renovations 2007. Total Cost - $195,360.78 (Plus temp note interest - $1,361.34; idle fund interest - $776.25; and loss from sale of investments - $701.63; less financing previously issued - $100,000). Financing to be issued at this time - $98,200. (785103-785105/397-218).

Park Playground Improvements 2008. Total Cost - $100,000 (Plus temp note interest - $0; idle fund interest - $0; and loss from sale of investments - $0; less financing previously issued - $0). Financing to be issued at this time - $100,000. (785123/397-230).

Park Playground Improvements 2009. Total Cost - $99,919.36 (Plus temp note interest - $0; idle und interest - $91.33; and less gain from sale of investments - $10.69; less financing previously issued - $0). Financing to be issued at this time - $100,000. (785124/397-231).

AMENDED STATEMENTS OF COSTS:

Garvey Park Improvements 2005. Total Cost - $76,890.01 (Plus temp note interest – 758.14; idle fund interest - $710.74; and loss from sale of investments - $441.11; less financing previously issued - $26,000). Financing to be issued at this time - $52,800. (785055/395-187).

Schweiter Park Improvements 2005. Total Cost - $484,831.16 (Plus temp note interest - $10,104.92; idle fund interest - $3,729.50; and loss from sale of investments - $6,434.42; less financing previously issued - $492,000). Financing to be issued at this time - $13,100. (785056/395-188).

Sim Park Memorial 2006. Total Cost - $94,490.49 (Plus temp note interest - $1,569.68; idle fund interest - $630.81; and loss from sale of investments - $1,209.02; less financing previously issued - $95,000). Financing to be issued at this time - $2,900. (785073/396-205).

Wichita Ice Center Improvements 2006. Total Cost - $97,151.18 (Plus temp note interest - $946.32; idle fund interest - $449; and loss from sale of investments - $553.50; less financing previously issued - $95,000). Financing to be issued at this time - $4,100. (785075/395-207).

Park Facilities Renovations 2007. Total Cost - $323,296.90 (Plus temp note interest - $5,115.84; idle fund interest - $2,860.24; and loss from sale of investments - $4,527.58; less financing previously issued - $330,000). Financing to be issued at this time - $5,800.56. (785080-785081/397-212).

Park Playground Improvements 2007. Total Cost - $199,911.77 (Plus temp note interest - $1,317.28; idle fund interest - $1,640.16; and loss from sale of investments - $630.79; less financing previously issued - $24,000). Financing to be issued at this time - $179,500. (785099-785102/397-217).

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: City of Wichita Employees' Deferred Compensation Plan Consulting Services Agreement

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: On April 1, 2008, as a result of a Request for Proposal, the City of Wichita approved a new contract with Great-West to administer the City of Wichita Employees' Deferred Compensation Plan. During the RFP process, the Deferred Compensation Board and staff worked diligently with Great-West and the RFP consultant to enhance the products and services offered under the Plan. One of the significant enhancements to the plan is the new investment menu, designed to result in overall lower investment management fees for participants. The Board worked with the RFP consultant to select the initial investment products to be offered under the new open-architecture investment menu and design the asset allocation plan for the various custom target date retirement funds.

With the complexity of the new investment line-up and the new services offered under the contract, the Board was advised of the necessity to hire an independent investment consulting firm to serve as the Board's analyst and consultant for the ongoing evaluation and monitoring of the Plan. The consultant will provide the following ongoing services for the Board: 1) monitor, review and make recommendations regarding the investment line-up to maximize the program's value for the participants; 2) quarterly and annual investment performance reporting; 3) periodic review and analysis of the Plan's revenue sharing program; 4) fiduciary education; and 5) target date investment advisory services.

Analysis: The RFP for these services was issued on November 12, 2008 and was sent directly to six providers with responses due by December 12, 2008. Seven proposals were received and two providers were selected as finalists based upon staff analysis and evaluation by the Board. The Board interviewed the two firms, Hyas Group and Gray & Company, on April 8, 2009. The interviews were ranked and the Board unanimously selected Hyas Group as the provider.

Financial Considerations: The annual cost for these consulting services is $31,000 plus 5 basis points (.05%) on assets of the City of Wichita custom target date retirement funds, which will be paid directly by participants invested in these funds. The balance of these target date funds as of March 31, 2009 was approximately $6.8 million, which equates to an annual fee of $3,400. All costs associated with the administration of the program are borne by the participants of the program.

Goal Impact: The City of Wichita, by offering this supplemental retirement savings program, impacts the Internal Perspective goal by increasing employee motivation and satisfaction. Also, the City's practice of going through a periodic Request for Proposal process is done to reduce/avoid costs, which is another indicator of the Internal Perspective goal.

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

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

Attachments: 1) Consulting Services Agreement with Hyas Group, LLC.

CONSULTING SERVICES AGREEMENT

CITY OF WICHITA AND HYAS GROUP, LLC

THIS AGREEMENT for consulting services is made by and between the Hyas Group, LLC, an Oregon limited liability company ("Consultant") and The City of Wichita ("Client") as of _____.

WHEREAS, Consultant desires to perform, and Client desires to have Consultant perform, certain general services for the City of Wichita 457 Deferred Compensation Plan ("Plan").

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties agree as follows:

SECTION I - DEFINITIONS:

1.1 Scope of Work - means each document agreed upon by Client and Consultant for specific Services to be performed and the Deliverables to be provided to Client and any other performance requirements mutually agreed to between the parties. The Scope of Work attached as Exhibit A shall be deemed incorporated herein in its entirety by reference.

1.2 Custom Portfolio Management Agreement (PMA)– means separate document that outlines the specific responsibilities and the compensation associated with the management of the Client Custom Target-Date Portfolios. The Custom Portfolio Management Agreement attached as Exhibit B shall be deemed incorporated herein in its entirety by reference.

1.3 Portfolio Management Services – means the services under the PMA, which Consultant shall provide to Client.

1.4 Deliverables - means, with respect to the Scope of Work, the items specified in such Scope of Work as deliverables of the Consultant.

1.5 Services - means the services under the Scope of Work, which Consultant shall provide to Client under this Agreement.

1.6 Consultant Work Product - means any and all items and information delivered to Client or its employee(s), or otherwise generated by Consultant or its agent in the course of providing Services under this Agreement, whether in hard copy or electronic form, including all Deliverables, works of authorship, reports, designs, analyses and other supporting material, summaries and recommendations.

SECTION II - SERVICES:

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Client the services described in the Scope of Work attached as Exhibit A – Annual Consulting Services Scope of Work and in the PMA attached as Exhibit B – Custom Portfolio Management Agreement, in the manner specified therein.

2.1 Term of Services. The term of this Agreement shall begin on the date first noted above and shall continue until terminated under Section 7. Fees and services may be renegotiated upon mutual agreement.

2.2 Duties of Consultant. Consultant shall provide the Services and the Consultant Work Product during the term of this Agreement in accordance with the terms and conditions of this Agreement and the Scope of Work. Consultant will provide all resources, facilities, management, labor, expertise, skills, tools and equipment necessary for the performance of its obligations under this Agreement and any Scope of Work. Without limiting the foregoing, Consultant shall: (i) keep Client advised of the progress of the delivery of the Services and the status of the Deliverables: (ii) permit any designated representative of Client periodically to review the work of Consultant personnel performing Services and preparing Deliverables; (iii) perform the Services in a timely manner and provide the Deliverables in accordance with the Scope of Work; and (iv) keep accurate records of work performed, evidence of which Consultant shall provide to Client upon Client's request.

2.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement and the duties and responsibilities under this Agreement shall not be subcontracted to any other person or entity, in whole or in part, without Client's prior written approval. In the event that Client, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from Client of such desire of Client, reassign such person or persons. Jayson Davidson shall act as the lead representative of the Consultant for purposes of this Agreement.

2.4 Changes to Scope of Work. Client may at any time by written notice make changes within the general reach of any Scope of Work, and if agreed in writing by Consultant, the Consultant shall proceed without delay to perform the Scope of Work as changed. However, should any change to a Scope of Work result in a material change to the performance, schedule or cost of the Scope of Work, Client and the Consultant shall enter into an amendment of the Scope of Work signed by both parties before providing Services, Deliverables and or Company Work Product to Client.

SECTION III - COMPENSATION:

3.1 Annual Consulting Services. Consultant shall be paid a sum not to exceed $31,000 annually in accordance with the Scope of Work for the Services, Deliverables and Consultant Work Product. Client shall make quarterly payments of $7,750 and such payments shall be Consultant's sole compensation, including travel and all other expenses for its rendering of the Services and preparation and delivery of the Consultant Work Product. Consultant shall invoice Client at the address listed in this agreement for the Services, Deliverables or Company Work Product and shall be paid net thirty (30) days from date of an accurate invoice or receipt of Services, Deliverables or Company Work Product, whichever occurs later.

3.2 Custom Portfolio Management Services. Consultant shall be paid quarterly in accordance with the fee schedule included in the PMA. Consultant shall invoice Client at the address listed in this agreement for the Portfolio Management Services as described under the PMA and shall be paid net thirty (30) days from date of an accurate invoice or receipt of Portfolio Management Services, whichever occurs later. Said payments shall be Consultant's sole compensation, for its rendering of the Portfolio Management Services.

3.3 Additional Services. Client may at any time request additional services not covered in the Scope of Work. Such services and the fee for providing such services, if mutually agreed to, will be described in an addendum to this Agreement. Any compensation for additional services not covered in the Scope of Work will be in addition to the compensation covered under Sections 3.1 and 3.2 of this Agreement.

SECTION IV - CONSULTANT'S REPRESENTATIONS, WARRANTIES AND COVENANTS

Consultant represents, warrants and covenants as follows:

4.1 Compliance with applicable law. Throughout the term of this Agreement, Consultant, its employees and authorized agent(s): (i) shall comply with all applicable state and local laws, regulations, rules, and federal orders respecting the performance by Consultant of its duties and responsibilities under this Agreement; and (ii) shall obtain and maintain all licenses, permits and approvals required by any federal, state or local licensing, regulatory, or other agency or authority for performance of the work required by this Agreement or the Scope of Work.

4.2 Use of qualified personnel. Consultant will use qualified individuals with suitable training, experience, capabilities, skill and licenses to perform its obligations under this Agreement.

4.3 Quality of Work. Consultant will perform this Agreement and any Scope of Work hereunder in a manner consistent with industry standards reasonably applied to the performance of such work. The Services and Consultant Work Product provided hereunder shall (i) be of good and marketable quality: (ii) be free from all defects in design, materials, workmanship, performance and title; and (iii) meet the applicable specifications, samples, descriptions and requirements specified in the Scope of Work and this Agreement.

SECTION V - STATUS OF CONSULTANT:

5.1 Independent Contractor. Client and Consultant are independent contractors and have no power or authority to bind the other or to create any obligation or responsibility on behalf of the other. Under no circumstances shall any employee of one party be deemed to be the employee of the other for any purpose. Nothing herein shall be construed as implying a joint venture, agency, employer-employee of partnership relationship between the parties hereto. Consultant is solely responsible for all of its own taxes, withholdings, and other similar statutory obligations related to this Agreement and the Scope of Work.

SECTION VI - LEGAL:

6.1 Governing Law. This Agreement will be governed and interpreted in accordance with the laws of the State of Kansas and applicable federal law.

6.2 Non-Discrimination/Affirmative Action Requirements. During the term of this Agreement, the Consultant shall comply with the Revised Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements attached as Exhibit C.

6.3 Force Majuere. Neither party shall be liable for any delay or failure in performance due to acts of God, earthquake, flood, riots, fire, epidemics, war or terrorism. Each party shall immediately notify the other party of the occurrence of such an event affecting such party and shall use all reasonable efforts to recommence performance as soon as possible. The obligations and rights of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

6.4 Legal Proceedings. Consultant will have no obligation to render advice or take any action with respect to securities or other investments, or the issuers thereof, which become subject to any legal proceedings, including bankruptcies.

SECTION VII - TERMINATION, MODIFICATION AND EXTENSION:

7.1 Termination. Client may terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to Consultant. In the event of a termination under this subsection, Consultant shall immediately cease work on the terminated matter(s), performing only efforts reasonably necessary to wind down and preserve work that has been performed. In the event of a termination of this Agreement for any reason, Consultant shall be obligated to deliver, and Client will be obligated to pay Consultant for, only Services and Consultant Work Product actually performed or prepared by Company prior to the date of termination, and delivered to and accepted by Client within a reasonable time after the effective date of termination. Client, however, may condition payment of such compensation upon Consultant delivering to Client any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or Client in connection with this Agreement.

7.2 Transition. Consultant shall, if requested by Client take all reasonable steps to achieve an orderly transition upon termination and provide reasonable training for Client or third party personnel.

7.3 Amendments. The parties may amend this Agreement upon mutual written agreement.

SECTION VIII - GENERAL:

8.1 Employer Securities. If the Plans are permitted to hold "employer securities" (as defined at ERISA § 407(d)(l)) or real property, we will not have any role or responsibility, either arising from this Agreement or otherwise, to advise you or any other fiduciary with respect to the decision to invest, hold or dispose of such employer securities or real property. You will indemnify, defend and hold us harmless from any claim, liability or expense relating to the employer securities and real property held by the Plan.

8.2 Proxy Voting. We do not exercise proxy voting authority over client securities. The obligation to vote client proxies at all time rests with you. However, you are not precluded from contacting us for advice or information about a particular proxy vote. However, we will not be deemed to have proxy voting authority as a result of providing such advice to you.

Should we inadvertently receive proxy information for a security held in the Plan's account, we will immediately forward such information to you, but we will not take any further action with respect to the voting of such proxy. Upon termination of this Agreement, we will make a good faith and reasonable attempt to forward proxy information inadvertently received by us on your behalf to the forwarding address you provide to us.

8.3 Risk. You recognize that there may be loss or depreciation of the value of any investment due to the fluctuation of market values. You represent that no party to this Agreement has made any guarantee, either oral or written, that the Plan's investment objectives will be achieved. We will not be liable for any error in judgment and/or for any investment losses in the absence of malfeasance, negligence or violation of applicable law. Nothing in this Agreement will constitute a waiver or limitation of any rights, which you may have under applicable state or federal law, including without limitation state and federal securities laws.

8.4 Confidentiality. In connection with the performance of our services under this Agreement, we will hold any confidential information received from you in strict confidence. We will not disclose such information to any third party, except in compliance with our privacy policy, as necessary to perform our services on your behalf,

or as required by law. You also agree that you will respect the proprietary nature of our work product, and only disclose our advice, reports and recommendations to others in a manner consistent with the intended purposes of our engagement.

8.5 No Waiver. No waiver of rights under this Agreement or the Scope of Work hereunder by either party shall constitute a subsequent waiver of this or any other right under this Agreement.

8.6 Assignment. Neither this Agreement nor any rights under this Agreement (nor any Scope of Work hereunder), other than monies due or to become due, shall be assigned or otherwise transferred by Consultant (by operation of law or otherwise) without the prior written consent of Client.

8.7 Severability. In the event that any of the terms of this Agreement or any Scope of Work hereunder or the performance of any obligation by either party there under becomes or is declared to be illegal by any court of competent jurisdiction or other governmental body, such term(s) shall be null and void and shall be deemed deleted from this Agreement or the Scope of Work. All remaining terms of this Agreement shall remain in full force and effect.

8.8 Entire Agreement. This Agreement, referenced exhibits and the Scope of Work expressly incorporated herein, are the complete agreement between the parties hereto concerning the subject matter of this Agreement and replace any prior oral or written communications (including invoices) between the parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. This Agreement may only be modified by a written document executed by authorized representatives of the parties hereto.

City of Wichita

x:_____

Name:

Title:

Date:

Address:

Hyas Group, LLC

x:_____

Name:

Title:

Date:

Address:
6500 SW Macadam Avenue, Suite 300
Portland, Oregon 97239

Attest x:_____

Name:

Title:

Date:

Approved as to Form:

x:_____

EXHIBIT A –ANNUAL CONSULTING SERVICES - SCOPE OF WORK

Creation and review of Investment Policy Statement

- Develop a Statement of Purpose
- Develop a Statement of Responsibility
- Determine investment goals and objectives
- Create investment guidelines
- Set investment performance review and evaluation criteria

Analysis of current investment options and overall portfolio structure

- Review of current portfolio structure and investment managers
- Assess client and market driven factors
- Analysis of current investment managers utilizing proprietary research tools
- Determine fund overlap and/or under-weighted asset classes
- Offer recommendation and implementation strategy

Comprehensive investment manager search for each asset class and management style

- Select appropriate screening criteria
- Initiate data collection and review
- Provide comprehensive risk *and* return analysis
- Identify suitable finalist candidates
- Present results to Committee and offer recommendation

Ongoing due diligence for each investment option in the plan

- Produce attributions on each fund manager
- Evaluate attributions according to sector returns and weights, capitalization breakdown, asset class and style benchmarks
- Compare portfolio statistics (standard deviation. beta, alpha, Sharpe Ratio. and R-squared) to the asset class benchmark
- Conduct on-site manager evaluation, as necessary

Annual performance reports and account review

- Illustrate and communicate big picture thematic, economic and specific asset class trends
- Present fund performance against its relative asset class benchmark
- Create asset allocation charts
- Provide investment manager attribution reports and due diligence notes
- Provide in-person presentation of annual performance report at client location

Custom Portfolio Management (further described under separate agreement)

- Evaluate risk tolerance, spending needs, and overall retirement objectives
- Develop appropriate menu of low or negatively correlated asset classes to maximize expected return while minimizing risk
- Perform portfolio optimization
- Construct custom pre-mixed portfolios
- Create and manage age/retirement date glide path
- Assist the client with ongoing monitoring and periodic rebalancing

CITY OF WICHITA
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 11219 East Harry for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. The property at 11219 is improved with a single-family residence although the improvements are removed from the proposed acquisition. A twenty-foot wide strip of land along Harry is required as new road right-of-way along with a ten-foot temporary construction easement. The right-of-way are consists of 3,200 square feet and the temporary easement, 1,600 square feet.

Analysis: The property owner agreed to accept the offered $4,200, or $1.25 per square foot for the right-of-way and $0.12 per square foot for the temporary construction easement. These amounts are based on market comparisons.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $5,000 is requested. This includes $4,200 for the acquisition and $800 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2009 by and between Charles M. Macy, Jr. and Lisa R. Macy, husband and wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, KS a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a perpetual drainage easement for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "A"

   And

   The Seller does hereby agree to convey to the Buyer by a temporary construction easement, during construction, for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Described as Exhibit "B"

   Said easement will expire upon completion of the project or at two years, whichever comes first.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to Buyer for the above-described real property, the sum of Four Thousand Two Hundred Dollars and No Cents ($4,200.00) in the manner following to-wit: cash at closing.

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of

taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements including landscaping, trees, shrubs located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before June 12, 2009 subject to the conditions of Item 10 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Charles M. Macy, Jr.

Lisa R. Macy

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

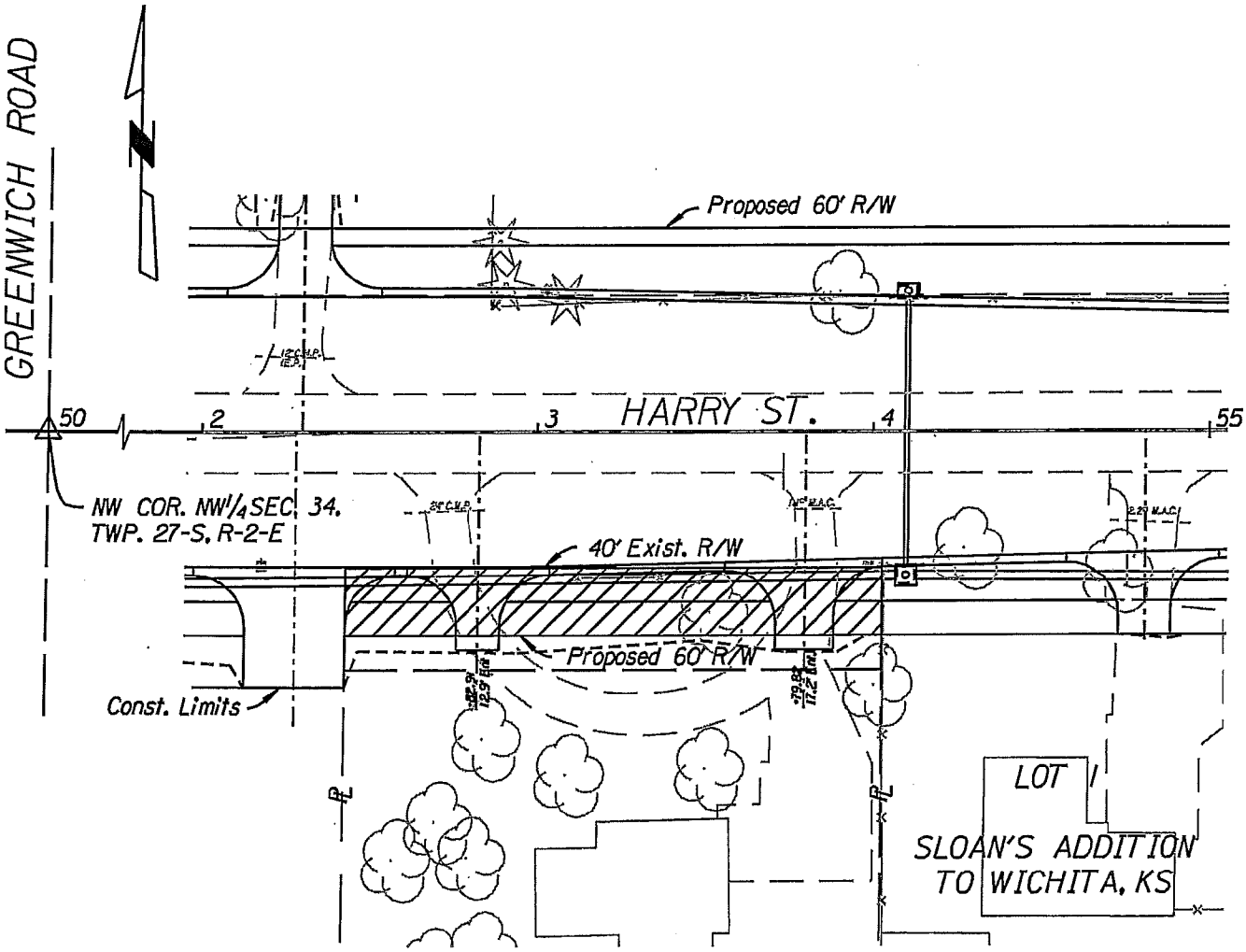
EXHIBIT A

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-11-08



Macy, Charles M. Jr. Etal
11219 E. Harry
C-483-UP

Right-of-Way

C-483-UP
A tract in the NW 1/4 Section 34, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the NW corner of said NW 1/4; thence on an assumed bearing of N 89°-13'-01" E a distance of 403.00 feet to a point on the North line of said NW1/4; thence S 00°-50'-02" E a distance of 40.00 feet to the point of beginning; thence S 00°-50'-02" E a distance of 20.00 feet to a point on the West line of Lot 1 SLOAN'S ADDITION, Sedgwick County, Kansas; thence S 89°-13'-01" W a distance of 160.00 feet; thence N 00°-50'-02" W a distance of 20.00 feet; thence N 89°-13'-01" E a distance of 160.00 feet, more or less, to the point of beginning, said tract containing 3200 square feet more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

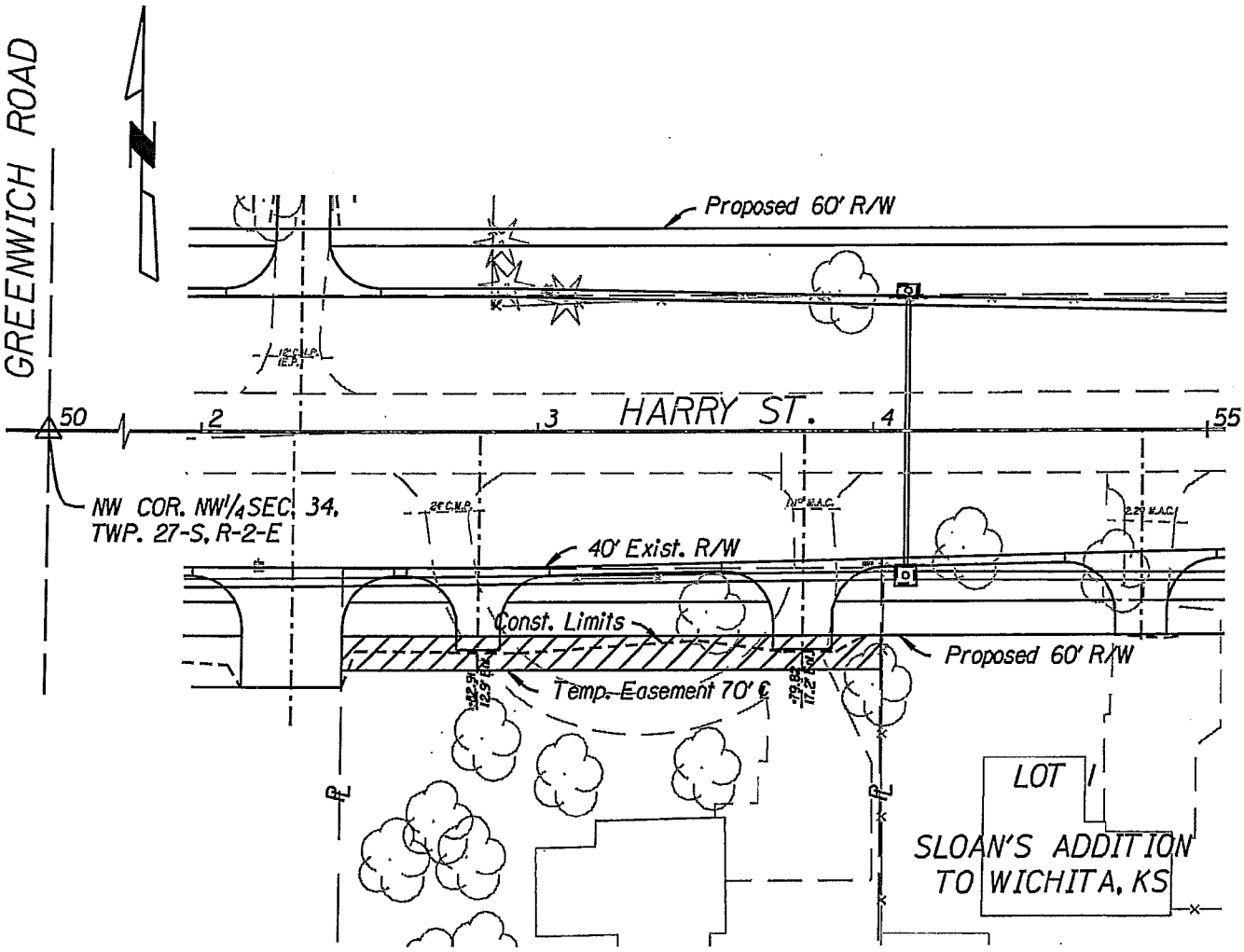
EXHIBIT B

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-11-08



Macy, Charles M. Jr. Etal
11219 E. Harry
C-483-UP

Temporary Easement

C-483-UP
A tract in the NW 1/4 Section 34, Township 27 South, Range 2 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: commencing at the NW corner of said NW 1/4; thence on an assumed bearing of N 89°-13'-01" E a distance of 403.00 feet to a point on the North line of said NW1/4; thence S 00°-50'-02" E a distance of 60.00 feet to a point on the West line of Lot 1 SLOAN'S ADDITION, Sedgwick County, Kansas, the point of beginning; thence S 00°-50'-02" E a distance of 10.00 feet to a point on the West line of said Lot 1 SLOAN'S ADDITION; thence S 89°-13'-01" W a distance of 160.00 feet; thence N 00°-50'-02" W a distance of 10.00 feet; thence N 89°-13'-01" E a distance of 160.00 feet, more or less, to the point of beginning, said tract containing 1600 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

11219 East Harry

- Identified Features
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Subdivisions
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Historic Sites
- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Zoning Cases
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O
- City Limits
- Andale

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CITY OF WICHITA
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 11201 East Osie for the Greenwich: Harry to Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: Greenwich will be widened from two lanes to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaped medians will also be constructed throughout the corridor. The intersection of Harry and Greenwich will be reconstructed with left turn lanes at all four approaches of the intersection. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of Greenwich. It is necessary to obtain a ten-foot strip of land along the west property line of 11201 East Osie, or 1,794 square feet. This will be utilized as road right-of-way. A five-foot wide temporary easement is also required adjacent to the proposed acquisition area. Said easement consists of 897 square feet. A chain link fence is the only improvement within the proposed acquisition area.

Analysis: The property owner agreed to accept the offered $3,975, or $1.25 per square foot for the right-of-way, $0.12 per square foot for the temporary construction easement and $1,620 for a chain link fence. These amounts are based on market comparisons.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $4,725 is requested. This includes $3,975 for the acquisition and $750 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial and real estate purchase agreement.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 23 day of May, 2009 by and between Tien D. Nguyen and Thuy Mi Dao, husband and wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed the following described real property, situated in Sedgwick County, Kansas, to-wit:

   A tract described as the West 10.00 feet of Lot 19 Sloan's Addition to Wichita, Sedgwick County, Kansas, said tract containing 1794 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

   And

   The Seller does hereby agree to convey to the Buyer by a temporary construction easement, during construction, for the following described real property, situated in Sedgwick County, Kansas, to-wit:

   A tract described as the East 5.00 feet of the West 15.00 feet of Lot 19 Sloan's Addition to Wichita, Sedgwick County, Kansas, said tract containing 897 square feet more or less. Said easement will expire upon completion of the project or at two years, whichever comes first.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Three Thousand Nine Hundred Seventy-Five Dollars and Zero Cents ($3,975.00) in the manner following to-wit: cash at closing

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before June 19, 2009 subject to the conditions of Item 11 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

WITNESS OUR HANDS AND SEALS the day and year first above written.

BUYER:
By Direction of the City Council

Carl Brewer, Mayor

SELLER:

Tien D. Nguyen

ATTEST:

Karen Sublett, City Clerk

Thuy Mi Dao

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

11201 East Osie

- Identified Features
- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Subdivisions
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Historic Sites
- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Zoning Cases
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O
- City Limits
- Andale

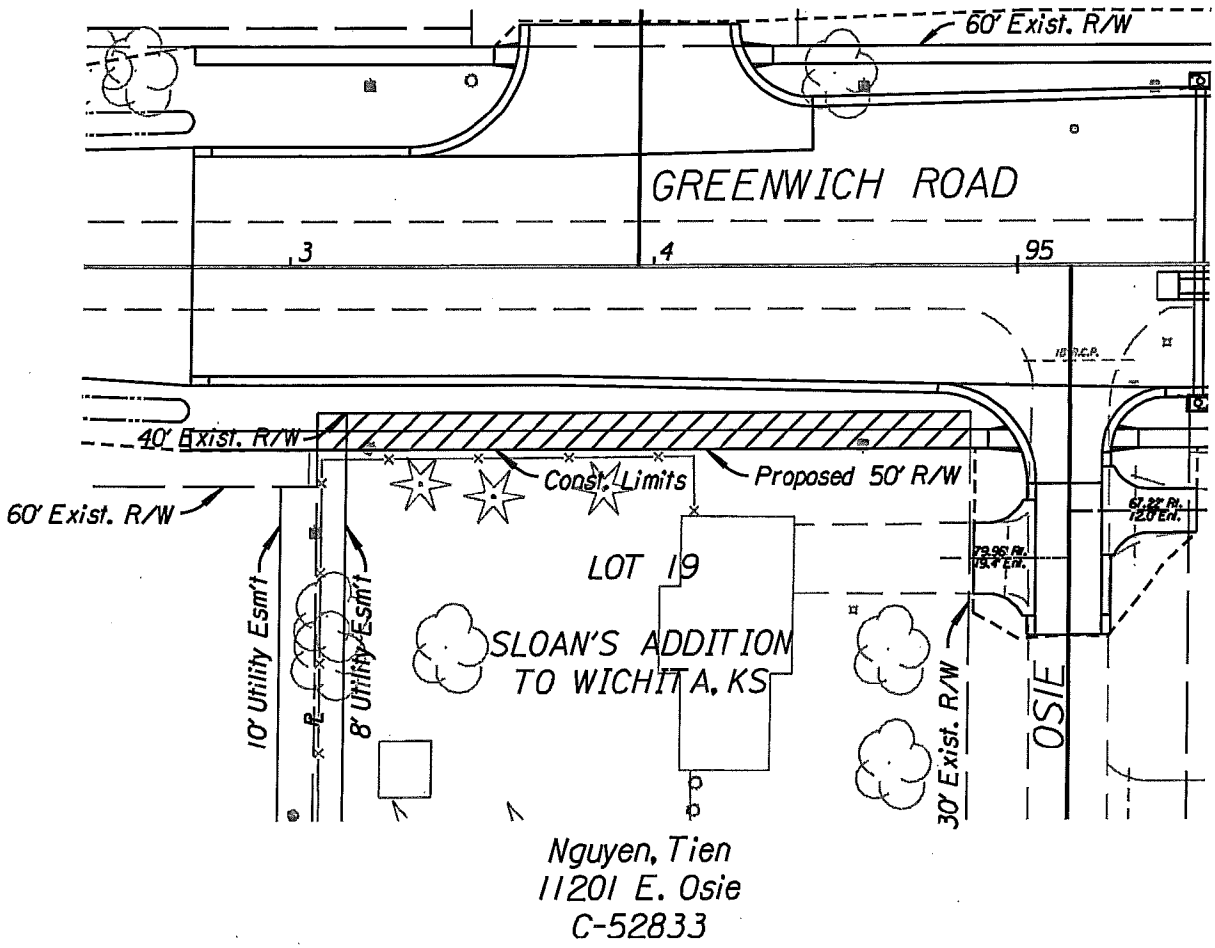
Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 2-12-08



Right-of-Way

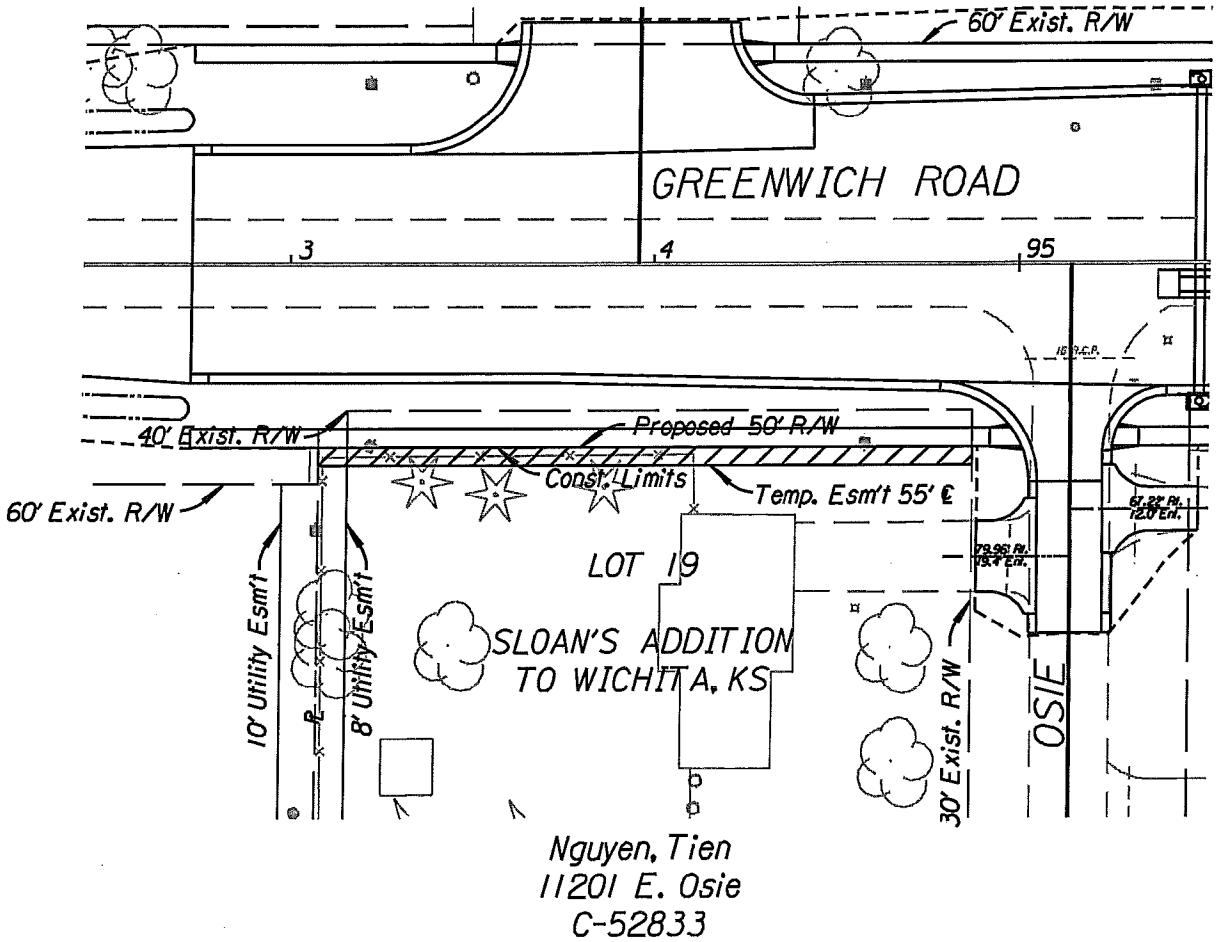
C-52833
A tract described as: the West 10.00 feet of Lot 19 SLOAN'S ADDITION to Wichita, Sedgwick County, Kansas, said tract containing 1794 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

PARSONS BRINCKERHOFF

225 N. MARKET
WICHITA, KS 67202

Job Number 3 5 7 5 1 A

Date 3-25-08



Nguyen, Tien
11201 E. Osie
C-52833

Temporary Easement

C-52833
A tract described as: the East 5.00 feet of the West 15.00 feet of Lot 19 SLOAN'S ADDITION to Wichita, Sedgwick County, Kansas, said tract containing 897 square feet, more or less, for the purposes of constructing, reconstructing, widening, improving, draining and maintaining a road or highway.

Agenda Item No. XII-7c.

CITY OF WICHITA
City Council Meeting
June 9, 2009

TO: Mayor and City Council Members

SUBJECT: Acquisition of a Portion of 1811 North Hillside for the Improvement of the Intersection of Hillside and 17th Street (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 4, 2008, the City Council approved a project to improve the intersection of Hillside and 17th Street. The project will provide left turn lanes on all approaches to the intersection and reconstruct 17th Street west to Grove. Traffic signals will be upgraded to provide left turn signal phases at all four approaches to the intersections and storm drainage will be improved. A 147 square foot permanent easement and a 1,904 square foot temporary construction easement are required from the property at 1811 North Hillside. The property is improved with a fast food restaurant. The acquisition will not impact the improvements or operation of the facility.

Analysis: The easements were valued at $3,375 based sales of comparable properties. This consists of $1,470 ($10.00 per square foot) for the permanent easement and 10% of fee value or $1.00 per square foot for the temporary easement. The owner has agreed to accept this offer.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $3,400 is requested. This includes $3,375 for the acquisition and $25 for filing fees and other costs.

Goal Impact: The acquisition of this parcel effects efficient infrastructure by improving traffic flow, drainage and safety at a major intersection.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the permanent and temporary easements and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial, permanent easement and temporary construction easement.

Wichita, KS
1811 N. Hillside
L/C 015-0008

PERMANENT EASEMENT

THIS PERMANENT EASEMENT (this "Easement") made this ___ day of _____, 2009, by and between **McDonald's Real Estate Company, a Delaware corporation** ("McDonald's"), and the **City of Wichita, Kansas, a Municipal Corporation**, ("Wichita").

WITNESSETH:

That McDonald's is the owner of the real estate described on the attached Exhibit A, by this reference made a part hereof ("McDonald's Property").

That McDonald's, in consideration of the sum of $1,470.00 and other good and valuable considerations, the receipt of which is acknowledged, does grant and convey to Wichita, a non-exclusive permanent easement for construction and maintenance of a roadway and utilities over, along and under the real estate located in Wichita, Sedgwick, County, Kansas, described and depicted on the attached Exhibit B as Right of Way Take, containing 147 square feet, by this reference made a part hereof (the "Premises").

Wichita is granted the right to enter upon the Premises for the purpose of constructing, operating, maintaining, and repairing said improvements, subject to the following:

1. Wichita shall have the perpetual non-exclusive right to enter upon the above described Premises to construct, operate, maintain and repair the roadway and utilities over, along and under the Premises.

2. Wichita promises and agrees to indemnify and save harmless McDonald's from and against all claims, demands, actions or causes of action that may be hereafter made or prosecuted against McDonald's and any other person or entity for property damage or personal injury or death arising out of or by reason of or resulting from the construction, operation, maintenance or repairs of the roadway or utilities over, along and under the Premises, and further promises and agrees to reimburse McDonald's for an sums of money that McDonald's may hereafter be required to expend in connection with or because of any such claims, demands, actions or causes of actions.

3. Wichita shall perform any construction, operation, maintenance or repairs of the roadway or utilities over, along and under the Premises ("Wichita's Work") in a good and workmanlike manner and in such a manner as to not unduly disrupt the operation of McDonald's business located on McDonald's Property. Wichita will give written notice to McDonald's at least 10 days (except in an emergency) before beginning any work. Wichita will not "cone off" or block in any manner more than half of any

access drive at any time, allowing at least one lane open at all times in each access drive for vehicular traffic to the McDonald's business on the McDonald's Property.

4. If any damage occurs to McDonald's Property or any improvements thereon arising out of, related to, or as a consequence of any of Wichita's Work, McDonald's will promptly notify Wichita in writing of the damage. Unless otherwise agreed by the parties, Wichita will repair the damage (or commence and diligently pursue repairing the damage) within 30 days after receipt of McDonald's notice.

5. Wichita shall compensate McDonald's for any damage resulting from the construction, reconstruction, operation, maintenance or subsequent repair of the roadway and utilities over, along and under the Premises.

6. Wichita will separate by cones or other appropriate construction safety barriers ("cone off") the Premises while performing Wichita's Work on the Premises.

7. Wichita will not park on or store any construction vehicles, equipment, or materials within the Premises or on McDonald's Property.

8. Wichita agrees to keep the Premises and utilities over, along and under the Premises in good repair and further agrees to maintain its installations on the Premises at its sole cost.

9. The undersigned represents and certifies that she is a duly appointed agent or elected officer of McDonald's and has been fully empowered by proper action of McDonald's to execute and deliver this instrument of conveyance; that McDonald's has capacity to grant the Easement described herein; and that all necessary action for the making of such grant has been taken and done.

IN WITNESS WHEREOF, the parties have signed this Easement as of the day and year first above written.

McDonalds:

McDonald's Real Estate Company, a Delaware corporation

By: _____
Catherine A. Griffin
Vice President & Asst. Secretary

Wichita:

City of Wichita, Kansas,
a municipal corporation

By: _____
_____(Name)
_____(Title)

STATE OF ILLINOIS)
) ss
COUNTY OF DUPAGE)

I, Mildred R. Lebeda, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Catherine A. Griffin, Vice President and Assistant Secretary of **McDonald's Real Estate Company, a Delaware corporation,** who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Catherine A. Griffin, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such Vice President and Assistant Secretary and as his free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 19th day of May, 2009.

Mildred R. Lebeda
Notary Public
My commission expires: 2/25/2011

OFFICIAL SEAL
MILDRED R LEBEDA
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:02/25/11

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

I, _____, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that _____, AS _____ of the **City of Wichita, Kansas, a municipal corporation,** who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such _____ and as his free and voluntary act of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____day of _____, 2009.

_____
Notary Public
My commission expires: _____

Document Prepared by:
Shirley Farrell, Sr. Counsel
McDonald's Corporation
One McDonald's Plaza
Oak Brook, IL 60523
630-623-6966

Lots Seventy-eight (78), Eighty (80), Eighty-two (82), Eighty-four (84), Eighty-six (86), and Eighty-eight (88), Block Five (5), on Hillside Avenue, in College Terrace Addition to Wichita, Sedgwick County, Kansas.

AND

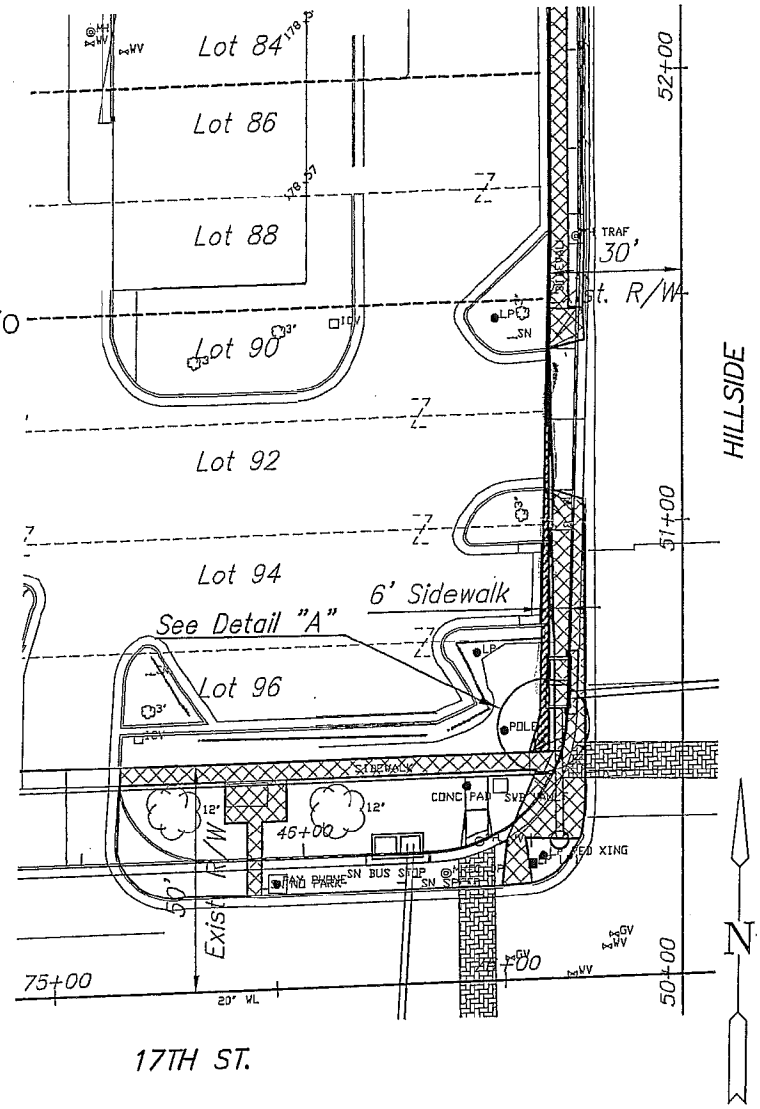
LOTS 90,92, 94 AND 96, BLOCK 5, COLLEGE TERRACE ADDITION TO THE CITY OF WICHITA, COUNTY OF SEDGWICK, IN THE STATE OF KANSAS.

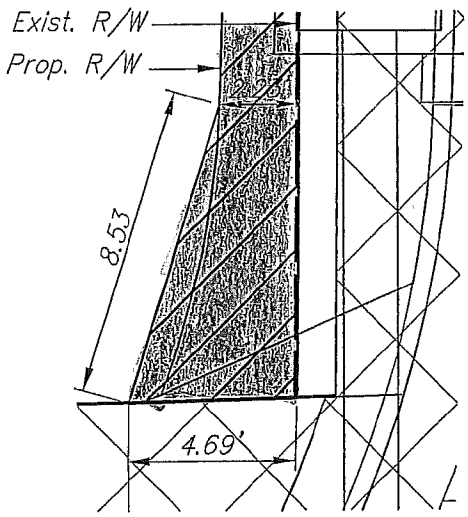
Exhibit A (Page 1 of 1)

ROW TAKING
~~Permanent Easement~~

COLLEGE TERRACE
ADDITION
BLOCK 5

McDonald's Real Estate Co
Attn: Carter Company Inc C/O





Detail "A"

LEGAL DESCRIPTION:

Right of Way:

Beginning at the southeast corner of Lot 96, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 4.69 feet along the south line of said Lot 96; thence N15°59'20"E, 8.53 feet; thence N00°26'03"E, 91.88 feet to a point lying on the north line of Lot 90, Block 5, said Addition; thence N88°47'34"E, 0.32 feet along said north line to the northeast corner of said Lot 90; thence S00°45'27"E, 100.00 feet along the east line of Lots 90, 92, 94 and 96, said Addition to the Point of Beginning.

Said parcel of land contains 145 square feet, more or less.

SCALE: 1"= 40'

0 20 40 80

LEGEND:

Right of Way Take = 145 Sq. Ft.

Pavement Removal

Owner:

McDonald's Real Estate Co.
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04821

J:\Civil\04179\dwg\tracts\04179row.dwg 10/24/2008 02:14:05 PM CST

MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

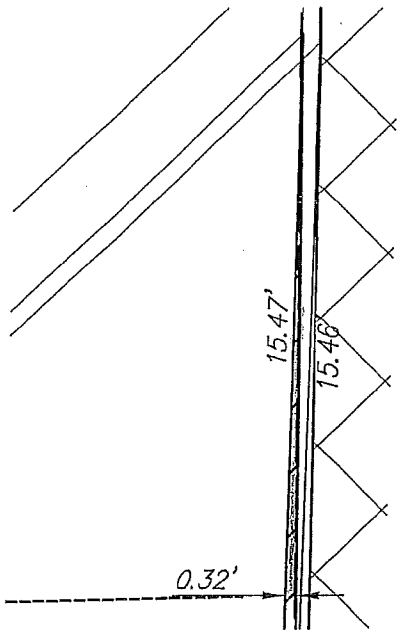
RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V1	1 / 1
DATE	JOB NO.	SHEET/OF

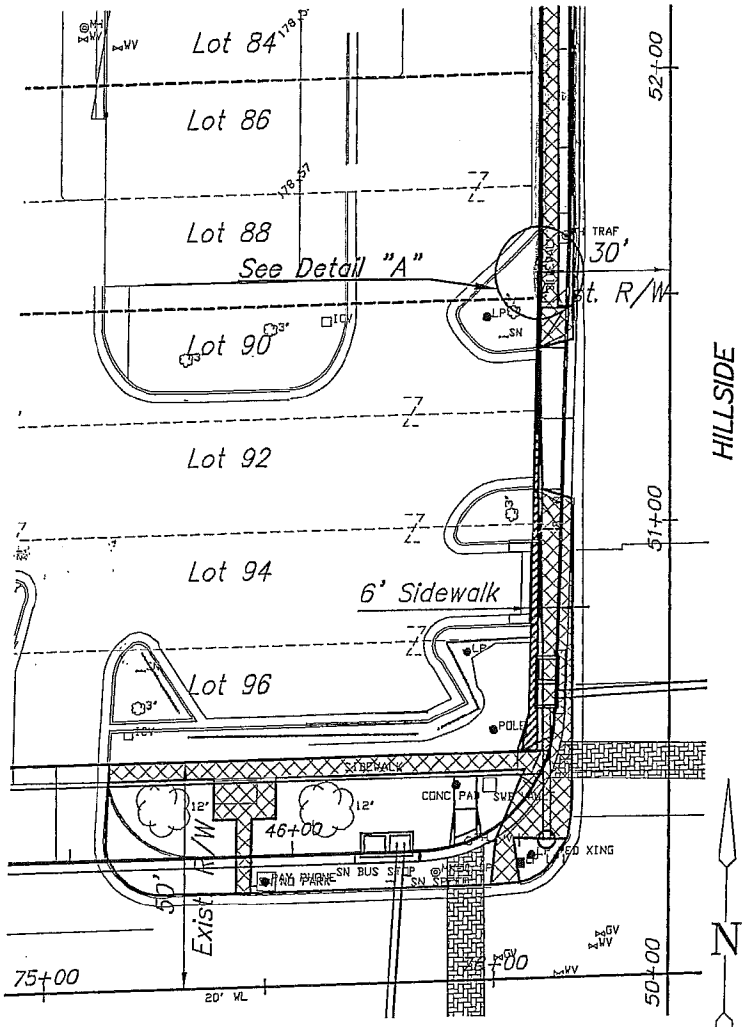
Permanent Easement

COLLEGE TERRACE
ADDITION
BLOCK 5

McDonald's Corporation
Attn: Dale L Carter



Detail "A"



17TH ST.

LEGAL DESCRIPTION:

Right of Way:

Beginning at the southeast corner of Lot 88, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 0.32 feet along the south line of said Lot 88; thence N00°26'03"E, 15.47 feet to a point on the east line of said Lot 88; thence S00°45'27"E, 15.46 feet along said east line to the Point of Beginning.

Said parcel of land contains 2 square feet, more or less.

SCALE: 1"= 40'

0 20 40 80

LEGEND:

Right of Way Take = 2 Sq. Ft.

Pavement Removal

Owner:

McDonald's Corporation
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04820

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MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9400

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V5	1 / 1
DATE	JOB NO.	SHEET/OF

Exhibit B (Page 2 of 2)

Wichita, KS
1811 N. Hillside
L/C 015-0008

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT (this "Easement") made this ___ day of _____, 2009, by and between **McDonald's Real Estate Company, a Delaware corporation** ("McDonald's"), and the **City of Wichita, Kansas, a municipal corporation**, ("Wichita").

WITNESSETH:

That McDonald's is the owner of the real estate described on the attached Exhibit A, by this reference made a part hereof ("McDonald's Property").

That McDonald's, in consideration of the sum of $1,905.00 and other good and valuable considerations, the receipt of which is acknowledged, does grant and convey to Wichita, a non-exclusive temporary right-of-way and utility easement for the purpose of constructing, maintaining, and repairing roadway and utilities, over, along and under the real estate located in Wichita, Sedgwick, County, Kansas, described and depicted (single hatched) on the attached Exhibit B as Right of Entry, containing 1,904 square feet, by this reference made a part hereof (the "Premises").

Wichita is granted the right to enter upon the Premises at reasonable times for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements for a period of 90 days from the onset of construction. This Easement shall expire automatically 30 days after completion of construction, subject to the following:

1. Wichita shall have the non-exclusive temporary right to enter upon the above described Premises to construct, maintain and repair the roadway and utilities over, along and under the Premises.

2. Wichita promises and agrees to indemnify and save harmless McDonald's from and against all claims, demands, actions or causes of action that may be hereafter made or prosecuted against McDonald's and any other person or entity for property damage or personal injury or death arising out of or by reason of or resulting from the construction, maintenance or repairs of the roadway or utilities over, along and under the Premises, and further promises and agrees to reimburse McDonald's for an sums of money that McDonald's may hereafter be required to expend in connection with or because of any such claims, demands, actions or causes of actions.

3. Wichita shall perform any construction, maintenance or repairs of the roadway or utilities over, along and under the Premises ("Wichita's Work") in a good and workmanlike manner and in such a manner as to not unduly disrupt the operation of McDonald's business located on McDonald's Property. Wichita will give written notice

to McDonald's at least 10 days (except in an emergency) before beginning any work. Wichita will not "cone off" or block in any manner more than half of any access drive at any time, allowing at least one lane open at all times in each access drive for vehicular traffic to the McDonald's business on the McDonald's Property.

4. If any damage occurs to McDonald's Property or any improvements thereon arising out of, related to, or as a consequence of any of Wichita's Work, McDonald's will promptly notify Wichita in writing of the damage. Unless otherwise agreed by the parties, Wichita will repair the damage (or commence and diligently pursue repairing the damage) within 30 days after receipt of McDonald's notice.

5. Wichita shall compensate McDonald's for any damage resulting from the construction, reconstruction, maintenance or subsequent repair of the roadway and utilities over, along and under the Premises.

6. Wichita will separate by cones or other appropriate construction safety barriers ("cone off") the Premises while performing Wichita's Work on the Premises.

7. Wichita will not park on or store any construction vehicles, equipment, or materials within the Premises or on McDonald's Property.

8. The undersigned represents and certifies that she is a duly appointed agent or elected officer of McDonald's and has been fully empowered by proper action of McDonald's to execute and deliver this instrument of conveyance; that McDonald's has capacity to grant the Easement described herein; and that all necessary action for the making of such grant has been taken and done.

IN WITNESS WHEREOF, the parties have signed this Easement as of the day and year first above written.

McDonalds:

McDonald's Real Estate Company, a Delaware corporation

By: _____
Catherine A. Griffin
Vice President & Asst. Secretary

Wichita:

City of Wichita, Kansas,
a municipal corporation

By: _____
_____(Name)
_____(Title)

STATE OF ILLINOIS)
) ss
COUNTY OF DUPAGE)

I, Mildred R. Lebeda, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Catherine A. Griffin, Vice President and Assistant Secretary of **McDonald's Real Estate Company, a Delaware corporation,** who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Catherine A. Griffin, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such Vice President and Assistant Secretary and as his free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 19th day of May, 2009.

Mildred R. Lebeda
Notary Public
My commission expires: 2/25/2011

OFFICIAL SEAL
MILDRED R LEBEDA
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:02/25/11

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

I, _____, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that _____, AS _____ of the **City of Wichita, Kansas, a municipal corporation,** who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such _____ and as his free and voluntary act of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____day of _____, 2009.

_____
Notary Public
My commission expires: _____

Document Prepared by:
Shirley Farrell, Sr. Counsel
McDonald's Corporation
One McDonald's Plaza
Oak Brook, IL 60523
630-623-6966

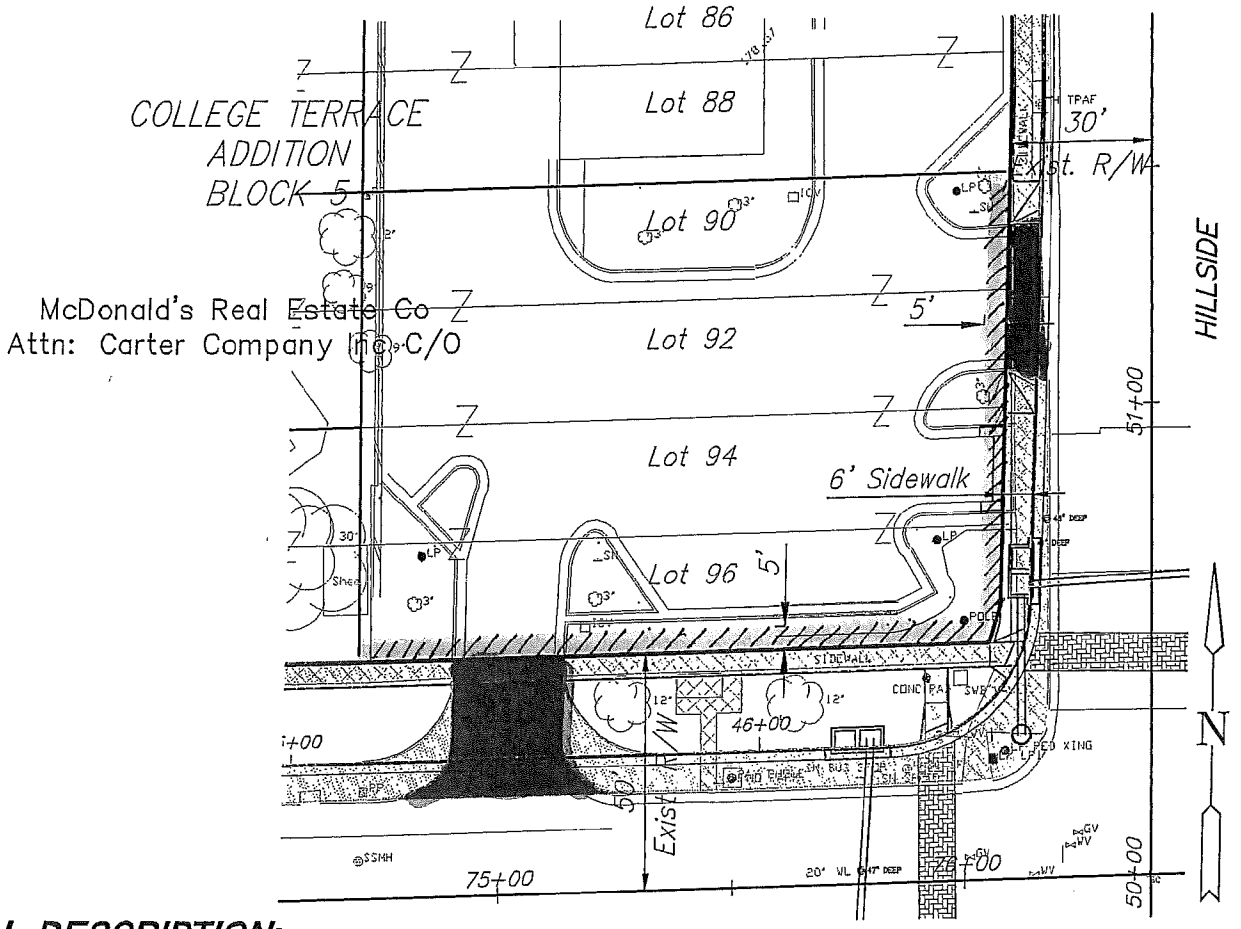
Lots Seventy-eight (78), Eighty (80), Eighty-two (82), Eighty-four (84), Eighty-six (86), and Eighty-eight (88), Block Five (5), on Hillside Avenue, in College Terrace Addition to Wichita, Sedgwick County, Kansas.

AND

LOTS 90,92, 94 AND 96, BLOCK 5, COLLEGE TERRACE ADDITION TO THE CITY OF WICHITA, COUNTY OF SEDGWICK, IN THE STATE OF KANSAS.

Exhibit A (Page 1 of 1)

Temporary Easement



SCALE: 1"= 40'

0 20 40 80

LEGAL DESCRIPTION:

Right of Entry:

Commencing at the southeast corner of Lot 96, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 4.69 feet along the south line of said Lot 96 to the Point of Beginning; thence continuing S88°47'34"W, 135.31 feet along said south line to the southwest corner of said Lot 96; thence N00°45'27"W, 5.00 feet along the west line of said Lot 96; thence N88°47'34"E, 132.70 feet parallel with said south line to a point lying 7.30 feet West of the east line of said Lot 96; thence N00°26'03"E, 95.04 feet to a point on the north line of Lot 90, Block 5, said Addition; thence N88°47'34"E, 5.00 feet along said north line to a point lying 0.32 feet west of the northeast corner of said Lot 90; thence S00°26'03"W, 91.88 feet; thence S15°59'20"W, 8.53 feet to the Point of Beginning.

LEGEND:

- Exist. street to be milled and overlayed
- Exist. drives, walks, and street to be removed and replaced
- Right of Way
- Property owners existing drive within Right-of-Way
- New street and sidewalks
- Right-of-Entry Limits =1,154 sq. ft.

Owner:

McDonald's Real Estate Co.
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04821

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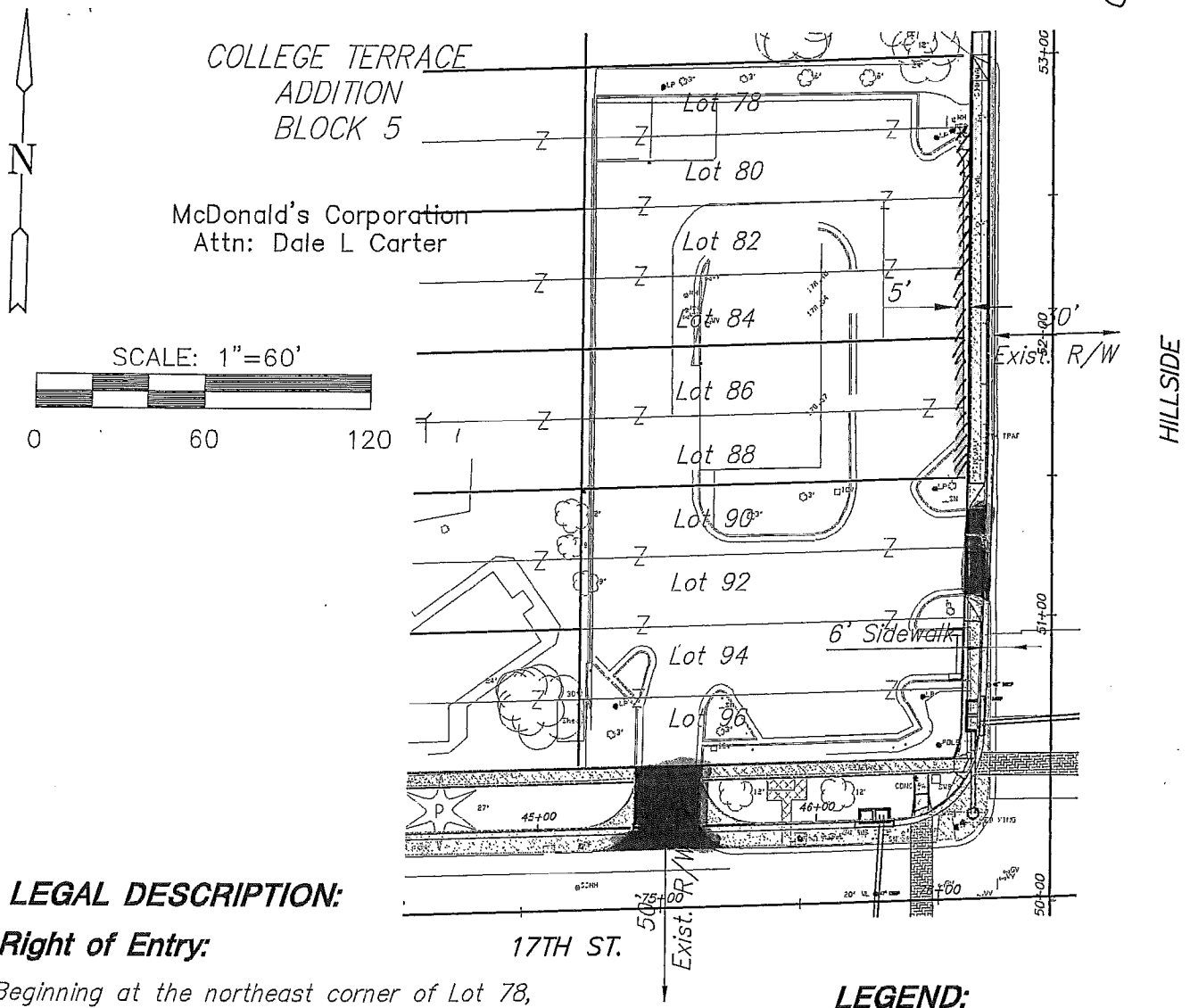
MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V1	1 / 1
DATE	JOB NO.	SHEET/OF

Temporary Easement



LEGAL DESCRIPTION:

Right of Entry:

Beginning at the northeast corner of Lot 78, Block 5, College Terrace Addition to Wichita, Kansas; thence S00°45'27"E, 134.54 feet along the east line of said Lot 78 and Lots 80, 82, 84, 86, and 88, Block 5, said Addition; thence S00°26'03"W, 15.47 feet to a point on the south line of said Lot 88, said point being 0.32 feet west of the southeast corner of said Lot 88; thence S88°47'34"W, 5.00 feet along said south line; thence N00°26'03"E, 15.56 feet; thence N00°45'27"W, 134.45 feet parallel with said east line to a point on the north line of said Lot 78; thence N88°47'34"E, 5.00 feet along said north line to the Point of Beginning.

Owner:

McDonald's Corporation
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04819, C 04820

LEGEND:

- Exist. street to be milled and overlayed
- Exist. drives, walks, and street to be removed and replaced
- Right of Way
- Property owners existing drive within Right-of-Way
- New street and sidewalks
- Right-of-Entry Limits =750 sq. ft.

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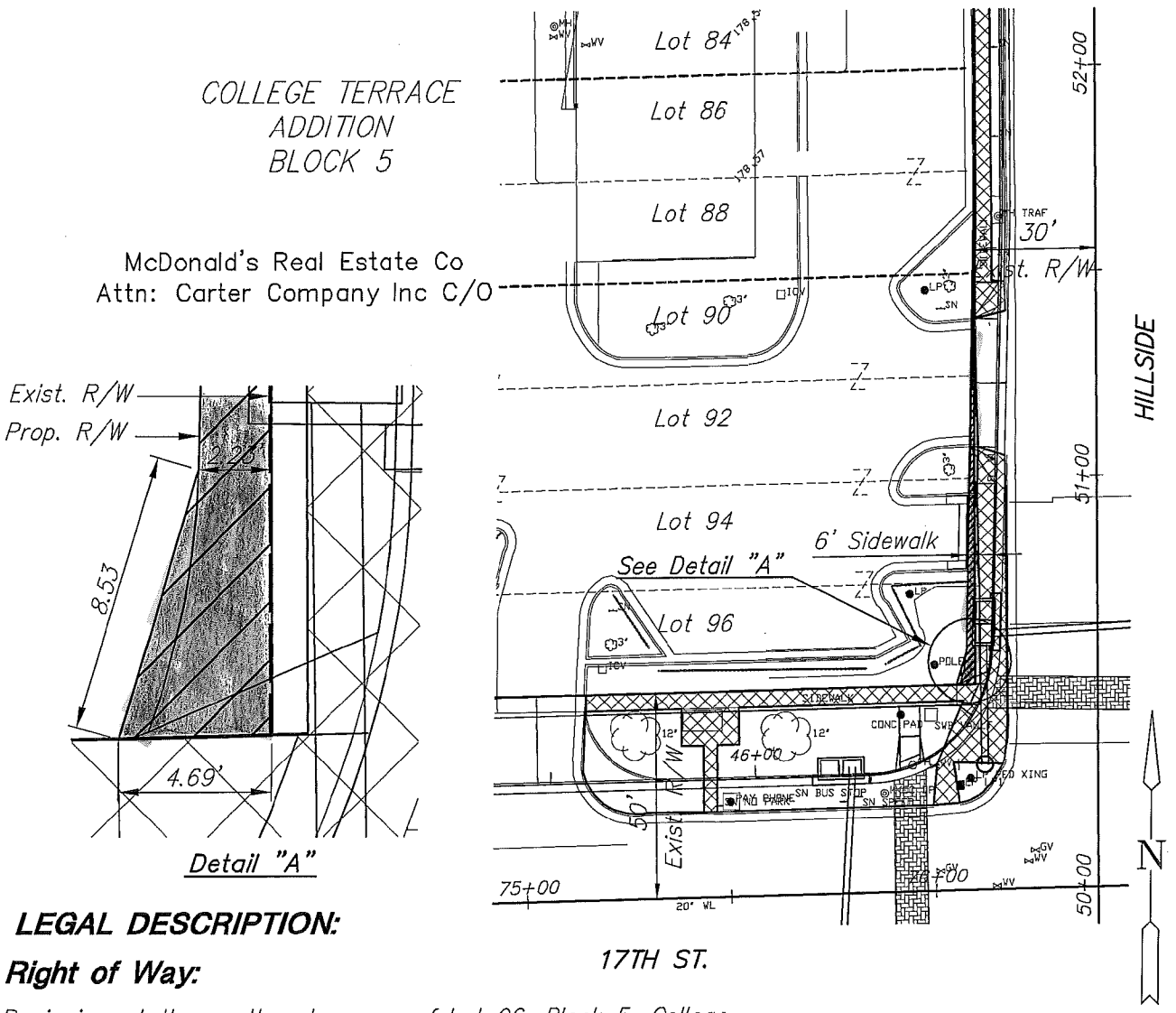
MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

17TH STREET FROM GROVE TO HILLSIDE (PROJECT NAME)		
RIGHT OF WAY TRACT MAP (SHEET TITLE)		
JRA (DESIGN BY)	JSB (DRAWN BY)	JCM (CHECKED BY)
May 2008 (DATE)	04179 V5 (JOB NO.)	1 / 1 (SHEET/OF)



LEGAL DESCRIPTION:

Right of Way:

Beginning at the southeast corner of Lot 96, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 4.69 feet along the south line of said Lot 96; thence N15°59'20"E, 8.53 feet; thence N00°26'03"E, 91.88 feet to a point lying on the north line of Lot 90, Block 5, said Addition; thence N88°47'34"E, 0.32 feet along said north line to the northeast corner of said Lot 90; thence S00°45'27"E, 100.00 feet along the east line of Lots 90, 92, 94 and 96, said Addition to the Point of Beginning.

Said parcel of land contains 145 square feet, more or less.

LEGEND:

Right of Way Take = 145 Sq. Ft.

Pavement Removal

Owner:

McDonald's Real Estate Co.
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04821

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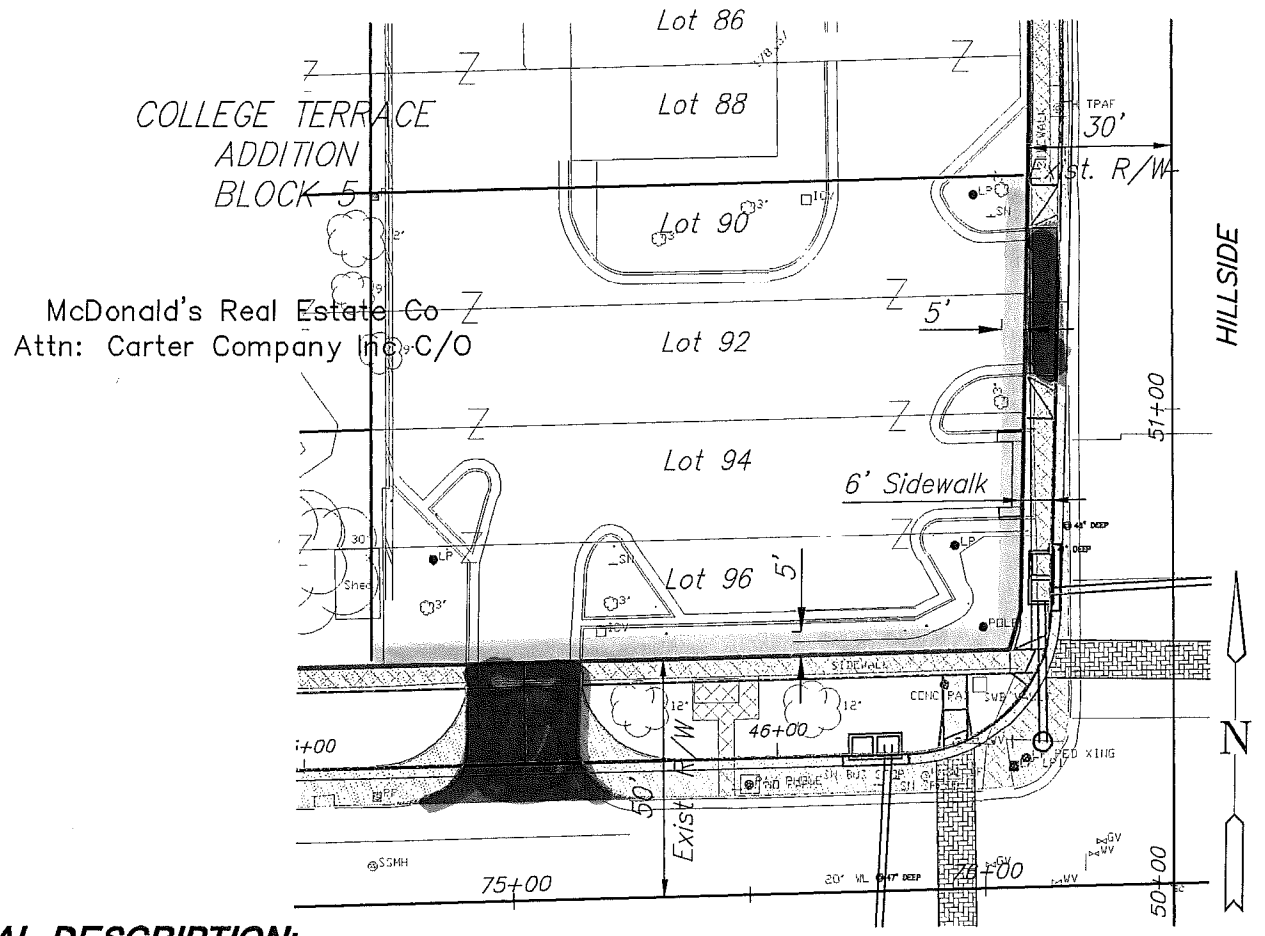
MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V1	1 / 1
DATE	JOB NO.	SHEET/OF



SCALE: 1"= 40'

0 20 40 80

LEGAL DESCRIPTION:

Right of Entry:

Commencing at the southeast corner of Lot 96, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 4.69 feet along the south line of said Lot 96 to the Point of Beginning; thence continuing S88°47'34"W, 135.31 feet along said south line to the southwest corner of said Lot 96; thence N00°45'27"W, 5.00 feet along the west line of said Lot 96; thence N88°47'34"E, 132.70 feet parallel with said south line to a point lying 7.30 feet West of the east line of said Lot 96; thence N00°26'03"E, 95.04 feet to a point on the north line of Lot 90, Block 5, said Addition; thence N88°47'34"E, 5.00 feet along said north line to a point lying 0.32 feet west of the northeast corner of said Lot 90; thence S00°26'03"W, 91.88 feet; thence S15°59'20"W, 8.53 feet to the Point of Beginning.

LEGEND:

- Exist. street to be milled and overlayed
- Exist. drives, walks, and street to be removed and replaced
- Right of Way
- Property owners existing drive within Right-of-Way
- New street and sidewalks
- Right-of-Entry Limits =1,154 sq. ft.

Owner:

McDonald's Real Estate Co.
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04821

J:\Civil\04179\dwg\tracts\04179roe.dwg 11/06/2008 04:24:17 PM CST

MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

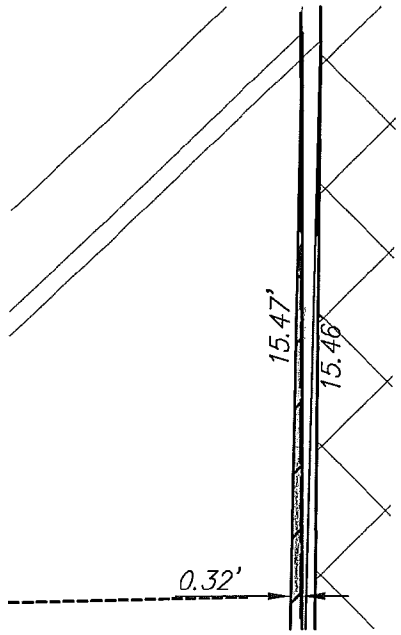
17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

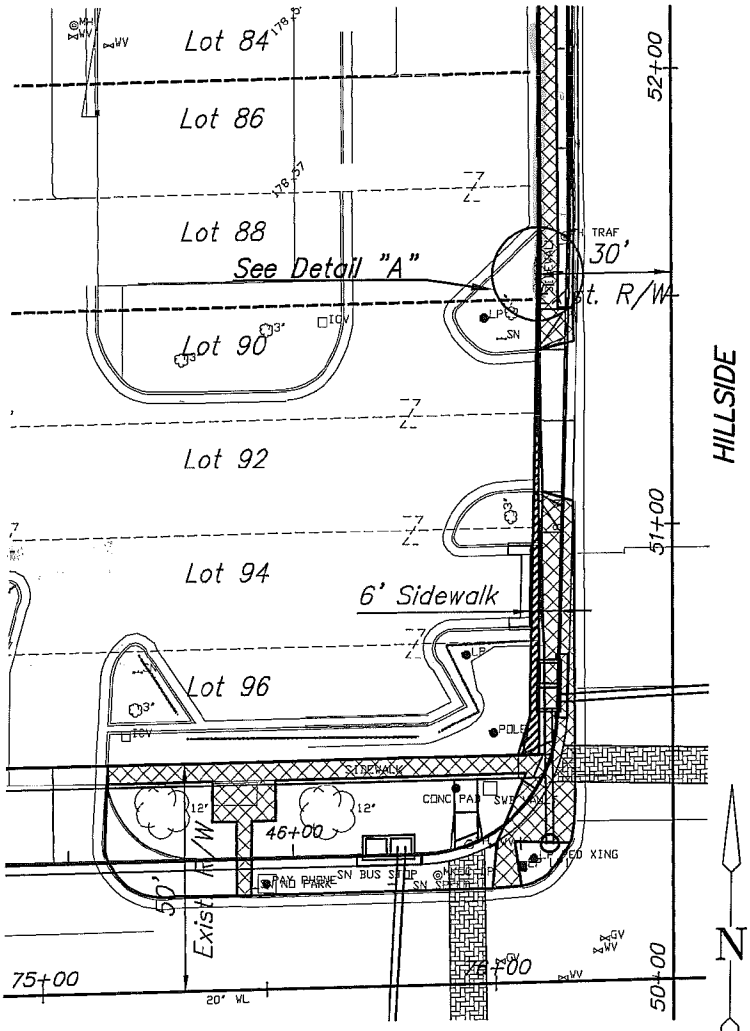
JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V1	1 / 1
DATE	JOB NO.	SHEET/OF

COLLEGE TERRACE
ADDITION
BLOCK 5

McDonald's Corporation
Attn: Dale L Carter



Detail "A"



17TH ST.

SCALE: 1"= 40'

0 20 40 80

LEGAL DESCRIPTION:

Right of Way:

Beginning at the southeast corner of Lot 88, Block 5, College Terrace Addition to Wichita, Kansas; thence S88°47'34"W, 0.32 feet along the south line of said Lot 88; thence N00°26'03"E, 15.47 feet to a point on the east line of said Lot 88; thence S00°45'27"E, 15.46 feet along said east line to the Point of Beginning.

Said parcel of land contains 2 square feet, more or less.

LEGEND:

Right of Way Take = 2 Sq. Ft.

Pavement Removal

Owner:

McDonald's Corporation
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04820

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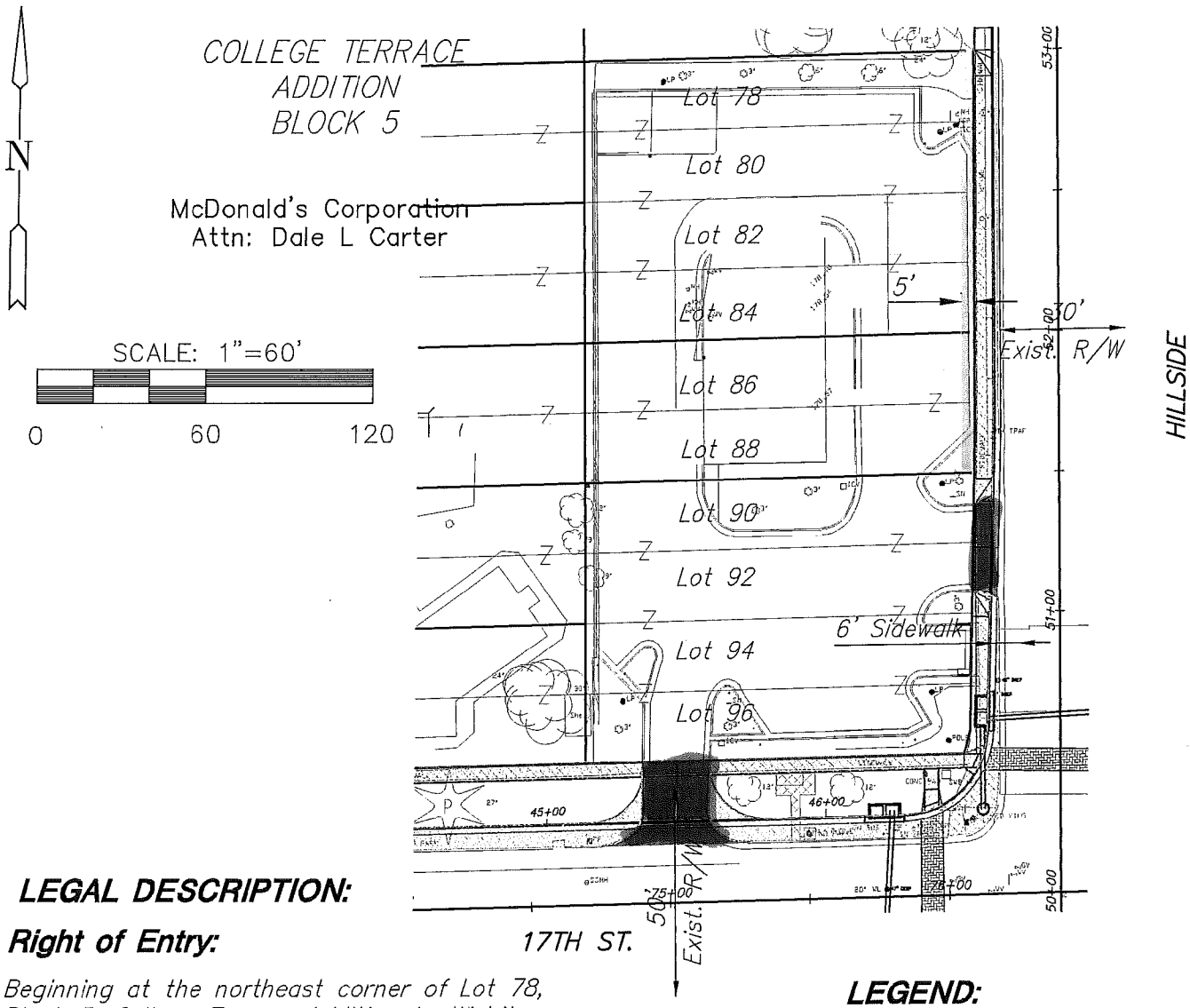
MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V5	1 / 1
DATE	JOB NO.	SHEET/OF



LEGAL DESCRIPTION:

Right of Entry:

Beginning at the northeast corner of Lot 78, Block 5, College Terrace Addition to Wichita, Kansas; thence S00°45'27"E, 134.54 feet along the east line of said Lot 78 and Lots 80, 82, 84, 86, and 88, Block 5, said Addition; thence S00°26'03"W, 15.47 feet to a point on the south line of said Lot 88, said point being 0.32 feet west of the southeast corner of said Lot 88; thence S88°47'34"W, 5.00 feet along said south line; thence N00°26'03"E, 15.56 feet; thence N00°45'27"W, 134.45 feet parallel with said east line to a point on the north line of said Lot 78; thence N88°47'34"E, 5.00 feet along said north line to the Point of Beginning.

Owner:

McDonald's Corporation
8721 E. Shadowridge Cir.
Wichita, KS 67226

Property Identification:

C 04819, C 04820

LEGEND:

- *Exist. street to be milled and overlayed*
- *Exist. drives, walks, and street to be removed and replaced*
- *Right of Way*
- *Property owners existing drive within Right-of-Way*
- *New street and sidewalks*
- *Right-of-Entry Limits =750 sq. ft.*

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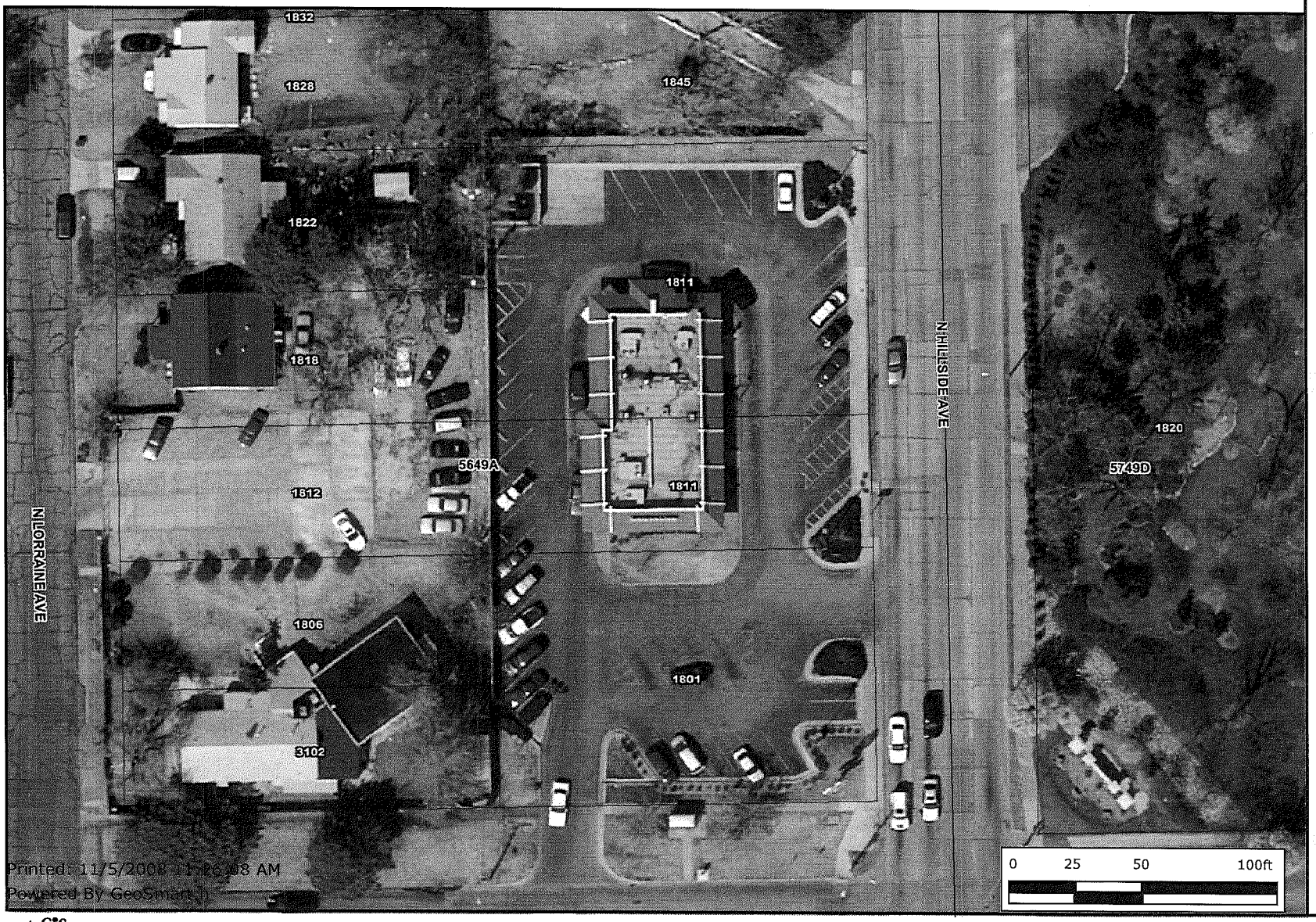
MKEC ENGINEERING CONSULTANTS
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

17TH STREET FROM GROVE TO HILLSIDE
PROJECT NAME

RIGHT OF WAY TRACT MAP
SHEET TITLE

JRA	JSB	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2008	04179 V5	1 / 1
DATE	JOB NO.	SHEET/OF

McDonald's



- Historic Districts
- Old Town
- Delano Overlay District
- NO
- YES
- Property Parcels
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Historic Sites
- REGIONAL
- STATE/NATIONAL
- STATE
- Historic Environs
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O
- Area of Influence
- Area of Influence
- Informal Notify Area
- Small City Notify Area
- City Limits

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
MAY 2009

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Fill Dirt and Delivery (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Fill Dirt Only (filed under "Sand")	5/31/2010	Cornejo Materials	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Fill Sand and Delivery (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Fill Sand Only (filed under "Sand")	5/31/2010	Associated Material & Supply Company	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Indigent Defense Legal Services	5/31/2010	Maughan & Maughan LC	Municipal Court	6/1/2006 - 5/31/2007	1 - 1 year option
Laser Printer Maintenance	5/31/2010	KK Office Solutions, Inc.	IT / IS	6/3/2008 - 5/31/2009	1 - 1 year option
Limestone - Crushed (Moline)(Grey-Brown) and Delivery 3/8" - 2" (filed under "Sand)	5/31/2010	Cornejo Materials	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Limestone - Rock AB-3 (Cream) and Delivery (filed under "Sand")	5/31/2010	H & K Hauling, L.L.C.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Limestone - Rock AB-3 (Grey) and Delivery (filed under "Sand")	5/31/2010	H & K Hauling, L.L.C.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Liquid Oxygen	5/31/2010	Lampton Welding Supply	Water Utilities	6/17/2008 - 5/31/2009	1 - 1 year option
Mail Delivery Service	5/31/2010	Leadfoot Express Transport, LLC	Finance	6/1/2008 - 5/31/2009	1 - 1 year option
Mason Sand and Delivery (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Mason Sand Only (filed under "Sand")	5/31/2010	Associated Material & Supply Company	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Meter - Residential Meter and AMR Installation	5/31/2010	H & C Insulation, Inc.	Water Utilities	6/17/2008 - 5/31/2009	1 - 1 year option
Meter Box Rings, Lids & Risers	5/31/2010	Clay & Bailey Mfg. Co.	Water Utilities	6/17/2008 - 5/31/2009	1 - 1 year option
Microtox Reagent	5/31/2010	Strategic Diagnostics Inc.	Water Utilities	6/1/2006 - 5/31/2007	Annual basis
Mowing, Trimming, Edging & Maintenance at Environmental Services, Animal Control Office and Wichita Animal Shelter	5/31/2010	Complete Landscaping Systems, Inc.	Environmental Services	6/1/2008 - 5/31/2009	1 - 1 year option
Mud Balls and Delivery	5/31/2010	Central Sand Company, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Mud Balls Only	5/31/2010	Central Sand Company, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Pea Gravel and Delivery (Unwashed) 3/8" to 3/4" (filed under "Sand")	5/31/2010	Central Sand Company, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Pea Gravel and Delivery (Washed) 3/8" to 3/4" (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Pea Gravel Only (Unwashed) 3/8" to 3/4" (filed under "Sand")	5/31/2010	Central Sand Company, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Pea Gravel Only (Washed) 3/8" to 3/4" (filed under "Sand")	5/31/2010	Cornejo Materials	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Photography for Youth Baseball, Softball, T-Ball, Aquatics and Football	5/31/2010	TSS Photography of South Central Kansas	Parks & Recreation	5/28/2008 - 5/31/2009	1 - 1 year option
Road Gravel and Delivery (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Road Gravel Only (filed under "Sand")	5/31/2010	Central Sand Company, Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Rock Salt for Snow and Ice Control	5/31/2009	Hutchinson Salt Company	Public Works	6/24/2008 - 5/31/2009	2 - 1 year options
Sand Only and Salt & Sand Mixture for Ice Control	5/31/2010	Cornejo Materials	Public Works	6/17/2008 - 5/31/2009	1 - 1 year option
Scrap Metal	5/31/2010	Wichita Iron & Metal Inc.	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Top Soil and Delivery (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Top Soil and Delivery (Shredded/Pulverized) (filed under "Sand")	5/31/2010	Lafarge North America, Inc. dba Lafarge N.A. Aggregates	Various	6/1/2008 - 5/31/2009	1 - 1 year option

Top Soil Only (Shredded/Pulverized) (filed under "Sand")	5/31/2010	Cornejo Materials	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Top Soil Only (filed under "Sand")	5/31/2010	Cornejo Materials	Various	6/1/2008 - 5/31/2009	1 - 1 year option
Trees, Pruning & Maintenance, Raising the Fringe, Trimming, Removing and Shaping for Crown Symmetry and/or Removal	5/31/2010	Alfred's Superior Tree Services	Housing & Community Services	6/2/2008 - 5/31/2009	1 - 1 year option

PROFESSIONAL CONTRACTS UNDER $25,000
PURCHASE ORDERS FOR MAY 2009

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
MKEC Engineering Consultants Inc.	PO930471	Electrical/Civil Landscape Engineering Services	5,400.00		

ANNUAL MAINTENANCE CONTRACTS OVER $25,000
DIRECT PURCHASE ORDERS FOR MAY 2009

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Delinquent Account Collection Services

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Contract with Professional Finance Company, Inc. for delinquent account collection services.

Background: The City of Wichita issued a Request for Proposals on February 2, 2009, for the purpose of hiring a delinquent account collection contractor. A pre-proposal conference was held on February 12, 2009, to clarify any contractor questions. The contractor selected will work with Water Utilities and the City Treasury Division of Finance to collect past-due account balances. Water Utilities collects Utility related account balances, while the City Treasury serves as a collection center for several departments.

Eight (8) contractors submitted proposals and three (3) were selected for interviews. The interviews were held March 31 and April 1, 2009. The committee asked questions to determine the knowledge, experience, technical expertise, service delivery methods and fee proposals for each contractor. The selection committee met Wednesday, April 8, 2009, reviewed the interview rankings, and Professional Finance Company, Inc. (PFC) was unanimously selected to be the provider.

Analysis: The City has a continuing need to collect delinquent account balances. Delinquent account collection contractors provide an efficient and effective means for collecting delinquent balances. Their business requires them to stay current with industry collection laws, practices and technology. During the past four years, Water Utilities and the City Treasury Division of Finance have turned account balances totaling $2,757,510 for collection. Of this amount, $876,818 has been collected, representing a 32 percent collection rate.

Financial Considerations: There is no additional cost for this service, since collection fees are paid from the monies recovered through the collection activity. The fee for the Contract was negotiated from 16.9 percent to 16 percent, representing a savings of almost 1 percent of all monies collected.

Goal Impact: Utilizing a collection agency addresses the Internal Perspective Financial Goals by attaining needed funds for continuing services for public use. Collection of these funds will reduce the future costs to other citizens.

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

Recommendations/Actions: It is recommended that the City Council: 1) authorize the expenditure; 2) approve the Contract with Professional Finance Company, Inc.; and 3) authorize the necessary signatures.

Attachments: Contract with Professional Finance Company, Inc.

RECEIVED
MAY 26 2009

CONTRACT
for
DELINQUENT ACCOUNT COMMISSION RATE CASH COLLECTIONS

BLANKET PURCHASE ORDER NUMBER BP930009

THIS CONTRACT entered into this 9th day of June, 2009, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **PROFESSIONAL FINANCE COMPANY, INC.**, (Vendor Code Number 823070-001), whose principal office is at 5754 W. 11th Street, Suite 100, Loveland, Colorado, 80538, Telephone Number (800) 864-4391, hereinafter called **"VENDOR"**.

WITNESSETH:

WHEREAS, the **CITY** has solicited bids for **Delinquent Account Commission Rate Cash Collections** (Formal Proposal – FP930013) [Commodity Code Number 94633]; and

WHEREAS, VENDOR has submitted the bid most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY.**

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP930013 [Commodity Code Number 94633], which is incorporated herein by this reference the same as if it were fully set forth. The bid package, including all specifications, plans and addenda, provided by the City of Wichita as part of the bid letting process for Formal Proposal Number – FP930013, shall be considered a part of this contract and is incorporated by reference herein. The Cost of Services Contingent Fee for all accounts listed on page 15 of **VENDOR's** proposal shall be modified to be 16%. All other aspects of that proposal shall remain the same.

2. **Compensation. CITY** agrees to pay to **CONTRACTOR** the following **unit price** for **Delinquent Account Commission Rate Cash Collections** for the Water Utilities Department, Customer Service Division as shown below as compensation:

> **A contingent collection fee of 16% on all first placement and legal placement accounts referred and subsequently paid, regardless of the source of payment.**

3. **Term.** The term of this contract shall be effective from **July 1, 2009 through June 30, 2010**, with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR.**

4. **Indemnification and Insurance.**

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

5. **Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws. VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. **No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. **Non-Discrimination. VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration**. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

12. Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

Janice Edwards
Deputy City Clerk

THE CITY OF WICHITA

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

PROFESSIONAL FINANCE COMPANY, INC.

Signature

Michael V. Sharp
Print Signature Name

President
Title *(President or Corporate Officer)*

Exhibit A

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

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

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Agenda Item No. XII-10.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Bond Counsel Engagement Letter for Via Christi Financing. (Districts II, III, V, and VI)

INITIATED BY: Department of Law

AGENDA: Consent

Recommendation: Approve the Engagement Letter and authorize the City Attorney to sign.

Background: Via Christi Health Systems, Inc. has approached the City concerning a proposal to issue Hospital Facilities Revenue Bonds in two series. A portion of the Bonds would refund the outstanding Series III-A-1, 1992 and Series III-A-2, 1992 Bonds previously issued by the City to finance improvement to the St. Francis Regional Medical Center, and a larger portion of the Bonds would be used to finance a new acute care hospital at 151st Street West and 21st Street North. It is anticipated that Via Christi would want some of the Bonds to be issued this summer, and the rest later in the year. The firm of Kutak Rock, which serves as the City's general Bond Counsel, had some early involvement in discussions of the proposed financing as counsel for the Underwriter, and Via Christi accordingly requested the City to select a different firm to act as Bond Counsel in the transaction.

Analysis: Consistent with past practice for selection of Bond Counsel in similar circumstances, the Law Department obtained quotes from the firms of Gilmore & Bell and Triplett, Woolf & Garretson. Of these, the Triplett quote was lower, and so the firm was asked to submit an Engagement Letter for approval.

Financial Considerations: There is no financial impact to the City. Bond Counsel fees will be paid by Via Christi.

Goal Impact: Economic Vitality and Quality of Life. Engaging Bond Counsel on IRB issues is a necessity to enable successful marketing of the Bonds, and is also part of preserving the credibility and integrity of the City's IRB program.

Legal Considerations: The City Attorney's Office has reviewed and approved the Engagement Letter as to form.

Recommendations/Actions: It is recommended City Council approve the Engagement Letter and authorize the City Attorney to sign.

Attachments: Form of Engagement Letter.

TWG

TRIPLETT, WOOLF & GARRETSON, LLC

LAW FIRM

Thomas C. Triplett
John P. Woolf
Thomas P. Garretson
James A. Walker
Timothy E. McKee
Theron E. Fry *
Eric B. Metz
Ron H. Harnden
Tad Patton
Rachael K. Pirner
Jeffrey D. Leonard
* Admitted in Kansas & Texas

2959 North Rock Road, Suite 300
Wichita, KS 67226

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Jeffery C. Dahlgren
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Ross E. Hellwig
Amy Fellows Cline
Tyler E. Heffron
Paula D. Langworthy
Andrew N. Kovar
Brandon W. Deines
Emily N. Davis
Mary F. Carson, *Of Counsel*

May 7, 2009

CITY OF WICHITA, KANSAS
Attn: Gary Rebenstorf, City Attorney
455 N. Main, 13th Floor
Wichita, Kansas 67202-1679

05-14-09A08:26 RCVD

RE: Approximately $155,000,000 City of Wichita, Kansas
Hospital Facilities Refunding and Improvement Revenue Bonds
(Via Christi Health System, Inc.)
Our File No. 9931-12

Dear Mr. Rebenstorf:

We have agreed to serve as Bond Counsel to the City of Wichita, Kansas (the "Issuer" or "City") in connection with the issuance of the referenced bonds (the "Bonds") which Via Christi Health System, Inc. ("Via Christi") has proposed be issued by the Issuer. The Bonds are proposed to be issued in two series, in an aggregate principal amount of approximately $155,000,000, for the purpose of providing funds to (i) refund certain bonds previously issued by the Issuer (the "Refunded Bonds") and (ii) purchase, acquire, construct, furnish a new acute care hospital facility to be located at the Northeast corner of 151st Street West and 21st Street North, just to the west of the City's existing corporate limits (the "Project"), which will be leased to Via Christi Regional Medical Center, Inc. (the "Hospital").

It is anticipated that the Bonds will be sold to Morgan Stanley, or other underwriter to be selected by the Company (the "Underwriters"), and will be issued pursuant to and additionally secured by a certain Master Trust Indenture, dated as of February 1, 1992, as amended (the "Master Indenture"), by and between Via Christi, the Hospital, other members of the Obligated Group (as defined therein) and The Bank of New York Melon Trust Company, N.A., as successor master trustee (the "Trustee"). It is further anticipated that the basis upon which the Bonds will be issued will result in the interest on the Bonds not being includable in the gross income of the owners thereof for purposes of federal income taxation.

The purpose of this letter is to set forth our role and responsibilities as the Issuer's Bond Counsel with respect to the proposed financing and our understanding with respect to fees and expenses to be paid by Via Christi.

Bond Counsel is engaged as having the primary responsibility to render an objective legal opinion with respect to the authorization and issuance of the Bonds.

As Bond Counsel, we will:

(1) Examine applicable law;

(2) Prepare or review (i) the Issuer's letter of intent, (ii) the Issuer's ordinance pursuant to which the Bonds will be authorized, (iii) the supplemental master indenture authorizing and recognizing the Bonds as an Obligation of the Obligated Group (the "Supplemental Master Indenture"), (iv) the indenture of trust pursuant to which the Bonds will be issued and secured (the "Bond Indenture"), (v) the lease agreement pursuant to which the Hospital will agree to pay to the Issuer rentals and other payments sufficient to pay the principal of and the interest on the Bonds in accordance with their terms (the "Lease"); (vi) the lease agreement pursuant to which the Hospital will lease the land upon which the Project will be situated to the Issuer (the "Site Lease"), (vii) the guaranty agreement and separate obligation pursuant to which the Hospital will unconditionally guarantee the payment of the principal of, premium, if any, and interest on the Bonds; (viii) a tax compliance agreement and any such other documents as may be required in connection with the issuance of the Bonds or which we deem necessary for purposes of rendering our opinion, and (ix) the forms of such closing documents, certificates and opinions of counsel for the parties as may be required by the terms of the financing and applicable federal and state laws;

(3) Consult with the parties and their counsel prior to the issuance of the Bonds;

(4) Review certified copies of the Issuer's and the Hospital's proceedings relating to the authorization and issuance of the Bonds;

(5) Draft the necessary public notice and proceedings for the required public hearing with respect to the Bonds;

(6) Review the Bond Placement Agreement and/or other form of agreements or documents relating thereto;

(7) Assist the parties in the preparation of those portions of the preliminary and final Official Statement for the Bonds (the "Official Statement") which relate to the Bonds, the Ordinance, the Master Indenture, the Bond Indenture, the Lease, the Site Lease and the tax treatment of the Bonds; and

(8) Undertake such additional duties as may be necessary to render our opinion or as may be requested by the Issuer.

Subject to the completion of proceedings for the authorization and issuance of the Bonds to our satisfaction, we will render our opinion(s) to the effect that:

(1) The Issuer is a duly created and validly existing public instrumentality of the State of Kansas with authority to enter into the Indenture, the Site Lease and the Lease and to perform its obligations thereunder, and to issue the Bonds to refund the Refunded Bonds and finance the Project;

(2) The Indenture, the Site Lease and the Lease and other pertinent financing documents have been duly authorized, executed and delivered by the Issuer;

(3) The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer, payable from the Trust Estate created by the Bond Indenture;

(4) The interest paid on the Bonds (i) will be exempt from income taxation by the State of Kansas, and (ii) will not be includable in gross income for purposes of federal income taxation, subject to certain limitations and exceptions as shall be expressed in the opinion.

Our opinion(s) will be delivered in written form, dated and executed as of the date the Bonds are issued and delivered, upon payment of the purchase price for the Bonds (the "Closing"), and will be based on facts and laws existing on that date. Upon the delivery of our opinion and the distribution of the final transcript of proceedings relating to the Bonds, our responsibilities as Bond Counsel will be concluded and our engagement as Bond Counsel to the Issuer will end with respect to the Bonds.

Our duties in this engagement are limited to those expressly set forth above. Specifically, but without implied limitation, we do not undertake (unless separately engaged) to do any of the following:

(1) Prepare requests for tax rulings from the Internal Revenue Service, or no action letters from the Securities and Exchange Commission;

(2) Prepare blue sky or investment surveys with respect to the Bonds;

(3) Draft state constitutional or legislative amendments;

(4) Pursue test cases or other litigation, such as contested validation proceedings;

(5) Review the financial condition of Via Christi or the Hospital, the feasibility of the Project or the adequacy of the security for payment of the Bonds or make any investigation or express any view as to the creditworthiness of the Issuer, the Hospital or the Bonds;

(6) Assist in the preparation of, or opining on, a disclosure undertaking pertaining to the Bonds or, after Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking;

(7) Represent the Issuer or the Hospital in any Internal Revenue Service Examination or inquiry, or Securities and Exchange Commission investigation;

(8) After Closing, providing continuing advice to the Issuer, the Hospital or any other party concerning any actions necessary to assure that the interest paid on the Bonds will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Bonds);

(9) Assume or undertake responsibility for the preparation of an Official Statement with respect to the Bonds, nor will we assume or undertake responsibility for performing an independent investigation to determine the accuracy, completeness or sufficiency of any Official Statement, except as hereafter specifically described; or

(10) Address any other matter not specifically set forth above that is not required to render our Bond Opinion.

In rendering our opinion(s), we will rely upon the representations of the Issuer, Via Christi and the Hospital set forth in the financing documents, the certified proceedings and other certifications of public officials, officials of Via Christi and the Hospital and other persons (including certifications as to the use of the proceeds of the Bonds and various tax matters) without undertaking to verify the same by independent investigation.

As Bond Counsel to the Issuer, we do not advocate or represent the interests of the Hospital, Via Christi or any other party to the transaction. We understand that Via Christi and the Hospital will be represented by their counsel, and that other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We understand that all other parties understand that in this transaction we represent the Issuer and that our services as Bond Counsel are limited to those expressly set forth herein.

Counsel for the Underwriters will be expected to have principal responsibility for preparation of the Bond Purchase Agreement and any other agreements or documents relating thereto, including any documents providing for the undertaking by the Hospital of a program of continuing disclosure in order to satisfy the requirements imposed upon the Underwriter by Securities and Exchange Commission Rule 15(c)2-12.

Among other matters, Counsel for Via Christi will be expected to have principal responsibility for (i) preparation, maintenance and/or any necessary updating of the Hospital's organizational and authorizing documents, (ii) assisting Via Christi and the Hospital in any self-investigation, as necessary to prepare applicable portions of any Official Statement with respect to the Bonds, and (iii) assisting the Hospital in obtaining any other evidence of compliance required with covenants established by the Bond documents as a pre-requisite to the issuance of the Bonds.

We will expect Via Christi and the Hospital to evidence compliance with current standards for full disclosure by the delivery at Closing of appropriate officers' certificates and opinion of counsel relating to both the undertakings of the Company and the accuracy and completeness of the information included in any Official Statement. Moreover, if the Official Statement will be adopted or approved by the Issuer, our responsibility therefor will be limited to the preparation or review of a description or summary therein of (i) Kansas and federal law pertinent to the validity of the Bonds and the tax treatment of the interest paid thereon, (ii) the Bonds, and a summary of the principal financing documents relating thereto, and (iii) our opinion.

Based upon (i) our current understanding of the terms, structure, size and scheduling of the financing, (ii) the duties we will undertake as outlined in this letter; (iii) the time we anticipate devoting to the financing; and (iv) the responsibilities we assume, we agree that our fee as Bond Counsel to the Issuer will be in the sum of $69,000 for an initial series estimated at a principal amount of approximately $100,000,000 and $47,000 for a second anticipated series estimated at a principal amount of approximately $55,000,000.

Such fee may vary (i) if the principal amount of the Bonds actually issued differs significantly from the amount stated above, (ii) if the manner in which the Bonds are to be marketed changes, (iii) if material changes in the structuring of the financing occur, or (iv) if unusual or unforeseen circumstances arise which require a significant increase in our time or

responsibility. If, at any time, we believe that the circumstances require an adjustment of our original fee estimate, we will consult with the City and Via Christi.

In addition to the fee stated above, we will expect to be reimbursed for all out-of-pocket expenses, including traveling costs, photocopying, delivery and shipping costs, long distance telephone charges, filing fees, and other necessary office disbursements. We estimate that such out-of-pocket expenses will be in the range of $4,000.

The undersigned will have primary responsibility for our firm for this engagement. Mr. Andrew Kovar and other attorneys and lay personnel may also be involved on our behalf in this engagement as we may deem necessary in connection with the performance of our responsibilities.

In the event the financing is not consummated, we will expect to be compensated for time actually devoted to the matter at the rate of $250 per hour for the time of the undersigned, and $160 per hour for associate attorneys, if any, and to be reimbursed for our out-of-pocket expenses.

Our fee and estimated expenses are customarily paid at Closing from proceeds of the Bonds or Via Christi funds, and we customarily do not submit any statement until Closing unless requested by the Issuer or Via Christi. By copy of this letter we have requested Via Christi acknowledge its payment obligations hereunder.

The City is aware that our firm has represented Via Christi in the past as special counsel on certain bond financings with the City, and the City is hereby advised that our firm also has an established attorney/client relationship with LDF Properties, LLC ("LDF") which may seek a letter of intent from the City to issue industrial revenue bonds in the future. Applicable ethical rules prohibit us from undertaking the representation of parties with possibly adverse interests unless we reasonably believe the representation of either client will not adversely affect our representation of the other client and unless we obtain your consent. Consequently, we have disclosed this representation to you; you have had an opportunity to consider the consequences (including the potential need for us to withdraw if any material conflict actually does arise); and you have sufficient information to allow you to evaluate the representation. We do not believe that our representation of LDF or our past representation of Via Christi will adversely affect our representation of, or our relationship with, you or *vice versa*, and seek your consent by execution of this letter.

In the course of the transaction herein described, the parties may wish to communicate via electronic mail. You understand that the nature of electronic mail may compromise the confidentiality of such communications and you have consented to our use thereof.

You are hereby advised that Triplett, Woolf & Garretson, LLC is a limited liability company under Kansas law. Accordingly, individual members of the firm are not personally accountable for the liabilities of the firm or of one another, but each of the firm's attorneys (together with the firm as a separate legal entity) remains fully subject to his or her own liabilities and professional responsibility.

If the foregoing terms are acceptable to you, please so indicate by signing and returning the enclosed duplicate original of this letter, retaining the original for your files. We look forward to working with you in connection with completing the issuance of the proposed Bonds.

TRIPLETT, WOOLF & GARRETSON, LLC

J. T. Klaus

JTK:pjg

ACCEPTED AND APPROVED:

CITY OF WICHITA, KANSAS

By_____ Date_____
Name (Printed)_____
Title_____

ACCEPTED:

VIA CHRISTI HEALTH SYSTEM, INC.

By_____ Date_____
Name (Printed)_____
Title_____

TWG REF: 314834

Agenda Report No. XII-11.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Abatement of Dangerous & Unsafe Structures (Districts I, III, IV and VI)

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendation: Approve the assessments and ordinances.

Background: The Office of Central Inspection (OCI) supports neighborhood maintenance and improvement through abatement of public nuisances under Titles 18 and 20 of the City Code. State law and local ordinances allow the City to demolish or board up and secure private property that is in violation of Housing and Building Code standards, after proper notification of the responsible party/parties. A private contractor or City staff performs the work, and the Office of Central Inspection bills the cost to the property owner.

Analysis: State law and City ordinance allow placement of the demolition and board-up costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the demolition and board up abatements in question, and OCI is requesting permission for the Department of Finance to process the necessary special assessments.

Financial Considerations: Statements of Charges will be mailed to the property owners on June 19, 2009. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the winter 2009 bonds sold. The principal and interest will then be spread for one year and placed on the 2009 tax roll.

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: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions and emergency property board-ups, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The assessments are in accordance with City Code 18.16.070, 18.16.080 and 18.16.090.

Recommendations/Actions: It is recommended that the City Council approve the proposed assessments and place the ordinances on first reading.

Attachments:. Property List – Special Assessments

Property List	Office of Central Inspection	Amount	District #
1209 N Jackson-Front	emergency board-up	$181.16	VI
1209 N Jackson-Rear	emergency board-up	$122.33	VI
807 Munnell	emergency board-up	$126.68	IV
343 N Kansas	emergency board-up	$139.33	I
2419 E Mossman	emergency board-up	$117.77	I
2417 E Mossman	emergency board-up	$114.44	I
1245 N Green	emergency board-up	$98.11	I
1233 N Estelle	emergency board-up	$106.55	I
2638 S Lulu	emergency board-up	$243.46	3
1327 N Ohio	sealing the City Sewer	$367.50	I
1226 N. Lorraine	gas services removal	$355.27	I

230200 **6 Affidavits**
S-79993

____ Published in the Wichita Eagle on **June 19, 2009**

ORDINANCE NO**. 48-347**

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING EMERGENCY BOARD-UP)** UNDER THE PROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

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

SECTION 1. That the sum set opposite the following lots, herein specified, be and the same is hereby levied to pay the cost of removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance under the provisions of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, located and situated upon the following described property:

LEGAL OF PARCEL IN BENEFIT DISTRICT	ASSESSMENT
LOTS 1110-1112 JACKSON ST. LEWELLEN'S 3RD. ADD.	181.16
LOTS 1110-1112 JACKSON ST. LEWELLEN'S 3RD. ADD.	122.33
LOT 7 BLOCK 1 MURRAY'S ADD.	243.46
LOT 12 & W 2 1/2 FT LOT 13 CASWELL'S SUB.	114.44
E 42 1/2 FT LOT 13 CASWELL'S SUB.	117.77

LOTS 57-59 ALICE NOW GREEN ST. FAIRMOUNT PARK ADD.	98.11
LOTS 69-71 MABEL NOW ESTELLE AVE. FAIRMOUNT PARK ADD.	106.55
LOT 6 PERRY'S 2ND. ADD.	139.33
LOTS 66-68 MUNNELL ST GLENDALE ADD.	126.68

SECTION 2. The sum so assessed and apportioned against the lots herein before set out and not paid within 30 days from date of notice sent out by the Debt Management Office of the Department of Finance as provided by law, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year **2009** and shall be certified to the County Clerk and shall be levied and collected in the same manner as other taxes, and the Debt Management Office of the Department of Finance is hereby directed to give written notice to property owner(s) owning property assessed herein, as required by law.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **16th day of June, 2009**.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

(SEAL)

Approved as to form

_____

Gary E. Rebenstorf, Director of Law

____ Published in the Wichita Eagle on **June 19, 2009**

ORDINANCE NO**. 48-348**

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING CONDEMNATION-DEMOLITION)** UNDER THE ROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

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

SECTION 1. That the sum set opposite the following lots, herein specified, be and the same is hereby levied to pay the cost of removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance under the provisions of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, located and situated upon the following described property:

LEGAL OF PARCEL IN BENEFIT DISTRICT	ASSESSMENT
LOTS 29-31 OHIO AVE. BURLEIGH'S 3RD. ADD.	367.50
LOTS 74-76 LORRAINE AVE. FAIRMOUNT PARK ADD.	355.27

SECTION 2. The sum so assessed and apportioned against the lots herein before set out and not paid within 30 days from date of notice sent out by the Debt Management Office of the Department of Finance as provided by law, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year **2009** and shall be certified to the County Clerk and shall be levied and collected in the same manner as other taxes, and the Debt Management Office of the Department of Finance is hereby directed to give written notice to property owner(s) owning property assessed herein, as required by law.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **16th day of June, 2009**.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

(SEAL)

Approved as to form

_____

Gary E. Rebenstorf, Director of Law

Agenda Item No. XII-12.

City of Wichita
City Council Meeting
June 9, 2009

TO: Mayor and City Council

SUBJECT: Bike Path along the I-135 and K-96 Freeways to McAdams Park. (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendations: Approve the increased budget.

Background: On July 1, 2008, the City Council approved a project to design a bike path along the I-135 Freeway and the K-96 Freeway to access McAdams Park. On October 28, 2008, the City Council approved a design agreement with Ruggles & Bohm. On March 10, 2009, the City Council approved a supplemental agreement with Ruggles & Bohm to advance the plan completion date to qualify for America Recovery and Reinvestment (ARRA) funding.

Analysis: The project was not selected for ARRA funding but will be resubmitted for non ARRA Federal Transportation funding.

Financial Considerations: The existing budget is $100,000, with the total paid by the City. The proposed increased budget is $125,000. The original design fee was $95,000. The supplemental agreement increased the fee to $104,500. The funding source for the City share is General Obligation (G.O.) Bonds. The additional cost is programmed in the 2009-2018 Capital Improvement Program (CIP).

Goal Impact: This project addresses the Efficient Infrastructure goal by constructing a path for bike riders and pedestrians.

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

Recommendation/Actions: It is recommended that the City Council approve the increased budget, adopt the amending resolution and authorize the signing of State/Federal agreements as required.

Attachments: CIP sheet and resolution.

132019

Published in the Wichita Eagle on June 12, 2009

RESOLUTION NO. 09-171

A RESOLUTION AMENDING RESOLUTION NO. 08-351 AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO DESIGN A BIKE PATH ALONG THE I-135 FREEWAY BETWEEN MCADAMS PARK AND GROVE PARK (472-84740).

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

SECTION 1. SECTION 2 of Resolution 08-351 is hereby amended to read as follows:

"SECTION 2. The costs of the design of the above described improvements is estimated to be One Hundred Twenty-Five Thousand Dollars ($125,000) exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds."

SECTION 2. The original of SECTION 2 of Resolution No. 08-351 is hereby rescinded.

SECTION 3. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 9th day of June, 2009.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

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

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	5/12/2009	Bike Path along I-135 & K-96 to McAdams Park

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

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

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Bike Path	$125,000			$125,000
Totals	$125,000			$125,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84740

13. Recommendation: Approve the budget increase and amending resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

City of Wichita
City Council Meeting
January 9, 2009

TO: Mayor and City Council

SUBJECT: Delinquent Sewer and Storm Water Charges

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the assessments and Ordinance.

Background: Properties not having active metered water or metered sewer services with the Wichita Water Utilities are billed twice per year, at six month intervals. This is based on a flat fee provided in the Sewer Rate Ordinance and Storm Water Resolution. These flat fee accounts are often left unpaid. The Utilities only option to collect these delinquent balances is to place them on the property tax roll.

Analysis: City Ordinance allows for the assessment of unpaid balances for flat rate charges for Sewer and/or Storm Water billing to be assessed and included on the property tax roll. Payment has not been received for the charges in question, and Staff requests permission from the Department of Finance to process the necessary special assessments.

Financial Considerations: Statements of Charges will be mailed to the property owners on June 19, 2009. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest which is added to the principal amount will be determined by the rate at which the February 2009 bonds were sold. The principal and interest will then be spread for one year and placed on the 2009 tax roll.

Goal Impact: The utilization of Sedgwick County to collect Storm Water Tax Assessments, addresses the Internal Perspective Financial Goals by attaining needed funds for continuing services for public use. Collection of these funds, reduce the future costs to other citizens.

Legal Considerations: The assessments are in accordance with City Code 18.16.070, 18.16.080 and 18.16.090. The Ordinance has been approved as to form.

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

Attachments: Property List – Special Assessments; Ordinance

183103 **6 Affidavits**
S-79111

Published in the Wichita Eagle on June 19, 2009

ORDINANCE NO**. 48-349**

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY THE COST OF UNPAID SEWER SERVICE CHARGES AND/OR STORM WATER FEES IN THE CITY OF WICHITA, KANSAS. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite each of the following lots, pieces and parcels of land or ground, herein specified, be and the same is hereby levied to pay the cost of unpaid sewer service charges, as provided by 16.14.060 of the Code of the City of Wichita, Kansas, and/or unpaid storm water service charges, as provided by 05-423 of the Code of the City of Wichita, Kansas; located and situated upon the following described property:

LEGAL OF PARCEL IN BENEFIT DISTRICT	ASSESSMENT
BEG 700.30 FT S OF S LI 37TH ST & 114.79 FT W OF E LI SEC 32 W 276.14 FT S 150 FT E TO W LI RD N TO BEG NE1/4 SEC 32-26-1E	2,050.99
BEG ON S LI 37TH ST 276.14 FT W OF W LI LAWRENCE AVE S 850 FT W 266.5 FT N 850 FT E TO BEG EXC N 550 FT NE1/4 SEC 32-26-1E	2,654.05
N 7 FT LOT 185 & LOTS 187-189-191 193-195-197 LAWRENCE AVE. HYDE & FERRELL'S ADD.	475.57
LOTS 10-12 BLOCK 1 KANSAS CITY ADD.	1,158.43
LOT 97 MARKET ST. GREIFFENSTEIN'S 3RD. ADD.	386.04
S 1/2 LOT 3-ALL LOT 5 SILVER ST. FAIRGROUNDS ADD.	425.57

LOTS 1-2-3-4 BLOCK 2 JONES PARK ADD.	425.57
LOTS 20-21-22-23 BLOCK 3 JONES PARK ADD.	1,069.53
LOTS 26-27-28-29 BLOCK 4 JONES PARK ADD.	549.66
LOTS 19-20 BLOCK 8 JONES PARK ADD.	1,158.43
LOTS 27-28-29-30 BLOCK 13 JONES PARK ADD.	230.74
LOT 1 BLOCK 5 NORTHWEST HEIGHTS ADD.	1,192.62
LOT 42 VAN ACRES ADD.	1,040.94
LOT 1 & NELY 20 FT VAC HWY K-96 ADJ ON SW & VAC N 10 FT 29TH ST ADJ ON S & VAC E 10 FT MERIDIAN ADJ ON W BLOCK 1 PIERPOINT ACRES ADD.	225.18
LOT 1 & NELY 20 FT VAC HWY K-96 ADJ ON SW & VAC N 10 FT 29TH ST ADJ ON S & VAC E 10 FT MERIDIAN ADJ ON W BLOCK 1 PIERPOINT ACRES ADD.	1,100.29
LOT 1 & NELY 20 FT VAC HWY K-96 ADJ ON SW & VAC N 10 FT 29TH ST ADJ ON	1,100.53

S & VAC E 10 FT MERIDIAN ADJ ON W BLOCK 1 PIERPOINT ACRES ADD.	
S 120 FT N 360 FT E 138.9 FT LOT 9 EXC E 30 FT FOR ST. WALNUT GROVE ADD.	1,158.43
LOT 1 EXC N 72.5 FT & ALL LOT 2 FARMERS ADD.	10,568.86
LOT 4 BLOCK 1 SCOTT & WEIR ADDITION	1,081.02
ODD LOTS 45 TO 75 INC. SANTA FE AVE. NORTH PARK ADD.	2,091.37
LOTS 1-2-3-4 GLAZE & JOCELYN'S 2ND. ADD.	933.43
S 1 FT LOT J-ALL LOTS K-L & N 6.11 FT LOT M ROCK ISLAND AVE. ROCK ISLAND 2ND. ADD.	612.26
BEG 685 FT N SW COR SW1/4 E 220 FT N 187.5 FT W TO E LI HWY 81 SE ALG E LI HWY TO PT W OF BEG E TO BEG. SE1/4 SEC 5 & SW1/4 SEC 4-28-1E	769.58
BEG 872.5 FT N & 420 FT E SW COR GOV LOT 4 S 187.5 FT E 75 FT N 187.5 FT W TO BEG SEC 4-28-1E	538.92
N 135 FT LOT 8 EXC HWY ROBBIN'S ADD.	603.41
ODD LOTS 1 THRU 13	1,663.09

POPLAR ST. CARR'S ADD.	
LOTS 2-4-6-8-10 BURTON ST MC KEE'S RESURVEY	433.22
N 100 FT S 230 FT SW 1/4 LY W FLD. CONTROL ROW EXC W 50 FT FOR RD SEC 2-28-1W	2,969.00
BEG ON W LI OF E 3/4 SE1/4 1120 FT N OF HWY N 230 FT E 188.25 FT N 295 FT NW 236 FT SW 429 FT SLY 117 FT SLY 148 FT ELY 190 FT TO BEG EXC PT DED. FOR ST SEC 25-27-2W	298.13
LOTS 40-42-44-46 MAPLE ST SMITHSON'S SUB.	962.20
LOTS 27-29 LONSDALE NOW CUSTER AVE SMITHSON'S SUB	1,158.43
BEG 2079.88 FT S & 252 1/2 FT W NE COR NW1/4 W 222 1/2 FT S 97.88 FT E 222 1/2 FT N TO BEG. SEC 13-27-1W	187.89
BEG 637 1/2 FT E & 330 FT N SW COR SE1/4 W 82 1/2 FT N 330 FT E 82 1/2 FT S 330 FT TO BEG EXC S 3 FT THEREOF SEC 13-27-1W	668.29
N 25 FT LOT 98 & S 25 FT LOT 99 SIM PARK GARDENS ADD.	1,158.43
LOT 13 LOS COYAS ADD.	2,593.99

E 75 FT LOT 2 BLOCK 11 PARKWILDE ADD.	666.87
W 60 FT E 240 FT LOT 1 BLOCK 14 PARKWILDE ADD.	327.19
W 60 FT LOT 1 BLOCK 14 PARKWILDE ADD.	690.51
BEG 140 FT E SW COR LOT 10 N 143 FT E 70 FT S 143 FT W TO BEG PART OF LOTS 8-10 BLOCK 16 PARKWILDE ADD.	846.20
LOT 23 VALLEY ACRES	1,312.88
LOT 52 VALLEY ACRES ADD.	779.63
LOT 4 BLOCK 3 ORCHARD PARK ADD	447.15
LOT 1 BLOCK 11 ORCHARD PARK ADD.	1,364.40
W 1/2 LOTS 4-5 EXC N 64 FT W 1/2 LOT 4 WEAVER TRACTS ADD.	1,158.43
LOT 13 NEWTON GARDENS ADD.	1,158.43

LOT 7 BLOCK 7 FRUITVALE PARK ADD.	1,158.43
LOT 20 BLOCK 8 FRUITVALE PARK ADD.	1,158.43
LOT 17 BLOCK 11 FRUITVALE PARK ADD.	255.99
LOT 19 EXC W 50 FT & EXC E 50 FT & LOT 20 EXC W 50 FT & EXC E 50 FT BLOCK 12 FRUITVALE PARK ADD	1,158.43
W 50 FT LOT 20 BLOCK 12 FRUITVALE PARK ADD.	180.23
LOT 11 EXC W 85.52 FT BLOCK 17 FRUITVALE PARK ADD.	432.03
W 84.35 FT LOTS 7-8 BLOCK A KELL HAWKINS 2ND. ADD.	853.55
E 65 FT LOT 11 & E 65 FT S 25 FT LOT 12 BLOCK B KELL HAWKINS' 2ND. ADD.	1,158.43
LOT C WEST ST LOUIS GARDENS 2ND. ADD.	775.45
LOT G WEST ST. LOUIS GARDENS 2ND. ADD.	362.21

LOT T EXC CCA-77196 WEST ST. LOUIS GARDENS 2ND. ADD.	1,158.43
LOT 4 BLOCK B BARNETTS ADD.	1,158.43
LOT 7 BLOCK B BARNETT'S ADD.	1,041.45
LOT 7 BLOCK D BARNETT'S ADD.	1,158.43
LOT 4 BLOCK E BARNETT'S ADD.	1,158.46
LOT 7 BLOCK F BARNETT'S ADD.	712.94
LOT 3 BLOCK C PATTERSON GARDENS ADD.	277.37
E1/2 LOT 8 BLOCK 2 AVERY ADD	558.64
E1/2 LOT 9 BLOCK 2 AVERY ADD.	799.05
W1/2 LOT 10 BLOCK 2 AVERY ADD.	545.22

N 75 FT S 180 FT W 5A NW 1/4 NE 1/4 E 30 FT FOR ST. SEC 27-27-1W	952.35
LOT 9 BLOCK A WEST CENTRAL GARDENS 3RD. ADD.	391.80
LOT 2 BLOCK B WEST CENTRAL GARDENS 3RD. ADD.	348.18
LOT 13 BLOCK B WEST CENTRAL GARDENS 3RD	1,158.43
LOT 17 BLOCK B REPLAT OF PART OF R A MORRIS GARDENS ADD.	490.20
LOT 1 BLOCK C WEST MAPLE GARDENS ADD.	980.70
LOT 4 MAPLE LANE ADD.	933.47
LOT 8 MAPLE LANE ADD.	681.18
LOT 6 & S 5 FT LOT 7 BLOCK 4 COUNTRY ACRES ADD.	214.47
LOT 8 BLOCK C FLOYD BAILEY 3RD. ADD.	468.07

LOT 9 EVERGREEN PLACE ADD	256.63
LOT 5 PARK ACRES 2ND ADD	1,158.43
LOT 1 BLOCK 1 TOH-N-HAH VILLAGE ADD.	1,158.43
LOT 23 BLOCK A DAVIS-WALKER ADD.	1,158.44
LOT 11 BLOCK 1 FLOYD BAILEY FOURTH ADD.	1,126.65
LOT 1 EXC N 134.15 FT W 62.5 FT RENOLLET 8TH. ADD.	1,158.43
LOT 6 BLOCK C CALLAHAN ADD.	799.20
LOT 16 BLOCK 3 WEST MILLBROOK ADD.	404.40
LOT 1 BLOCK 2 WEST MILLBROOK 2ND. ADD.	319.41
LOT 8 BLOCK D FIELDCREST ADD.	298.13

LOT 4 BLOCK B THE DELL ADD.	310.79
LOT 3 BLOCK 1 C. PATE ADD. TO WHEATRIDGE	1,103.37
LOT 12 BLOCK 3 C. PATE ADD. TO WHEATRIDGE	361.87
LOT 6 INTERURBAN PLACE ADD.	3,360.77
LOT 4 BLOCK 1 MAPLE HILL FOURTH ADD.	521.70
BEG NW COR NW1/4 E 161.94 FT S 271.6 FT W 161.94 FT N TO BEG EXC S 40 FT THEREOF & EXC PT TAKEN FOR RD ON N & W & EXC PT THAT PT TAKEN FOR ROW ON W SEC 19-26-1E	180.91
BEG NE COR LOT 4 S 140 FT W 60 FT S 20 FT W TO RR ROW NW ALG ROW TO NW COR LOT 4 E 195.4 FT TO BEG EXC E 33.5 FT CC # 82C1174 FOR ST VANDALE ADD	1,263.41
BEG 677 FT N & 524.82 FT W SE COR SE1/4 NWLY 832.85 FT W 342.5 FT SELY 832.85 FT E TO BEG SEC 3-27-1W	1,956.03
TH PT NW1/4 SE1/4 LY E OF MOPAC ROW SEC 3-27-1W	238.45
LOT 1	1,195.33

BLOCK A DAVE WATERS ADD.	
LOT 2 BLOCK 1 WICHITA STOCKYARD ADD.	1,275.13
BEG SW COR LOT 1 N 201.31 FT E 384.67 FT TO E LI LOT 2 S 214.58 FT TO SE COR LOT 2 W 384.5 FT TO BEG WILBUR E WALKER 2ND ADDITION	1,169.34
S1/2 LOT 50 EXC N 100.5 FT E 162.5 FT THEREOF & EXC E 20 FT FOR ST & EXC N 30 FT W 30 FT THEREOF WESTFIELD ACRES ADDITION	8,641.63

SECTION 2. The sum so assessed and apportioned against the several lots, pieces and parcels of land as herein before set out and not paid within 30 days from date of notice sent out by the Wichita Water Utilities of the City of Wichita, Kansas, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year **2009**; shall be certified to the County Clerk; and shall be levied and collected in the same manner as other taxes; and the Wichita Water Utilities is hereby directed to give written notice to property owners owning property assessed therein.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **16th day of June, 2009**.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

(SEAL)

Approved as to form

_____

Gary E. Rebenstorf, Director of Law

Service Address					unit	Balance thru YE2008
4153	N	BROADWAY	ST			10,568.86
217	S	TYLER	RD			8,641.63
5506	N	SENECA	ST		1	3,360.77
3158	S	HOOVER	RD			2,969.00
		A-00036-00UP				2,654.05
1011	S	MC COMAS	ST			2,593.99
616	E	14TH	ST	N		2,091.37
3611	N	BROADWAY	ST			2,050.99
5825	W	23RD	ST	N		1,956.03
1743	N	POPLAR	AVE		45	1,663.09
257	N	SABIN	ST			1,364.40
1016	N	CUSTER	ST			1,312.88
721	E	21ST	ST	N		1,275.13
5663	S	BROADWAY	ST			1,263.41
1817	E	68TH	ST	S		1,195.33
2655	N	RICHMOND	ST			1,192.62
1224	S	WOODCHUCK	ST			1,169.34
814	N	FLORA	ST			1,158.46
815		MEIKLE	RD			1,158.44
908	N	SHERIDAN	ST			1,158.43
756	N	CUSTER	ST		HALF	1,158.43
2100	S	SENECA	ST			1,158.43
2377	N	BURNS	AVE			1,158.43
807	N	FLORA	ST			1,158.43
3830	W	8TH	ST	N		1,158.43
624	N	GILDA	ST			1,158.43
450	N	ELDER				1,158.43
3641	N	PAYNE	ST			1,158.43
920	N	FLORA	ST			1,158.43
321	N	DORIS	ST		REAR	1,158.43
4920	W	NEWELL	ST			1,158.43
141	S	ROBIN				1,158.43
3412	N	FAIRVIEW	AVE			1,158.43
854	N	MAIZE	RD			1,158.43
733	N	BOYD	ST			1,158.43
5427	W	NEWELL	ST		REAR	1,158.43
150	S	CUSTER				1,158.43
361	S	TURQUOISE	ST			1,126.65
1433		HORNECKER				1,103.37
3046	N	MERIDIAN	AVE			1,100.53
3042	N	MERIDIAN	AVE			1,100.29
3737	S	BROADWAY	ST			1,081.02
230	W	34TH	ST	N		1,069.53
902	N	FLORA	ST			1,041.45
2836	N	CLARENCE	AVE			1,040.94
401		BRUMMETT	ST			980.70
3010	W	MAPLE	ST			962.20
445	S	MAPLE	LN			952.35
350	S	ARAPAHO	ST			933.47
803	E	17TH	ST	N		933.43

		Service Address		unit	Balance thru YE2008
4838	W	NEWELL	ST		853.55
4146	W	2ND	ST	N	846.20
641	S	HERSCHEL	ST		799.20
5902	W	FRANKLIN	ST		799.05
1137	N	CUSTER			779.63
629	N	GILDA	ST		775.45
3040	S	BROADWAY	ST		769.58
801	N	DORIS	ST		712.94
4433	W	3RD	ST	N	690.51
452	S	ARAPAHO	ST		681.18
3007	W	ELM	ST		668.29
4439		ST LOUIS	ST		666.87
139	S	ROCK ISLAND	ST		612.26
3358	S	BROADWAY	ST		603.41
5816	W	FRANKLIN	ST		558.64
3551	N	PARK	PL		549.66
5914	W	FRANKLIN	ST		545.22
415	E	EVANS	ST		538.92
425	S	KENNEDY	LN		521.70
4526	W	12TH	ST	N	490.20
1051	N	BROADWAY	ST		475.57
501	S	FLOYD	ST		468.07
543	N	BAEHR	ST		447.15
608	W	BURTON	ST		433.22
5528		ST LOUIS	ST		432.03
2103		SILVER	ST		425.57
3560	N	WACO	AVE		425.57
11701		KENT	ST		404.40
733	N	ARAPAHO	ST		391.80
507	S	MARKET	ST		386.04
545	N	GILDA	ST		362.21
12412	W	WALKER			361.87
726	N	ARAPAHO	ST		348.18
4431	W	3RD	ST	N	327.19
11410	W	TAFT	ST		319.41
356		WETMORE	ST		310.79
12500	W	LYNNDALE	ST		298.13
1301	S	LARK	LN		298.13
742	N	FLORA	ST		277.37
158	N	EVERGREEN	LN		256.63
638	N	FLORA	ST		255.99
6302	W	21ST	ST	N	238.45
3359	N	PARK	PL		230.74
3034	N	MERIDIAN	AVE		225.18
821	N	BROWN THRUSH	LN		214.47
1050	N	GOW	ST		187.89
12116	E	FIRESIDE	LN		185.05
2435	W	53RD	ST	N	180.91
560	N	FLORA	ST		180.23
					106,728.16

Service Address					unit	Balance thru YE2008
4153	N	BROADWAY	ST			10,568.86
217	S	TYLER	RD			8,641.63
5506	N	SENECA	ST		1	3,360.77
3158	S	HOOVER	RD			2,969.00
		A-00036-00UP				2,654.05
1011	S	MC COMAS	ST			2,593.99
616	E	14TH	ST	N		2,091.37
3611	N	BROADWAY	ST			2,050.99
5825	W	23RD	ST	N		1,956.03
1743	N	POPLAR	AVE		45	1,663.09
257	N	SABIN	ST			1,364.40
1016	N	CUSTER	ST			1,312.88
721	E	21ST	ST	N		1,275.13
5663	S	BROADWAY	ST			1,263.41
1817	E	68TH	ST	S		1,195.33
2655	N	RICHMOND	ST			1,192.62
1224	S	WOODCHUCK	ST			1,169.34
814	N	FLORA	ST			1,158.46
815		MEIKLE	RD			1,158.44
908	N	SHERIDAN	ST			1,158.43
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2100	S	SENECA	ST			1,158.43
2377	N	BURNS	AVE			1,158.43
807	N	FLORA	ST			1,158.43
3830	W	8TH	ST	N		1,158.43
624	N	GILDA	ST			1,158.43
450	N	ELDER				1,158.43
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920	N	FLORA	ST			1,158.43
321	N	DORIS	ST		REAR	1,158.43
4920	W	NEWELL	ST			1,158.43
141	S	ROBIN				1,158.43
3412	N	FAIRVIEW	AVE			1,158.43
854	N	MAIZE	RD			1,158.43
733	N	BOYD	ST			1,158.43
5427	W	NEWELL	ST		REAR	1,158.43
150	S	CUSTER				1,158.43
361	S	TURQUOISE	ST			1,126.65
1433		HORNECKER				1,103.37
3046	N	MERIDIAN	AVE			1,100.53
3042	N	MERIDIAN	AVE			1,100.29
3737	S	BROADWAY	ST			1,081.02
230	W	34TH	ST	N		1,069.53
902	N	FLORA	ST			1,041.45
2836	N	CLARENCE	AVE			1,040.94
401		BRUMMETT	ST			980.70
3010	W	MAPLE	ST			962.20
445	S	MAPLE	LN			952.35
350	S	ARAPAHO	ST			933.47
803	E	17TH	ST	N		933.43

Second Reading Ordinances for June 9, 2009 (first read on June 2, 2009)

Public Hearing and Adoption of Arena Neighborhood Phase 1 Project Plan. (Districts I and VI)

ORDINANCE NO. 48-336

An Ordinance authorizing the issuance of full faith and credit tax increment bonds of the City of Wichita, Kansas to pay all or a portion of the costs to construct certain street improvements and way finding design in the arena neighborhood phase 1 redevelopment project area.

ORDINANCE NO. 48-337

An Ordinance adopting a project plan for the arena neighborhood phase 1 project in the center city south redevelopment district.

Approval of Economic Development Incentives Agreement (Nex-Tech Aerospace) (District IV)

ORDINANCE NO. 48-338

An Ordinance of the city of Wichita, Kansas, prescribing the form and authorizing the execution of a forgivable loan agreement and promissory note by and between Nex-Tech Aerospace and the City of Wichita, Kansas.

Harry Street improvement, between Greenwich and 127th Street East. (District II)

ORDINANCE NO. 48-339

An Ordinance amending Ordinance No. 47-978 of the City of Wichita, Kansas declaring Harry Street, between Greenwich and 127th Street East (472-84696) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

SUB 2008-77 -- Plat of The Moorings Plaza II Addition located south of 53rd Street North and on the west side of Meridian. (District VI)

ORDINANCE NO. 48-340

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.

SUB 2009-17 -- Plat of Providence Square Addition located on the northwest corner of 13th Street North and Oliver. (District I)

ORDINANCE NO. 48-341

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.

A09-06 Request by the Catholic Diocese of Wichita and Jeymanco, Inc. to annex lands generally located north of MacArthur Road and west of Southwest Boulevard (K-42 Highway). (District IV)

ORDINANCE NO. 48-342

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas. (A09-06)

Sidewalk Repair Assessments.

ORDINANCE NO. 48-343

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas.