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CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. September 6, 2016

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of regular meeting on August 23, 2016

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**AWARDS AND PROCLAMATIONS**

Proclamation:

National Recovery Month

Award:

Dollar Wise Youth Program

**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 clerk 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

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**II. CONSENT AGENDA ITEMS 1 THROUGH 22**

NOTICE: Items listed under the “Consent Agendas” will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the “Consent Agendas” and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see “ATTACHMENT 1 – CONSENT AGENDA ITEMS” for a listing of all Consent Agenda Items.)*

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**COUNCIL BUSINESS**

**III. UNFINISHED COUNCIL BUSINESS**

1. Golf Cart Purchases. (PULLED PER CITY MANAGER)

RECOMMENDED ACTION: Accept the quote, authorize the selection of Yamaha as the vendor, approve any necessary budget transfers and authorize the necessary signatures.

2. Ordinances Amending Chapters 1.04, 10.04, 10.08, 10.16, 10.20, 10.24 and 11.22 of the Code of the City of Wichita Pertaining to Streets, Right-of-Way and Sidewalks and Creating Chapter 28.06 Relating to Landscaping.

RECOMMENDED ACTION: Defer this item until October 4, 2016.

**IV. NEW COUNCIL BUSINESS**

1. Public Hearings for the Downtown Hilton Community Improvement District, Industrial Revenue Bonds and related Development Agreement. (District I)

RECOMMENDED ACTION: Close the public hearings, place on first reading the ordinances adopting the Community Improvement District and Development Agreement and authorize the necessary signatures.

2. An Ordinance Creating Section 11.48.190 of the Code of the City of Wichita Pertaining to Bicycling Under the Influence.

RECOMMENDED ACTION: Place the ordinance on first reading and authorize the necessary signatures.

3. Ordinance Amendment to Sections 11.04.400, 11.28.030, 11.60.030, 11.60.330 of the Code of the City of Wichita Pertaining to Traffic.

RECOMMENDED ACTION: Place the ordinances on first reading and authorize the necessary signatures.

4. Amendment to Agreement for I.A.T.S.E. Local 190.

RECOMMENDED ACTION: Approve the Amendment to the Agreement for International Alliance of Theatrical Stage Employees (I.A.T.S.E. Local 190) and authorize the necessary signatures.

5. 2nd Saturday Artisan Market-Community Event with Alcohol Consumption. (District I)

RECOMMENDED ACTION: Adopt the resolution to allow alcohol consumption upon sidewalks and public streets within the parameters outlined in the Community Event Application during the 2nd Saturday Artisan Market, October 8, 2016 and authorize the necessary signatures.

6. Community Event with Alcohol Consumption - Resolution, Autumn and Art at Bradley Fair. (District II)

RECOMMENDED ACTION: Adopt the resolution to allow alcohol consumption upon sidewalks and public streets within the parameters outlined in the Community Event Application during the Autumn and Art at Bradley Fair event, September 16-18, 2016 and authorize the necessary signatures.

7. Sales of Hyatt Regency Hotel. (District I)

RECOMMENDED ACTION: Approve the sale agreement with Philip G. Ruffin.

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## **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.

### **V. NON-CONSENT PLANNING AGENDA**

1. CON2016-00026 – Conditional Use to Permit a Nightclub in the City within 300 Feet of Residential Zoning, Generally Located South of West Douglas Avenue and East of South Meridian Avenue at 2201 West Douglas Avenue. (District IV)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the Conditional Use subject to the MAPC recommended conditions, adopt the Resolution, and authorize the necessary signatures (six of seven votes required), 2) deny the request by making alternate findings (five of seven votes required), or 3) return the application to the MAPC for reconsideration (four of seven votes required).

2. CON2016-00038 - City Conditional Use Request for a Group Residence, Limited, on SF-5 Single-Family Residential Zoned Property Generally Located North of West 29th Street North and West of North Arkansas Avenue at the Southeast Corner of West 31st Street North and North Hood Avenue. (District VI)

RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and approve the requested conditional use subject to the MAPCD's condition enumerated (simple majority of four votes), 2) Overturn the recommendation of the MAPC and deny the request (requires five votes), 3) Modify the MAPC's conditions of approval by making alternate findings (requires five votes) or, 4) Return the requested conditional use to the MAPC for reconsideration (requires four votes).

**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. Andra Martin Housing Member is also seated with the City Council.

**Andra Martin Housing Member is also seated with the City Council.**

**VI. NON-CONSENT HOUSING AGENDA**

None

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority 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.

**VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

1. Approval of travel for Mayor Jeff Longwell to attend the LKM Governing Body Meeting, Pittsburg, Kansas, September 15 - 16, 2016.

RECOMMENDED ACTION: Approve the travel.

2. Approval of travel for Vice Mayor Lavonta Williams to attend John Hopkins Cities Symposium, Baltimore, Maryland, September 15 - 16, 2016.

RECOMMENDED ACTION: Approve the travel.

**IX. COUNCIL MEMBER APPOINTMENTS AND COMMENTS**

1. Board Appointments.

RECOMMENDED ACTION: Approve the appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 22)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated August 29, 2016.

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

2. Applications for Licenses:

Renewal	2016	Address
Valerie Washington	Excitement Video	2405 E. 21 Street

RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

New	2016	(Consumption on Premises)
Rosibel Zelaya	Puerto El Triunfo Restaurant**	2117 E. Central Ave.
Renew	2016	(Consumption off Premises)
CamVan Doan	D & L Enterprise, LLC***	5562 S. Seneca St.
Chad Kissinger	Target Store T-1944***	10800 E. 21st Street N.
Chad Kissinger	Target Store T-1945***	2727 Maize Road
Kamal Hasan	BD Truck and Gas***	3935 N. Broadway St.

\*\*General/Restaurant (need 50% or more gross revenue from sale of food)

\*\*\*Retailer (Grocery stores, convenience stores, etc.)

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

4. Preliminary Estimates:

a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:

a. New and Revised Petitions for Paving Improvements to Serve Auburn Hills 16th Addition. (District IV)

RECOMMENDED ACTION: Approve the petitions and adopt the resolutions.

6. Consideration of Street Closures/Uses:

- a. Community Events - Blessed Sacrament Oktoberfest and Run for the Poor. (District II)
- b. Community Events - No Sweat Run. (Districts I and II)
- c. Community Events - Old Town 10K. (Districts I, IV and VI)
- d. Community Events - Zero Prostate Cancer Walk/Run. (District II)
- e. Community Events - 2nd Saturday Artisan Market. (District I)
- f. Community Events - Autumn and Art at Bradley Fair. (District II)
- g. Community Events - Historic Midtown Citizens Association Annual Historic Home Walking Tour. (District VI)
- h. Community Events - Susan G. Komen Race for the Cure. (Districts I, IV and VI)
- i. Community Events - Take Off to Health Walk and Run. (Districts IV and V)
- j. Community Events - Wagonmasters Chili Cookoff. (District VI)

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

7. Agreements/Contracts:

- a. Renewal of the Contract – Kansas Department of Health and Environment Air Quality Program Grants.
- b. 2017 Funding Contributions for the Cheney Lake Watershed Water Quality Project.

RECOMMENDED ACTION: Approve the agreements/contracts and authorize the necessary signatures.

8. Minutes of Advisory Boards/Commissions:

- Deferred Compensation Board of Trustees Quarterly Board Meeting Minutes, May 19, 2016
- Wichita Employees' Retirement System Regular Board Meeting Minutes, July 13, 2016

RECOMMENDED ACTION: Receive and file.

9. Amended Bonding Resolution. (Districts I and III)

RECOMMENDED ACTION: Adopt the amended bonding resolution and authorize the necessary signatures.

10. 2017 Federal Edward Byrne Memorial Justice Assistance Grant (JAG).

RECOMMENDED ACTION: Approve the submission of the grant application and authorize the Mayor to sign the grant upon approval.

11. Kansas Health Foundation Recognition Grant Application - Bicycle Parking.

RECOMMENDED ACTION: Approve the grant application and authorize the necessary signatures.

12. SAFER Grant Program.

RECOMMENDED ACTION: Authorize acceptance for the 2015 Staffing for Adequate Fire and Emergency Response (SAFER) grant for six firefighter positions.

13. Over Estimate Bid for Improvements to Cheryl's Hollow 2nd Addition. (District V)

RECOMMENDED ACTION: Approve the revised budgets and estimates, approve acceptance of the lowest bid, and authorize the necessary signatures.

14. Water Line Improvement at Pawnee and 143rd Street East. (District II)

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

15. Second Reading Ordinances: (First Read August 23, 2016)

RECOMMENDED ACTION: Adopt the Ordinances.

**II. CONSENT PLANNING AGENDA ITEMS**

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.

16. \*SUB2016-00016 -- Plat of Northgate 2nd Addition Located North of West 53rd Street North, on the West Side of North Meridian Avenue. (District VI)

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

17. \*SUB2016-00018 -- Plat of Fossil Rim Commercial Addition Located on the Southeast Corner of West 29th Street North and North Tyler Road. (District V)

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

18. \*ZON2016-00001 – Zone Change from SF-5 Single-Family Residential and LC Limited Commercial to LI Limited Industrial with a Protective Overlay on Property Generally Located North of 21st Street North and West of Hoover Road. (District VI)

RECOMMENDED ACTION: Place the Ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

19. \*ZON2016-00030 - City Request for a Zone Change from GC General Commercial to LI Limited Industrial on Property Generally Located South of East Kellogg Street on the Southeast Corner of South Webb Road and East Orme Street. (District II)

RECOMMENDED ACTION: Approve the requested zone change (simple majority of four votes), place the ordinance on first reading and instruct the City Clerk publish the ordinance upon approval on second reading and authorize the required signatures.

## **II. CONSENT HOUSING AGENDA ITEMS**

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.

**Andra Martin, Housing Member is also seated with the City Council.**

None

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority 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.

20. \*2016-2017 Work Plan/Financial Plan Agreement - U.S. Department of - Agriculture, Animal and Plant Health Inspection Service - Wildlife Services - Wichita Dwight D. Eisenhower National Airport and Colonel James Jabara Airport.

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

21. \*Tanganyika Wildlife Park, LLC - Sponsorship Agreement for Children's Play Area - Wichita Dwight D. Eisenhower National Airport.

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

22. \*WAA Report of Board of Bids and Contracts dated August 29, 2016.

RECOMMENDED ACTION: Receive and file report, approve the contracts and authorize the necessary signatures.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Ordinances Amending Chapters 1.04, 10.04, 10.08, 10.16, 10.20, 10.24 and 11.22 of the Code of the City of Wichita Pertaining to Streets, Right-of-Way and Sidewalks and Creating Chapter 28.06 Relating to Landscaping (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Unfinished Business

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**Recommendation:** Defer the item to October 4, 2016.

**Background:** On April 19, 2016, the City Council approved ordinance amendments to Titles 1, 10, 11, 17 and 24. These amendments made changes to the permit process, fines, penalties, and administrative procedures for the maintenance of City right-of-ways, responsibilities of property owners regarding the use of right-of-ways, moving of buildings on City streets and landscaping requirements. The ordinances were placed on second reading and published on April 29, 2016. Following publication, issues were raised regarding whether procedural requirements for passage of the ordinances had been followed.

On May 10, 2016, the City Council issued a directive instructing staff to defer enforcement of these amendments, with the exception of the permit fees in Chapter 10.34, pending further review. Following this directive, staff from Public Works & Utilities, Metropolitan Area Building Code Department (MABCD) and the Metropolitan Area Planning Commission (MAPC) reviewed and provided comments, additions and corrections to the previous amendments.

On August 9, 2016, amendments to these ordinances were presented to the Council. At that time, concerns were raised regarding proposed fines and penalties, the increase in size of address numbering and procedures to be utilized by staff to enforce these code provisions.

**Analysis:** Following the Council's direction, ordinance amendments have been prepared to address issues regarding fines and address numbering. Additional time is requested to finalize the department procedures and appeal process for administrative penalties.

**Financial Considerations:** None.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the City Council defer this item until October 4, 2016.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Public Hearings for the Downtown Hilton Community Improvement District, Industrial Revenue Bonds and related Development Agreement (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

---

**Recommendations:** Close the public hearings, place on first reading the ordinances and approve the development agreement for the Downtown Hilton Project.

**Background:** Wichita Downtown Hotel, LLC, (WDH), has the building at 401 east Douglas under contract for purchase. WDH proposes to redevelop the property into a minimum 120 room Hilton Garden Inn, which will include at least 6,000 square feet of ground floor commercial space and a rooftop bar. The project will include the complete renovation of the existing building and the expansion of the hotel into the adjacent vacant parcel.

The developer has requested assistance from the City through the use of a Community Improvement District (CID), Industrial Revenue Bonds (IRBs) for sales tax exemption, a parking agreement and easement for construction of a skywalk connecting the hotel to the parking garage to the south.

On August 16, 2016, the City Council accepted a petition and adopted a resolution setting a public hearing for the establishment of the CID. The Council action set September 6, 2016 as the date of public hearing.

**Analysis:** The developer controls the land within the proposed CID. The project will revitalize a vacant building along the Douglas corridor and continue the development of downtown Wichita. The City and Developer have negotiated a development agreement that sets rights and responsibilities of both parties in relationship to the project. The City will agree to provide certain benefits to the developer, further described below, provided that the developer satisfies specific performance obligations in the development agreement.

The developer agrees to meet specific performance measures in construction and operation of the project in order to receive and retain the City benefits. The measures have been incorporated into the development agreement and are summarized below:

- Construct and retain for the life of the agreement, a Hilton Garden Inn franchise flag hotel including;
  - at least 120 guest rooms;
  - a minimum 2,500 square foot rooftop bar/restaurant;
- Provide a minimum of 6,000 square feet of ground floor Class A commercial space;
- Meet certain Project Milestones, including the following:
  - acquisition of title to the Property within forty-five days of the date of the agreement;
  - commencement of construction within three months of the development agreement;
  - completion of construction within fifteen months of the start of construction; and
  - open the Hotel within 60 days of receipt of Certificate of Occupancy.

In the event the developer fails to construct these minimum improvements and standards within the specified timelines, and maintain the hotel flag standard, the City may terminate the CID.

The City agrees that as long as the developer remains compliant with the development agreement, it will provide the developer with certain City benefits. The City benefits will include the creation of a Community Improvement District, the issuance of Industrial Revenue Bonds for the purpose of a construction sales tax exemption, the execution of a parking agreement and the execution of a skywalk agreement. Approval of the development agreement includes approval of the hotel design, included as Exhibit A in the agreement. Any changes to the design will require City approval.

The requested CID would provide pay-as-you-go financing for qualified project costs through the imposition of a 1.5% special retail sales tax on all taxable retail sales within the hotel for a maximum term of ten years. The eligible project costs identified in the CID petition include costs of renovating the building at 401 E. Douglas into a Hilton Garden Inn. The maximum amount of project costs that can be reimbursed is \$930,000 based on the projected revenue of the hotel.

Wichita Downtown Hotel, LLC is also requesting the issuance of a letter of intent to issue Industrial Revenue Bonds (IRBs), valid through December 31, 2018, in an amount not-to-exceed \$14,000,000 to achieve a sales tax exemption on items purchased for the redevelopment project. No property tax abatement is being requested.

The development agreement incorporates parking and skywalk agreements related to the use of the State Office Building garage located at 121 S. Emporia. The parking agreement provides an initial 90 parking spaces limited to use of hotel guests and staff and allows the developer to request additional spaces over time, with a maximum number of 120 spaces. The initial monthly rate for the spaces will be \$35 and will increase 15% every five years for the 20 year term. The skywalk agreement allows the developer to connect a skywalk from the garage to the hotel for use by hotel guests. The developer will be fully responsible for maintenance and insurance of the skywalk. The State Office Building Garage is under shared ownership between the City of Wichita and the Wichita PBC. The Wichita PBC has reviewed the agreements and provided consent of the parking agreement.

**Financial Considerations:** The City will withhold five percent (5%) of the CID revenues distributed by the State, after giving credit for the \$5,000 application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition (\$930,000) has been reimbursed or the 10-year term has expired, whichever is earlier.

WDH agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. WDH is not requesting abatement of property taxes in conjunction with the IRBs.

The cost/benefit analysis conducted by Wichita State University's Center for Economic Development and Business Research ("CEDBR") reports the following cost/benefit ratios:

City of Wichita	62.85 to 1
City General Fund	33.63 to 1
Debt Service Fund	NA
Sedgwick County	87.25 to 1
USD 259	1.85 to 1
State of Kansas	92.81 to 1

**Legal Considerations:** The attached ordinances, the development agreement and the various agreements incorporated by reference in the development agreement have all been reviewed by the Law Department and approved as to form. The City Council may conduct the public hearings for the CID and the IRBs concurrently.

**Recommendation/Action:** It is recommended that the City Council close the public hearings, place on first reading the ordinances adopting the Community Improvement District and Development Agreement and authorize the necessary signatures.

**Attachment(s):** CID Ordinance  
Development Agreement  
Ordinance adopting the Development Agreement

**DEVELOPMENT AGREEMENT**

**between the**

**CITY OF WICHITA, KANSAS**

**and**

**WICHITA DOWNTOWN HOTEL, LLC**

**Dated as of September 16, 2016**

**Relating to the Development of  
the Wichita Downtown  
Hilton Garden Inn Project**

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## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (this “**Agreement**”), is made and entered into as of September 16, 2016 (the “**Effective Date**”), by and among the **CITY OF WICHITA, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the “**City**”), and **WICHITA DOWNTOWN HOTEL, LLC**, a Kansas limited liability company (the “**Developer**”) (the Developer and the City are collectively referred to as the “**Parties**” and each a “**Party**”).

### RECITALS

A. The Developer is the contract purchaser of certain land in the City located at the southeast corner of the intersection of Douglas Avenue and Topeka Street within the City and more particularly described on *Exhibit K* attached hereto (the “**Property**”) and intends to acquire title to the Property and develop the Property through the design, engineering, constructing, reconstructing, furnishing and equipping of a hotel on the Property as more particularly set forth in this Agreement, including:

- a Hilton Garden Inn franchise flag;
- at least 120 guest rooms;
- a minimum 2,500 square feet rooftop bar/restaurant;
- a minimum 6,000 square feet of ground floor Class A commercial space;
- compliance with the Project Milestones, including the following:
  - acquisition of title to the Property within forty-five days of the Effective Date;
  - commencement of construction within three months of the Effective Date;
  - completion of construction within fifteen months of the start of construction; and
  - open the Hotel within 60 days of receipt of Certificate of Occupancy.

B. So long as the Developer remains in full compliance with this Agreement, the City agrees to permit the Project to participate in certain City programs as more particularly set forth in this Agreement, including through:

- the creation of a community improvement district;
- the issuance of industrial revenue bonds for purposes of a sales tax exemption;
- the execution of a parking agreement; and
- the execution of a skywalk agreement.

C. For clarity, and without limiting the materiality of any other term of this Agreement, the City is not willing to permit the Property to participate in certain City programs if any one of the requirements related to hotel flag, minimum number of rooms, minimum rooftop bar/restaurant square feet, and minimum number of ground floor Class A commercial space square feet are not met.

D. The purpose and intent of the public-private partnership formed pursuant to this Agreement is for substantial and long-lasting improvement of the character of the Property through the construction of a Hilton Garden Inn hotel that will contribute to the revitalization, growth and economic development of downtown Wichita.

E. The Parties now desire to enter into this Agreement to formalize the construction and financing of the improvements to the Property for the purposes described herein.

**NOW, THEREFORE**, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE I

### DEFINITIONS AND RULES OF CONSTRUCTION

**Section 1.01. Definitions of Words and Terms.** Capitalized words used in this Agreement have the meanings set forth in the Recitals to this Agreement or they have the following meanings:

“**Action**” means any suit, action, investigation, claim or proceeding.

“**Administrative Service Fee**” means the fee charged by the City for administration of the CID Sales Tax Fund and distributions from same, in the amount of five percent (5%) of the CID Sales Tax collected.

“**Affiliate Entity**” means any entity wholly-owned by the Developer or the Principals.

“**Certification of Expenditures**” is the form attached as *Exhibit M*.

“**Certificate of Full Completion**” means a certificate in substantially the form attached as *Exhibit D* hereto furnished by the Developer and approved by the City pursuant to *Section 3.08* upon the completion of the Project.

“**CID**” or “**District**” means a community improvement district formed in accordance with the CID Act.

“**CID Act**” means K.S.A. § 12-6a26 *et seq.*

“**CID Costs**” means, collectively, (i) the actual costs of the CID Improvements in an amount that when combined with the Other Eligible Expenses does not exceed the CID Costs Cap, (ii) Other Eligible Expenses related to the Project in an amount that when combined with actual costs of the CID Improvements does not exceed the CID Costs Cap, and (iii) the City’s Administrative Service Fee, all of which must be “costs” of a “project” as defined in the CID Act and identified in the Project Budget attached as *Exhibit L*.

“**CID Costs Cap**” means \$930,000, as more particularly set forth on *Exhibit L* hereto and limited by *Section 5.03*, which shall apply to the actual costs of the CID Improvements and the Other Eligible Expenses, but will not apply to the City’s Administrative Service Fee.

“**CID Improvements**” means that portion of the Project the costs of which will be reimbursed to the Developer from CID Sales Tax revenues as CID Costs, as set forth in the Project Budget.

“**CID Ordinance**” means Ordinance No. 50-[\_\_\_\_], adopted by the City on September 13, 2016 and published on September 16, 2016.

“**CID Policy**” means the policy of the City governing the use of CID financing within the City, as most recently approved by the Governing Body on December 7, 2010, and as amended from time-to-time thereafter.

“**CID Sales Tax**” means the additional 1.5% sales tax on all taxable sales within the District authorized by the CID Act and the CID Ordinance.

“**CID Sales Tax Fund**” means the separate fund established by the City for deposit of the CID Sales Tax revenues received from the State and collected within the District, and that is used to finance or reimburse the CID Costs pursuant to the CID Act.

“**CID Term**” means a term commencing on the date the Director of Taxation for the State of Kansas begins collecting the CID Sales Tax within the District and expiring on the earlier of (a) the tenth anniversary of the date of commencement of CID Sales Tax collection; or (b) when CID Costs up to the CID Costs Cap have been paid; or (c) the expiration or earlier termination of this Agreement.

“**City**” means the City of Wichita, Kansas.

“**City Attorney**” means the Director of Law and City Attorney of the City, or in the absence of the City Attorney any duly appointed Deputy, Assistant or Acting City Attorney.

“**City Building Code**” means the Wichita/Sedgwick County Unified Building and Trade Code, or any successor thereto in effect in the City during construction of the Project.

“**City Engineer**” means the City Engineer of the City, or in the absence of the City Engineer any duly appointed Deputy, Assistant or Acting City Engineer.

“**City Indemnified Parties**” means City’s employees, agents and independent contractors and consultants.

“**City Manager**” means the City Manager of the City, or in the absence of the City Manager any duly appointed Deputy, Assistant or Acting City Manager.

“**City Representative**” means the City Manager or his or her designee as evidenced by a written certificate furnished to the Developer containing the specimen signature of such person or persons and signed by the City Manager.

“**Claimant**” shall mean any Party claiming a default in accordance with **Article VII** of this Agreement.

“**Commercial Space**” means a minimum 6,000 square feet of ground floor Class A commercial space located on the ground floor of the Hotel building.

“**Construction Plans**” means the plans, drawings, specifications and related documents, and construction schedules for the construction of the Project, together with all supplements, amendments or corrections approved by the City as incorporated into this Agreement as *Exhibit C*.

“**District**” or “**CID**” means a community improvement district formed in accordance with the CID Act.

“**Event of Default**” means any event or occurrence as defined in **Article VII** of this Agreement.

“**Excusable Delays**” means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, power failure, strike, shortage of materials, unavailability of labor, delays in construction of nearby public streets, roads, right-of-way, interstate or highway, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, and any other events or conditions, which shall include but not be limited to any litigation interfering with or delaying the construction of all

or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder.

“**Governing Body**” means the Mayor and City Council of the City.

“**Governmental Approvals**” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Project and consistent with this Agreement.

“**Hotel**” means a Hilton Garden Inn flagged hotel that meets the Hotel Flag Requirement located within the District, operated in accordance with this Agreement, and consisting of at least 120 guest rooms and a minimum 2,500 square feet rooftop bar/restaurant.

“**Hotel Flag Requirement**” means a full service or select service hotel: (a) the franchisor of which is set forth on *Exhibit E* hereto; or (b) shall meet the requirements (as determined by the City) established by: (i) Forbes Travel Guide of a Three Star Hotel or higher; or (ii) AAA of a Three Diamond Hotel or higher. In the event that either of such publications is no longer in existence such other comparable rating guide as may be selected by the City may be substituted.

“**Other Eligible Expenses**” means only the actual costs incurred by the City in creating the District and the preparation and negotiation of this Agreement.

“**Pay-as-you-go Financing**” means pay-as-you-go financing, as that term is defined in the CID Act, which financing shall be used to pay the CID Costs.

“**Petition**” shall have the meaning set forth in *Section 4.04*.

“**Principals**” means Minhas Ladiwalla, Dr. Subhash Shah, Raju Sheth and Mitesh Patel.

“**Project**” means the design, engineering, constructing, reconstructing, furnishing, and equipping of the Hotel, the Commercial Space and certain other improvements to the real property within the District.

“**Project Budget**” means the budget for the Project set forth in *Exhibit L*.

“**Project Milestones**” means the acquisition of title to the Property and performance of the Project described on *Exhibit B* hereto in accordance with the provisions of Section 3.02 hereof.

“**Project Schedule**” means the schedule for the Project set forth in *Exhibit B*.

“**Signage**” means a sign at least 24 square inches in size containing the words: “THIS PROJECT MADE POSSIBLE BY COMMUNITY IMPROVEMENT DISTRICT FINANCING” using type face of at least 18 points in size, and directing individuals to the City website for further information using type face of at least 12 points in size.

“**Site Plan**” means the drawings, renderings, elevations and plans depicting the appearance of the Project attached as *Exhibit A*.

“**State**” means the State of Kansas.

“**Term**” means the term of this Agreement commencing on the Effective Date and expiring simultaneously with the expiration of the CID Term.

**Section 1.02. Rules of Construction.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

- (a) The terms defined in this Article include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.
- (c) All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.
- (d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed.
- (e) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.
- (f) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01. Representations of the City.** The City makes the following representations and warranties, which are true and correct on the date hereof, to the best of the City’s knowledge:

- (a) ***Due Authority.*** The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and this Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.
- (b) ***No Defaults or Violation of Law.*** The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.
- (c) ***No Litigation.*** There is no litigation, proceeding or investigation pending or, to the knowledge of the City, threatened against the City with respect to this Agreement. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the City, threatened

against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

(d) ***Governmental or Corporate Consents.*** No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

(e) ***No Default.*** No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

**Section 2.02. Representations of the Developer.** The Developer makes the following representations and warranties, which are true and correct on the date hereof, to the best of the Developer's knowledge:

(a) ***Due Authority.*** The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

(b) ***No Defaults or Violation of Law.*** The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(c) ***No Litigation.*** No litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Project, the Developer or any officer, director, member or shareholder of the Developer. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

(d) ***No Material Change.*** (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the City prior to the execution of this Agreement.

(e) ***Governmental or Corporate Consents.*** No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or

corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

(f) **No Default.** No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound.

(g) **Approvals.** The Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. The Developer has obtained all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Project. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

(h) **Construction Permits.** All governmental permits and licenses required by applicable law to construct, occupy and operate the Project have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Project to be constructed.

(i) **Compliance with Laws.** The Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

(j) **Other Disclosures.** The information furnished to the City by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

**Section 2.03. Conditions to the Effectiveness of this Agreement.** Contemporaneously with the execution of this Agreement, and as a precondition to the effectiveness of this Agreement, the Developer will submit the following documents to the City:

(a) a copy of the Developer's Articles of Organization and a good standing certificate dated within one week of the date of this Agreement, each certified by the Secretary of State of the State of Kansas;

(b) a certified copy of the Operating Agreement of the Developer;

(c) a list of each member of the Developer and the associated percentage ownership, and if such member is not an individual, the individual owners and percentage ownership of such member;

(d) a title commitment or certificate of title for the area within the District evidencing that such property is owned by the Developer; and if not, a copy or copies of purchase agreements between the owner of such property and the Developer;

(e) the Site Plan attached hereto as *Exhibit A*; and

(f) a legal opinion from counsel to the Developer in form and substance acceptable to the City covering: (i) the due organization of the Developer and the power and authority of the Developer to execute this Agreement, and (ii) the enforceability of this Agreement against the Developer.

**Section 2.04. Maintenance of Existence.** During the term of this Agreement, unless otherwise approved by the City Representative, the Developer will maintain its legal existence, will continue to be a limited liability company in good standing under the laws of the State, will not dissolve consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. At all times during the Term of this Agreement, the Principals will collectively own 100% of the ownership interests in the Developer.

**Section 2.05. Ownership of District Property.** During the term of this Agreement, unless otherwise approved by the City Representative, the Developer or an Affiliate Entity will maintain 100% ownership of the real property within the District. Notwithstanding the foregoing, the Developer or an Affiliate Entity, with prior written notice to the City and written approval of the City Representative, may pledge its interest in the District property to a single financial institution as security for a financing of the Project. Any decision to consent or refuse consent to a pledge pursuant to this *Section 2.05* will be solely at the discretion of the City.

### ARTICLE III

#### DEVELOPMENT OF THE PROJECT

**Section 3.01. Completion of the Project.** The Developer will design, engineer and construct the Project in accordance with the Petition, the CID Ordinance, this Agreement and the Construction Plans. The Developer will obtain all Governmental Approvals for the Project and the Project will conform to all approved plans for such improvements as provided in this Agreement, applicable building codes, City Ordinances, CID Policy and all other applicable rules and regulations.

**Section 3.02. Project Milestones.** Subject to Excusable Delays, the Developer agrees to meet the Project Milestones not later than the times set forth in *Exhibit B*. Upon reasonable advance notice, the Developer will meet with the City to review and discuss the design and construction of the Project in order to enable the City to monitor the status of construction and to determine that the Project is being performed and completed in accordance with this Agreement.

**Section 3.03. Cost of the Project.** The Developer shall be solely responsible for and will pay the costs of the Project, subject to the terms of this Agreement governing reimbursement for expenditures on the CID Improvements. The Developer will invest a minimum of \$12,000,000 in the Project, exclusive of CID Costs.

**Section 3.04. Design of the Project.** The Developer has designed the Project in accordance with all applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws). The Developer submitted to the City the

proposed Site Plans which have been reviewed by the City and are hereby approved solely in regards to the external appearance of the Project in substantially the form set forth in **Exhibit A** hereto.

**Section 3.05. Construction Plans.** The Developer will submit Construction Plans for the Project for review and approval pursuant to the City Building Code and all other applicable review processes. The Construction Plans will be in sufficient completeness and detail to show that construction will be in conformance with this Agreement. The Developer agrees that all construction, improvement, furnishing, equipping, and installation work on the Project will be done in accordance with the Construction Plans and this Agreement. The Developer will furnish to the City the number of copies of the Construction Plans as required by the City. The Construction Plans will be attached hereto as **Exhibit C** upon completion and approval by the City and will be incorporated herein by reference.

The Developer has submitted elevations for the rehabilitation and expansion of the existing building in the District in accordance with **Section 2.03**. In addition, no later than twenty (20) days prior to commencement of construction of any improvements other than as shown on **Exhibit A** within the District, the Developer will provide elevations of the proposed improvements to the City. For all elevations submitted, the City will have the right to review and approve the elevations and provide feedback to the Developer in writing within fifteen (15) business days. In the event the City does not provide such written feedback within fifteen (15) business days, such elevations will be deemed approved. Costs of construction or rehabilitation of buildings within the District that do not substantially conform to such approved elevations or for which elevations were not submitted to the City for approval in accordance with this **Section 3.05**, will not constitute CID Improvements eligible for reimbursement.

**Section 3.06. Construction Permits and Approvals.** Before commencement of construction or development of any buildings, structures or other work or improvements, the Developer shall, at its own expense, secure or cause to be secured any and all permits and approvals which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. Such permits and approvals may be obtained by Developer in phases corresponding to particular stages of construction. The City shall cooperate with and provide all usual assistance to the Developer in securing these permits and approvals, and shall diligently process, review and consider all such permits and approvals as may be required by law; except provided that the City shall not be required to issue any such permits or approval for any portion of the Project not in conformance with this Agreement.

**Section 3.07. No Waiver.** Nothing in this Agreement shall constitute a waiver of the City's right to consider and approve or deny Governmental Approvals pursuant to the City's regulatory authority as provided by City Building Code and applicable State law. The Developer acknowledges that satisfaction of certain conditions contained in this Agreement require the reasonable exercise of the City's discretionary zoning authority by the City's Metropolitan Area Planning Commission and Governing Body in accordance with City's Zoning Ordinance, the City Building Code and applicable State law.

**Section 3.08. Certificate of Full Completion.** Promptly after completion of the Project in accordance with the provisions of this Agreement, the Developer will submit a Certificate of Full Completion to the City. Full Completion means that the Developer or its successor or assigns have been granted a Certificate of Occupancy by the City and have completed all work as required by the Construction Plans with respect to the Project. The Certificate of Full Completion will be in substantially the form attached as **Exhibit D**. The City will, within thirty (30) days following delivery of the Certificate of Full Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Full Completion. The Certificate of Full Completion shall be deemed accepted by the City unless, prior to the end of such 30-day period after delivery, the City furnishes the Developer with specific written objections, describing such objections and the measures required to correct such objections in reasonable detail. The City's execution of the Certificate

of Full Completion will constitute evidence of the satisfaction of the Developer's agreements and covenants to construct the Project.

**Section 3.09. Covenant for Non-Discrimination.** The Developer covenants by and for itself and any successors in interest that there will be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, disability, national origin or ancestry in the construction, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project, nor will the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Project.

The covenant established in this *Section 3.09* will, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns and any successor in interest to the Project or any part thereof. The covenants contained in this *Section 3.09* will remain for so long as this Agreement is in effect.

**Section 3.10. Operation of Project.** The Project shall comply with all applicable building and zoning, health, environmental and safety codes and laws and all other applicable laws, rules and regulations. The Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City and any other governmental agency having jurisdiction for the construction and operation of the Project, including but not limited to obtaining all necessary rental licenses and paying any necessary fees to obtain required permits and licenses. Until such time as construction is commenced for each phase of development, the Developer shall maintain the area within the District in a good and safe condition, including the boarding of vacant buildings and regular maintenance and removal of vegetation.

**Section 3.11. Hotel and Commercial Space Provisions.**

(a) **Hotel within District.** Within 60 days after the issuance of a Certificate of Occupancy for the Project, the Hotel will be opened and operated within the District for the remainder of the Term of this Agreement.

(b) **Hotel Flag.** The Hotel will be operated under an agreement for a Hilton Garden Inn "franchise flag." The City reserves the right to approve any changes in the Hotel flag during the Term of this Agreement subject to the criteria set forth in this *Section 3.11*. The Hotel will at all times during the Term meet the Hotel Flag Requirement. Examples of franchisors which currently meet the Hotel Flag Requirement are set forth on *Exhibit E*. Developer will notify the City at least sixty (60) days in advance of any proposed change in hotel flag for the Hotel.

(c) **Hotel Operation.** The operator of the Hotel will be (1) [\_\_\_\_\_], a [\_\_\_\_\_], or any entity under common control of or by the same, or common control by the shareholders or principals of the same, or (2) any other person or entity reasonably approved by the City Representative, with such approval not to be unreasonably conditioned, withheld, or delayed (the "**Hotel Operator**"), provided that the rooftop bar/restaurant may be operated by an entity other than the Hotel Operator. In the event of default under this Agreement by the Developer, which default results in a change in operation of a constructed and operating Hotel, the Developer will promptly notify the City and provide for the City's written approval of a substitute operator for the operation and management of the Hotel with financial resources and experience satisfactory to the City to ensure the cure of the default necessitating the change in operator and the continued operation of the Hotel in full compliance with this Agreement during the remainder of the Term.

(d) **Commercial Space Operation.** The operator of the Commercial Space will be (1) the Developer or any entity under common control of or by the same, or common control by the shareholders or principals of the same, (2) the Hotel Operator, or (3) any other person or entity reasonably approved by the City Representative, with such approval not to be unreasonably conditioned, withheld, or delayed.

**Section 3.12. Land Use Restrictions.** In addition to the operation of the Hotel and Commercial Space, land in the District may be used for activities incidental to the operation of a hotel. Notwithstanding the foregoing, the types of land uses and retailers set forth in **Exhibit F** hereto are prohibited within the boundaries of the District unless approved in writing by the City prior to the execution of a letter of intent, lease or prior to the sale of land.

**Section 3.13. Relocation Restrictions.** Throughout the Term of this Agreement, the Developer will present to the City a written description of potential retailers or restaurants to be located within the District at least sixty (60) days prior to the date when the Developer expects to enter into any legal obligation for the purchase and/or lease of District property. The City will have the absolute right to refuse any retailer and/or restaurant presented by the Developer on the District property to the extent that such proposed retailer and/or restaurant would constitute a relocation of such retailer and/or restaurant of an existing business within five (5) miles of the District boundaries. If the City Representative does not provide a written objection to Developer within thirty (30) business days of presentment, such non-response will constitute a waiver of any objection to Developer's proposed sale or lease.

## ARTICLE IV

### CITY PROGRAMS

#### **Section 4.01. Industrial Revenue Bonds.**

(a) The City declares an intent to issue, pursuant to K.S.A. 12-1740 *et seq.* (the "IRB Act"), industrial revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$14,000,000 (the "IRB") to finance the Project, subject to satisfaction of the conditions set forth in this **Section 4.01**.

(b) Pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the IRB's are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. The City will apply to the State Department of Revenue for a sales tax exemption certificate upon the Developer's written acceptance of a letter of intent containing the City's conditions to the issuance of the Bonds in accordance with the City's Economic Development Incentive Policy, substantially in the form attached hereto as **Exhibit G** (the "Letter of Intent"). In the event that the IRB is not issued for any reason including failure of the Developer to comply with the requirements of paragraph (d) below, Developer will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted under this Agreement.

(c) No exemption of ad valorem property taxation with respect to property financed by the IRB's shall be requested by the Developer or granted by the City.

(d) The Developer may request issuance of the IRB upon acceptance by the City of the Certificate of Full Completion for the Project. The issuance of the IRB is subject to the satisfaction of the following:

- (i) the Developer's full compliance with the terms of this Agreement;
- (ii) the Developer's written acceptance of the Letter of Intent;
- (iii) the successful negotiation and sale of the Bonds to a purchaser, which shall be the Developer or a financial institution determined by the Developer and acceptable to the City (the "Purchaser"), which sale shall be the responsibility of the Developer and not the City;
- (iv) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the City, the Developer and the Purchaser;
- (v) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and
- (vi) the commitment to and payment by the Developer or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (1) expenses of the City and the City Attorney; (2) any placement fees and expenses; (3) all legal fees and expenses of Bond Counsel; and (4) all recording, filing fees and other expenses required by the IRB Act.

**Section 4.02. Parking Agreement.** The City agrees to provide for parking for the Hotel in the parking structure located immediately south of the Property and having an address of 121 South Emporia (the "Parking Structure"), subject to the approval of the other entities having an ownership interest in the Parking Structure. Within 30 days after the City accepts the Certificate of Full Completion for the Project, the City agrees to enter into a Parking Agreement substantially in the form of *Exhibit H* attached hereto. The Mayor and Clerk are authorized to execute the Parking Agreement substantially in the form of *Exhibit H* with such changes as may be approved by the City Attorney.

**Section 4.03. Skywalk Agreement.** To permit construction by the Developer of a skywalk between the Hotel and the Parking Structure, upon commencement of the second Project Milestone the City agrees to enter into a Skywalk Agreement substantially in the form of *Exhibit I* attached hereto, subject to the approval of the other entities having an ownership interest in the Parking Structure. In addition to any rights of the City to restrict access to the skywalk under the Skywalk Agreement or the Parking Agreement, the City, in its sole discretion, may block access to the skywalk from the Parking Structure if: (a) the City does not accept the Certificate of Full Completion; (b) the City and the Developer do not enter into the Parking Agreement; or (c) the Parking Agreement is terminated. The Mayor and Clerk are authorized to execute the Skywalk Agreement substantially in the form of *Exhibit I* with such changes as may be approved by the City Attorney.

**Section 4.04. CID.**

(a) On or about August 16, 2016, the Developer submitted a petition (the "Petition") to the City requesting the formation of a community improvement district (the "District"). A copy of the Petition is attached hereto as *Exhibit J*. A legal description and map of the boundaries of the District is set forth on *Exhibit K* attached hereto.

(b) The City approved the creation of the District through the adoption of the CID Ordinance. The CID Ordinance approved certain improvements within the District, as well as certain administrative expenses to be incurred within the District, as more particularly described on *Exhibit L* attached hereto (collectively, the “CID Costs”), to be financed with pay-as-you-go financing payable from revenues received from the imposition of the CID Sales Tax. The City will facilitate CID financing for the Project pursuant to the terms of **Article V** of this Agreement.

## ARTICLE V

### CID FINANCING

**Section 5.01. CID Sales Tax.** The City will deliver a certified copy of the CID Ordinance to the Kansas Department of Revenue (“KDOR”) upon the earlier of: (a) ten (10) business days after the City receives a request from the Developer to deliver the CID Ordinance to KDOR or (b) September 1, 2017. Collection of the CID Sales Tax will commence as soon as allowed under KDOR policies following KDOR’s receipt of the CID Ordinance and will continue throughout the CID Term. Except as otherwise set forth herein, all of the CID Sales Tax revenues collected and delivered to the CID Sales Tax Fund will be available for and dedicated to pay the CID Costs for the duration of the CID Term.

**Section 5.02. CID Sales Tax Fund.** During the existence of the District all CID Sales Tax revenues generated within the District will be deposited into a CID Sales Tax Fund, which will be established and administered by the City in compliance with the laws of the State and this Agreement and will be held solely for the payment of the CID Costs and will not be otherwise expended or commingled with other funds.

**Section 5.03. Pay-as-you-go Financing of the CID Costs.** The CID Sales Tax will be used to reimburse the Developer for the CID Costs, subject to the terms of this Agreement. Unless otherwise agreed by the Parties in writing, reimbursements will be made solely to the Developer unless otherwise set forth in this Agreement, except for payment of the City’s Administrative Service Fee and Other Eligible Expenses incurred by the City, which will be deducted by the City in advance of distribution of the CID Sales Tax funds to Developer. The parties agree that the CID Costs Cap will apply to the actual costs of the CID Improvements and the Other Eligible Expenses, but will not apply to the City’s Administrative Service Fee. The Project will be constructed substantially in accordance with the Project Budget attached as *Exhibit L*. So long as the total amount of CID Costs requested for reimbursement through CID Sales Tax revenues does not exceed the actual amount expended for such use or the CID Costs Cap:

(a) the Developer may seek reimbursement of any particular line item stated as CID Costs in the Project Budget not exceeding 110% of the amount stated therein; and

(b) the Developer will be permitted to adjust the amounts estimated as CID Costs within and between each line item with the written consent of the City Representative.

**Section 5.04. Certification of Expenditures.** The Developer will certify all costs and expenditures to be made in connection with the CID Costs in accordance with the following:

(a) The Developer will submit to the City a Certification of Expenditures in the form attached hereto as *Exhibit M* setting forth the amount for which reimbursement is sought and an itemized listing of the related CID Improvements.

(b) Each Certification of Expenditures will be accompanied by such bills, contracts, invoices, and other evidence as the City reasonably requires to document that payment has been made by the Developer for such CID Costs.

Notwithstanding the foregoing, the City will not consider any Certificate of Expenditure filed prior to the date the Certificate of Full Completion has been delivered to and accepted by the City in accordance with **Section 3.08**.

**Section 5.05. Reimbursement.** The City will have thirty (30) calendar days after receipt of any Certification of Expenditures to review and respond by written notice to the Developer. If the submitted documentation demonstrates that: (1) the Certification of Expenditures shows payment by the Developer of the CID Costs; (2) the expense was incurred; (3) the aggregate amount of CID Costs theretofore paid pursuant to this Agreement for the CID Improvements and Other Eligible Expenses is less than the CID Costs Cap and if added to the amount of the Certification of Expenditures, would not exceed the CID Costs Cap; (4) the Developer is not in default under this Agreement; and (5) the City has not discovered any fraud on the part of the Developer, then the City will approve the Certification of Expenditures and promptly reimburse the Developer for the CID Costs pursuant to the terms of this Agreement if sufficient funds are available in the CID Sales Tax Fund, and quarterly as funds become available in the event that funds in the CID Sales Tax Fund are at that time insufficient. In the event the City does not respond within such 30 day period, the Certification of Expenditures will be deemed approved. If the City reasonably disapproves of the Certification of Expenditures, the City will notify the Developer in writing of the reason for such disapproval within such thirty (30) day period and may request additional information from the Developer. In the event of a request for additional information, the thirty (30) day period for the City to respond will be extended for an additional thirty (30) day period commencing upon receipt by the City of the additional information requested from the Developer. Said thirty (30) day period of extension will apply to each request for additional information made by the City.

**Section 5.06. Payment of the City's Administrative Service Fee and Other Eligible Expenses.** The City will be paid as a first priority payment from the CID Sales Tax Fund an Administrative Service Fee in an amount equal to five percent (5%) of the total CID Sales Tax revenues generated within the District and the amount of Other Eligible Expenses incurred by the City. The \$5,000 application fee paid by Developer to the City will be applied as a credit toward payment of the Administrative Service Fee. The Administrative Service Fee is for the administration of the CID District only and the Developer may incur additional administrative fees from the City regarding the Project that will be paid separately (including but not limited to an administrative fee related to any IRBs issued for the Project).

**Section 5.07. Sales Tax Information.**

(a) The Developer will provide the City Representative written notice of all current tenants located within the boundaries of the District within 10 days prior the opening or after the closing for business of any business within the District, and at all other times upon the written request of the City Representative.

(b) The Developer agrees to make commercially reasonable efforts to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the District (but excluding transient hotel guests) to be obligated by written contract to provide to the City Representative simultaneously with submission to the Kansas Department of Revenue the monthly sales tax returns for their facilities in the District. The Developer hereby agrees that it will make all reasonable attempts to include in each such written agreement a provision that the City is an intended third party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against such tenant or purchaser; provided however, that

the failure by the Developer to secure any such obligation in any written agreement entered into by the Developer shall not be deemed an Event of Default.

(c) To the extent it may legally do so, information obtained pursuant to this *Section 5.07* will be kept confidential by the City in accordance with K.S.A. 79-3657.

**Section 5.08. Termination of the CID.** The City may not terminate the CID prior to the expiration of the CID Term, except as provided by law, as requested by the Developer, or in accordance with this Agreement.

**Section 5.09. Modification of the District.** From time to time during the Term, the Developer may request, and the City will reasonably consider, any modification to the District, in accordance with the CID Act and the CID Policy.

**Section 5.10. Public Disclosure.** The Developer will or will cause the Hotel Operator or any tenant or subtenant of the Project to post Signage adjacent to the main entrance and skywalk entrance of the hotel and the main entrance of every retail establishment within the District. Signage is to be posted and maintained throughout the Term of the Agreement.

## ARTICLE VI

### INDEMNITY

#### **Section 6.01. Indemnification of City.**

(a) Developer agrees to indemnify and hold the City Indemnified Parties harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees, resulting from, arising out of, or in any way connected with:

(i) the Developer's actions and undertaking in implementation of the Project or this Agreement;

(ii) the negligence or willful misconduct of Developer, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project; and

(iii) any delay or expense resulting from any litigation filed against the Developer by any member or shareholder of the Developer, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor.

It is understood that the duty of the Developer to indemnify or hold harmless includes the duty to defend. This indemnification and hold harmless clause shall apply whether or not insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

This *Section 6.01* will not apply to willful misconduct or negligence of the City or its officers, or employees. This *Section 6.01* includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action)

concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”; 42 U.S.C. Section 9601, *et seq.*), (ii) the Resource Conservation and Recovery Act (“RCRA”; 42 U.S.C. Section 6901 *et seq.*) and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, at any place where Developer owns or has control of real property pursuant to any of Developer’s activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify City from liability.

(b) To the extent that Developer’s indemnity obligation under this Agreement is in direct conflict with the terms of a Certificate of Release for Environmental Conditions related to the Gilbert-Mosley Redevelopment District that Developer obtains for property located within the District, the Certificate of Release will control.

(c) In the event any Action is begun or made as a result of which the Developer or City may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties will give prompt notice to the Developer of the occurrence of such event.

(d) The rights to indemnification set forth in this Agreement will survive the expiration or earlier termination of this Agreement.

**Section 6.02. Performance Bonds; Insurance.** All contracts for the Project in excess of \$100,000 shall include provisions requiring the contractor: (1) to obtain and provide performance and labor and material payment bonds (with sureties authorized to do business in Kansas and approved by the City) in the full amount of such contracts; and (2) to maintain minimum insurance requirements reasonably acceptable to the City. The performance and payment bonds must be furnished to the City before any construction is commenced and name the City as obligee.

## ARTICLE VII

### DEFAULTS AND REMEDIES

**Section 7.01. Defaults – General.** Subject to the extensions of time set forth in *Section 7.07* below, failure or delay by any Party to perform any material term or provision of this Agreement, after receiving written notice thereof and failing to cure, as set forth in *Section 7.02* below, constitutes an “**Event of Default**” under this Agreement. The Claimant will give written notice of default to the defaulting Party, specifying the nature of the default.

**Section 7.02. Default Proceedings.** The Claimant will not institute proceedings against a defaulting Party, nor be entitled to damages if the defaulting Party within fourteen (14) days from receipt of the written notice of default set forth in *Section 7.01*, commences with due diligence to cure, correct or remedy such failure or delay and completes such cure, correction or remedy within thirty (30) days from the date of receipt of such notice; or if such cure, correction or remedy by its nature cannot be effected within such thirty (30) day period, such cure, correction or remedy is diligently and continuously prosecuted until completion thereof. Notwithstanding anything in this Agreement to the contrary, Developer will not be entitled to notice or a right to cure for failing to meet the deadlines contained in the Project Schedule.

**Section 7.03. Remedies on Default.**

(a) Whenever any Event of Default by the City under *Section 4.01, 4.02, or 4.03* occurs and is continuing, the only remedy that may be sought from the City is strictly limited to specific performance of the City's obligations set forth under the defaulted section, or if applicable, the remedies set forth in the ancillary documents referenced by the defaulted section.

(b) Whenever any Event of Default by the City not subject to *Section 7.03(a)* occurs and is continuing, the only remedy that may be sought from the City is strictly limited to use of available CID Sales Tax revenues to pay CID Costs (i.e., the City can have no liability under this Agreement that in any way extends to its general or tax funds, or any other source of funds apart from the CID Sales Tax revenues derived from the Project), except that, in case of any diversion by the City of CID Sales Tax revenues in breach of this Agreement, the City will be obligated to restore such diverted revenues, dollar for dollar, from any lawfully available source of appropriations.

(c) Whenever any Event of Default by the Developer occurs and is continuing, subject to applicable cure periods, the City may (1) pursue any remedy at law and in equity, except as provided below, including specific performance of the Agreement and/or (2) refuse to approve any further Certificates of Expenditures or make any disbursements until such Event of Default is cured by the Developer and withhold any CID Sales Tax revenues and/or (3) terminate the CID and/or (4) terminate this Agreement and/or (5) block access to the skywalk from the Parking Structure.

(d) Notwithstanding any other provision of this Agreement to the contrary, in no event will the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For the purposes of this *Section 7.03(d)*, consequential damages include, but are not limited to, lost profits, lost tax revenue, or other similar losses which are not direct out-of-pocket costs incurred by any non-defaulting Party.

(e) If a Party has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Party seeking to enforce the right or remedy, then and in every case the Parties will, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Parties will continue as though no such proceeding had been instituted.

#### **Section 7.04. Legal Actions.**

(a) *Institution of Legal Actions.* Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Sedgwick County, Kansas or, if federal jurisdiction exists, in the Federal District Court in the District of Kansas.

(b) *Applicable Law.* The laws of the State govern the interpretation and enforcement of this Agreement.

(c) *Acceptance of Service of Process.*

(i) In the event that any legal action is commenced by the Developer against the City, service of process on the City will be made by personal service upon the City Clerk or in such other manner as may be provided by law.

(ii) In the event that any legal action is commenced by the City against the Developer, service of process on the Developer will be made by personal service upon an officer or agent of the Developer and will be valid whether made within or without the

State or in such other manner as may be provided by law. In the event the Developer no longer has an officer or registered agent to serve, the Secretary of State is hereby irrevocably appointed to accept service for the Developer.

**Section 7.05. Rights and Remedies are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies will not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

**Section 7.06. Inaction Not a Waiver of Default.** Any failures or delays by a Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such Party of its right to institute and maintain any action or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. No waiver made by a Party will apply to obligations beyond those expressly waived.

**Section 7.07. Enforced Delay; Extension of Times of Performance.**

(a) In addition to specific provisions of this Agreement, performance by a Party hereunder will not be deemed to be in default, and all performance and other dates specified in this Agreement will be extended, where the Party seeking the extension has acted diligently and delays or defaults are due to default of the other Party or Excusable Delays.

(b) Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City and the Developer.

## ARTICLE VIII

### GENERAL PROVISIONS

**Section 8.01. Amendment.** This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the Parties, and by the execution of said amendment by the Parties or their successors in interest. Except for amendments to extension of performance times pursuant to **Section 7.07(b)**, which may be approved and executed on behalf of the City by the City Representative, each amendment must be approved by resolution adopted by the Governing Body. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, the Parties will take such reasonable measures including, but not limited to, reasonable amendment of this Agreement to cure such invalidity where the invalidity contradicts the clear intent of the Parties in entering into this Agreement.

**Section 8.02. Assignment.** The Developer may not assign its rights under this Agreement without the express consent of the City evidenced by a resolution adopted by the Governing Body approving an exception to the CID Policy. Notwithstanding the foregoing, the Developer, with prior written notice to the City and written approval of the City Manager, may: (a) assign, transfer and convey of all or substantially all of Developer's rights and duties under this Agreement to an Affiliate Entity; or (b) make a collateral assignment of 100% of its rights under this Agreement to a single financial institution as security for a financing of the Project; provided, however, that any assignment of rights cannot impair the City's right to determine the eligibility of CID Costs nor require the City to subdivide any CID Sales Tax revenues due to the Developer. Any decision to consent or refuse consent to an assignment pursuant to this **Section 8.02** will be solely at the discretion of the City Representative or the Governing Body, as the case may be.

Nothing herein will be construed to delegate rights or responsibilities of the City under this Agreement, including without limitation the determination of eligible project costs for reimbursement.

**Section 8.03. Right to Inspect.** The Developer agrees that the City, with reasonable advance notice and during normal business hours, will have the right and authority to review, inspect, audit, and copy, from time to time, all of the Developer's books and records relating to the CID Costs as pertinent to the purposes of this Agreement.

**Section 8.04. Right of Access.** For the purposes of assuring compliance with this Agreement, the City Representative will have the right of access to the District, without charges or fees, during normal business hours for purposes related to this Agreement, including, but not limited to, the inspection of the work being performed in constructing or reconstructing of the Project.

**Section 8.05. No Other Agreement.** The Parties agree that the Project will be implemented as agreed in this Agreement and as set forth in the CID Policy. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing or reconstructing the Project and the payment of CID Costs. Nothing in this Agreement will be deemed an amendment of the CID Policy unless specifically exempted herein or by subsequent action by the Governing Body. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

**Section 8.06. Severability.** If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid or unenforceable in whole or in part, this Agreement will be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. In no such event will the validity or enforceability of the remaining valid portions hereof be affected.

**Section 8.07. Notice.** All notices and requests required pursuant to this Agreement will be in writing and will be sent as follows:

To the Developer:

Wichita Downtown Hotel, LLC  
Attn: Raju Sheth  
1950 N. Timberwood  
Wichita, Kansas 67206  
Email: raju@remotecompsystems.com

To the City:

City of Wichita  
Attn: City Manager  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: rlayton@wichita.gov

With a copy to:

City of Wichita  
Department of Urban Development  
Attention: Scot Rigby  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: srigby@wichita.gov

and

City of Wichita  
Department of Law  
Attention: City Attorney  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: jmagana@wichita.gov

or at such other addresses as the Parties may indicate in writing to the other either by email, personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Emailed notices will be deemed effective: (a) when sent, if followed by transmittal by national overnight courier or hand delivery on the next business day; or (b) upon recipient's acknowledgment of receipt. Mailed notices will be deemed effective on the third day after mailing; all other notices will be effective when delivered.

**Section 8.08. Counterparts.** This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same agreement.

**Section 8.09. Consent or Approval.** Except as otherwise provided in this Agreement, whenever consent or approval of either Party is required, such consent or approval will not be unreasonably withheld.

**Section 8.10. Survivorship.** Notwithstanding the termination of this Agreement, the Developer's obligations set out in **Article VI** will survive the expiration or earlier termination of this Agreement to the extent that any incident giving rise to a claim, suit, judgment or demand occurred during the Term hereof.

**Section 8.11. Incorporation of Exhibits.** The exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

**Section 8.12. Mutual Assistance.** The City and the Developer agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be reasonably necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to reasonably aid and assist each other in carrying out said terms, provisions and intent.

**Section 8.13. Effect of Violation of the Terms and Provisions of this Agreement; No Partnership.** The City is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement will run in favor of the City, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Project or the District. The City will have the

right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled. Nothing contained herein will be construed as creating a partnership between the Developer and the City.

**Section 8.14. Time of Essence.** Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

**Section 8.15. Conflicts of Interest.**

(a) No member of the Governing Body or of any branch of the City's government that has any power of review or approval of any of the Developer's undertakings will participate in any decisions relating thereto which affect such person's personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest will immediately, upon knowledge of such possible conflict, disclose, in writing, to the City the nature of such interest and seek a determination with respect to such interest by the City and, in the meantime, will not participate in any actions or discussions relating to the activities herein proscribed.

(b) The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement. The Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

**Section 8.16. Required Disclosures.** The Developer will immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

**Section 8.17. Tax Implications.** The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or State income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

**Section 8.18. Authorized Parties.** Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the City or the Developer is required, or the City or the Developer is required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Representative and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The City Representative may seek the advice, consent

or approval of the Governing Body before providing any supplemental agreement, request, demand, approval, notice or consent for the City pursuant to this **Section 8.18**.

**Section 8.19. Electronic Transactions.** The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 8.20. Cash Basis and Budget Laws.** The Parties acknowledge and agree that the ability of the City to enter into and perform certain financial obligations pursuant to this Agreement are subject to the K.S.A. 10-1101 *et seq.* and K.S.A. 79-2935 *et seq.*

[Signatures on Following Pages]

**IN WITNESS WHEREOF**, the City and the Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

**CITY OF WICHITA, KANSAS**

By: \_\_\_\_\_  
Jeff Longwell, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jennifer Magaña, Director of Law  
and City Attorney

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SEDGWICK    )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared Jeff Longwell, personally known, who being by me duly sworn did say that he is the Mayor of the City of Wichita, Kansas, and that said instrument was signed and delivered on behalf of said municipal corporation and acknowledged to me that he executed the same as the free act and deed of said municipal corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

[SEAL]

**WICHITA DOWNTOWN HOTEL, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SEDGWICK    )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of Wichita Downtown Hotel, LLC, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

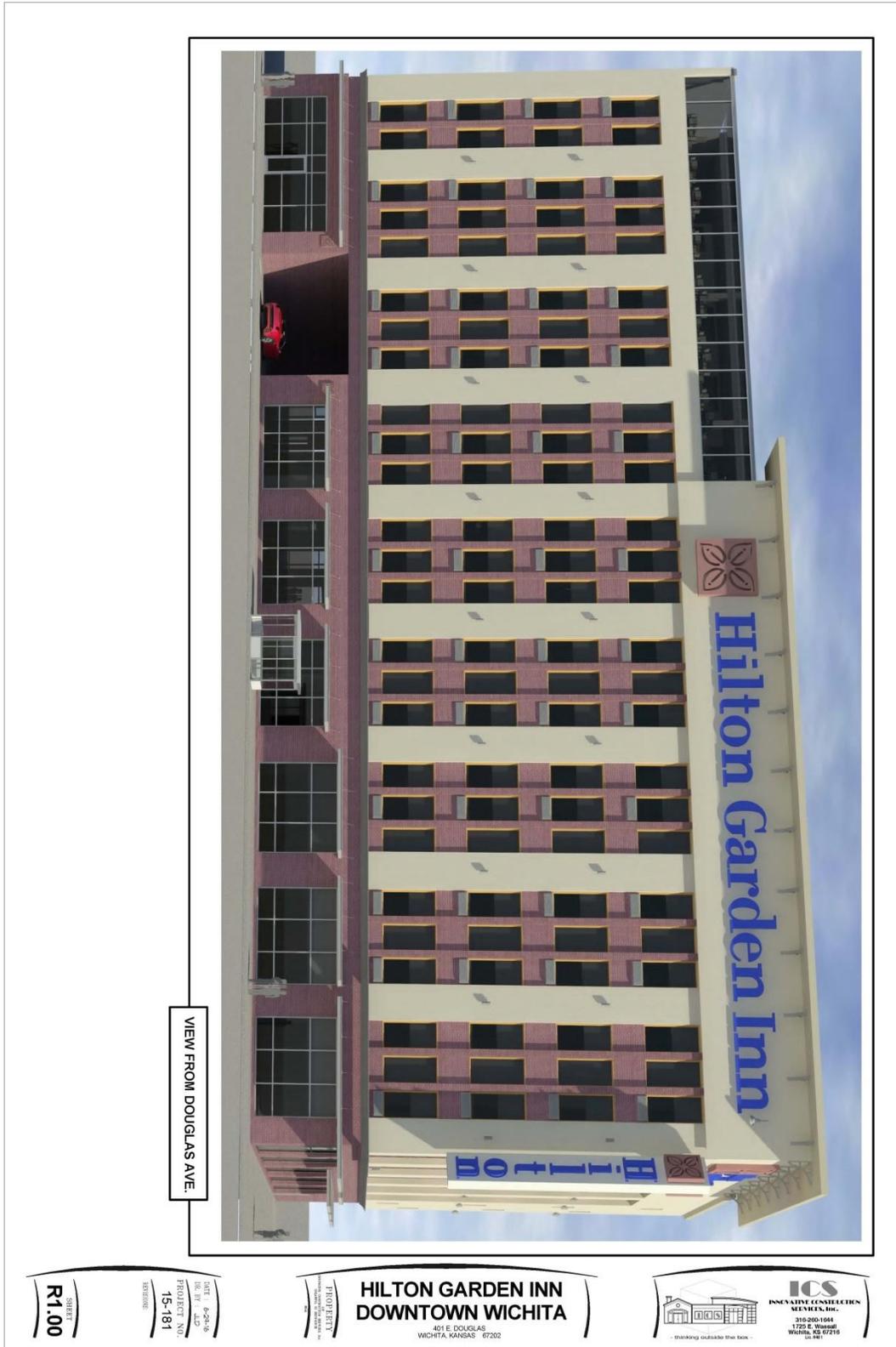
In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

[SEAL]

**EXHIBIT A**

**SITE PLAN**





VIEW FROM TOPEKA ST.

DATE: 04-06  
 BY: J.L. JLN  
 PROJECT NO.:  
 15-181  
 REVISIONS:

SHEET  
 R1.01

PROPERTY  
**HILTON GARDEN INN  
 DOWNTOWN WICHITA**  
 401 E. DOUGLAS  
 WICHITA, KANSAS 67202

ICS  
 INNOVATIVE CONSTRUCTION  
 SERVICES, INC.  
 310-260-1644  
 1726 E. Weymouth  
 Wichita, KS 67216  
 (L. 95)

- Thinking outside the box -



NIGHT VIEW FROM CORNER OF DOUGLAS & TOPEKA

DATE: 08-24-16  
 BY: R. L. J. J.  
 PROJECT NO.:  
 15-181  
 DRAWING NO.:  
 R1.02  
 SHEET

**HILTON GARDEN INN**  
**DOWNTOWN WICHITA**  
 401 E. DOUGLAS  
 WICHITA, KANSAS 67202

**ICS**  
 INNOVATIVE CONSTRUCTION SERVICES, INC.  
 318-265-1644  
 1728 E. Wansel  
 Wichita, KS 67218  
 US, INC.

- Bringing outside the box -

**EXHIBIT B**

**PROJECT MILESTONES AND SCHEDULE**

<b>Date</b>	<b>Obligation</b>
Forty-five days after Effective Date	Developer acquires title to the Property
Three months after Effective Date	Begin construction of the Hotel and Commercial Space
Fifteen months after start of construction	Certificate of Occupancy issued for the Hotel and Commercial Space
60 days after receipt of Certificate of Occupancy	Hotel will be open to public

**EXHIBIT C**

**CONSTRUCTION PLANS**

(to be incorporated upon completion)

## EXHIBIT D

### FORM OF CERTIFICATE OF FULL COMPLETION

The undersigned, Wichita Downtown Hotel, LLC (the “**Developer**”), pursuant to that certain Development Agreement dated as of September 16, 2016, between the City of Wichita, Kansas (the “**City**”) and the Developer (the “**Agreement**”), hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, 20\_\_\_\_, the construction, renovation, repairing, and equipping of the Project (as such term is defined in the Agreement) has been substantially completed in accordance with the Agreement, including but not limited to the completion of the required Hilton Garden Inn hotel consisting of at least 120 guest rooms, a minimum 2,500 square foot rooftop bar/restaurant, and a minimum 6,000 square feet of ground floor Class A commercial space, and all milestones and deadlines contained in the Project Schedule have been met.

2. The Project has been completed in a good and workmanlike manner and in accordance with the Construction Plans (as those terms are defined in the Agreement) and contains all components of the Project required by or described in the Agreement.

3. This Certificate of Full Completion is accompanied by the project architect’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein, certifying that the Project has been substantially completed in accordance with the Agreement.

4. This Certificate of Full Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer’s satisfaction of all obligations and covenants with respect to the Project.

5. The City’s acceptance (below) or the City’s failure to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the City (which written objection, if any, must be delivered to the Developer prior to the end of such 30-day period), and the recordation of this Certificate with the Sedgwick County Recorder of Deeds, shall evidence the satisfaction of the Developer’s agreements and covenants to construct the Project.

This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**DEVELOPER:**

**WICHITA DOWNTOWN HOTEL, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACCEPTED:**

**CITY OF WICHITA, KANSAS**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Insert Notary Form(s) and Legal Description]

**EXHIBIT E**

**HOTEL FLAG REQUIREMENT**

**SELECT SERVICE BRANDS**

Hilton Canopy  
Hilton Garden Inn  
Homewood Suites (Extended Stay)  
Marriott AC  
Marriott Courtyard  
Residence Inn  
SpringHill Suites  
Four Points  
Aloft  
Element (Extended Stay)  
Hyatt Place  
Hyatt House (Extended Stay)  
Staybridge Suites (Extended Stay)  
Cambria (Choice)

**3 DIAMOND FULL SERVICE BRANDS**

DoubleTree  
Embassy Suites  
Sheraton  
Radisson  
Crowne Plaza  
Holiday Inn

## **EXHIBIT F**

### **LAND USE RESTRICTIONS**

1. Adult Book and Video Stores
2. Community Correctional
3. Half-way Houses
4. Drug or Alcohol Rehabilitation
5. Used Car Lots
6. Multi-game, Casino-style Gambling
7. Commercial Billboards
8. Payday Lenders or similar short-term lending or check cashing institutions
9. Pawn Shop

**EXHIBIT G**

**FORM OF IRB LETTER OF INTENT**

[CITY LETTERHEAD]

[Date]

Wichita Downtown Hotel, LLC  
P.O. Box 781011  
Wichita, Kansas 67278  
Attention: Raju Sheth

Dear Mr. Sheth:

In accordance with the action taken at its regular meetings held on September 6, 2016 and September 13, 2016 to approve a Development Agreement dated as of September 16, 2016 (the “Development Agreement”) between the City of Wichita, Kansas (the “City”) and Wichita Downtown Hotel, LLC (the “Developer”), the Mayor of the City, on behalf of the governing body of such City, hereby tenders its written intent to issue an amount not to exceed \$14,000,000 in City of Wichita Taxable Industrial Revenue Bonds (Hilton Garden Inn Project) (the “Bonds”). Absent subsequent rescission or extension by action of the governing body, this intent to issue bonds will remain in effect for a period ending December 31, 2018. This letter of intent is an indication of the intent of the City to issue the proposed bonds, and is subject in all respects to the governing body’s final approval of the terms of the Bond Ordinance, Trust Indenture, Lease Agreement, Guaranty Agreement and other related documents. In the event that the proposed Bonds are not ultimately issued for any reason, the City shall not be deemed to have assumed or incurred any liability or obligation to the Developer or any other party by virtue of any proceedings or actions taken in connection therewith.

The purpose of the bond issue will be to enable the Developer to finance the cost of acquiring, constructing and equipping a Hilton Garden Inn Hotel with at least 120 guest rooms, 6,000 square feet of ground floor commercial space and a 2,500 square foot rooftop bar/restaurant to be located at the southeast corner of Douglas Avenue and Topeka Street in the City of Wichita, Kansas (the “Project”). The Project will be leased by the City to the Developer. The Developer has represented that a total capital investment of at least \$12,930,000 will be made in the project.

The City’s governing body has authorized an application for sales tax exemption with an estimated value of \$[\_\_\_\_\_]. The sales tax exemption is within the description of “public incentives” in the City’s Economic Development Incentive Policy, and will be fully subject to the ongoing compliance and repayment provisions of such policy.

This intent to issue bonds is given subject to the following conditions:

1. Preparation of an appropriate Bond Ordinance, which will contain a provision pledging the financed property and net earnings therefrom as security for payment of the bonds, pursuant to K.S.A. 12-1744.
2. Negotiation of a Lease Agreement which shall incorporate the following:
  - a) A provision prohibiting assignments or subleases made without the City’s consent;

- b) A provision regarding the Developer's option to purchase the project that states a firm option price and the obligation of the Developer to provide for payment of all other expenses related to the exercise of such option to purchase;
  - c) An agreement that the Developer will use and operate the project in accordance with all applicable environmental laws and regulations, and will indemnify and hold the City harmless from any and all liabilities (other than liabilities resulting from environmental contamination primarily caused by the City's own agents or employees) arising under any environmental law or regulation;
  - d) An agreement to obtain all insurance the City may require in connection with the construction, maintenance or operation of the project, or liabilities arising out of the operation of the project; and
  - e) An agreement requiring the Developer to comply with the ordinances of the City, as then in existence or as may thereafter be adopted, pertaining to civil rights and equal employment opportunity, as required by Section 2.12.950 of the Code of the City.
3. Execution of guarantees for the payment of the bonds (which, for the Developer, may be in the form of an unconditional guaranty incorporated in the Lease Agreement).
  4. An agreement by the Developer or other party to the transaction to pay all costs incurred by the City for processing the application to issue the bonds and in connection with the subsequent issuance of the bonds.
  5. An agreement by the Developer to enter into the City's Administrative Service Fee Agreement providing for annual payments of \$2,500 in each year that the bonds are outstanding.
  6. An agreement that, prior to the issuance of the bonds, the Developer will have an approved Equal Employment Opportunity/Affirmative Action Plan on file with the City.
  7. An agreement by the appropriate party to furnish to the City copies of any annual financial audits required by the City's economic development policies and procedures.
  8. An agreement that, prior to issuance of the bonds, the Developer will provide proof that all *ad valorem* property taxes on the project property which are due and owing up to the proposed date of issuance have been paid.
  9. An agreement that, prior to the issuance of the bonds, the Developer will obtain a suitable commitment for a policy of title insurance insuring the title of any real property conveyed to the City in connection with the financing.
  10. An arrangement (such as a Bond Purchase Agreement or a Bond Placement Agreement) for the sale/placement of the bonds which shall contain suitable indemnification agreements from the Developer and any underwriter indemnifying and holding the City harmless from liabilities arising from disclosure or registration provisions of state or federal securities laws.
  11. An agreement that the Developer will not, while any of the bonds are outstanding, have a commercial banking relationship with the trustee for the bond issue unless the purchasers of the bonds shall first acknowledge in writing the existence of the relationship and waive any conflict that might exist as a result of such relationship.
  12. Where the project involves the acquisition of any interest in real property, an agreement by the Developer to provide the City, at the time the Lease Agreement is submitted for review, an Environmental Site Assessment ("ESA") performed by an independent consultant

recognized as an expert in the area that documents the environmental condition of the property. Bonds generally will not be issued if the ESA discloses environmental conditions that might lead to monetary liability for owners or operators of the property.

13. An agreement to provide the City with documented evidence, prior to the issuance of the bonds, that the Developer used procedures that do not exclude qualified Minority-owned Business Enterprises (MBE) and Women-owned Business Enterprises (WBE) from serving as subcontractors, engineers, architects, suppliers and vendors on the bond-financed project;
14. An agreement that, prior to the issuance of the bonds, the Developer will have obtained approval from City staff of a proposed water conservation plan;
15. An agreement to submit building and site plans to the Design Council for review, and to modify the proposed design as necessary to comply with reasonable Design Council recommendations or conditions; and
16. If the project has not been completed at the time the bonds are issued, a performance bond naming the City and the bond trustee as additional insureds in an amount sufficient to secure completion of the project.
17. An agreement by the Developer to cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with the conditions contained in the resolution of intent, including any annual reports required of the Developer and any inspections of the Developer's premises or interviews with the Developer's staff;
18. An agreement that the Developer shall make any payment required as a condition of the resolution of intent, or which may be required as a contingent payment in the Lease in the event that certain conditions (including failure to comply with conditions of the resolution of intent or the City's Economic Development Incentive Policy) occur during the time period in which the bonds are outstanding, or in the event that the Developer's activities at the bond-financed facility are relocated or discontinued during a time period ending five years after the receipt of any public incentive.

As a guide for developing the Lease Agreement and Bond Ordinance, the Development Agreement, to the extent not inconsistent herewith, is incorporated as a part of this letter.

A copy of this letter is enclosed for your records. Please have the appropriate company representative sign and return the original to the City's Economic Development Office, 455 N. Main Street – 13th Floor, Wichita, Kansas 67202, to evidence the Developer's acceptance of the terms and conditions hereof.

Sincerely,

Jeff Longwell,  
Mayor

ATTEST:

---

Karen Sublett, City Clerk

ACCEPTED:

WICHITA DOWNTOWN HOTEL, LLC

By: \_\_\_\_\_  
Name:  
Title:

cc: Scot Rigby, Assistant City Manager  
Brian K. McLeod, Esq., Deputy City Attorney  
Kay Drennen, Water Conservation Analyst  
Chris Haislett, Department of Finance  
Donna Wright, MAMBDC  
John DeAngelo, City Arts  
Joe Norton, Esq., Bond Counsel  
[\_\_\_\_\_], Company Counsel

**EXHIBIT H**  
**PARKING AGREEMENT**

## PARKING AGREEMENT

**THIS PARKING AGREEMENT** (this “**Agreement**”), is made and entered into as of \_\_\_\_\_, 20[\_\_\_] (the “**Effective Date**”), by and among the **CITY OF WICHITA, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the “**City**”), and **WICHITA DOWNTOWN HOTEL, LLC**, a Kansas limited liability company (“**Developer**”) (the City and Developer are collectively referred to as the “**Parties**” and each a “**Party**”).

### RECITALS

A. A Declaration of Condominium of William Street Parking Condominium (the “**Declaration**”) dated July 30, 2003, was recorded with the Sedgwick County Register of Deeds on July 30, 2003 at Film 2747, Page 1153, forming the William Street Parking Condominium (the “**Condominium**”) to govern rights in the following described real property:

Lots 1, 3, 5, 7, 9 and 11, on Topeka Avenue, N.A English's Addition to the City of Wichita, Sedgwick County, Kansas, and Lots 2, 4, 6, 8, 10 and 12, on Emporia Avenue, N.A English's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of alley right-of-way described as the North-South 20 foot alley right-of-way between Topeka Avenue and Emporia Avenue from the north line of William Street to the South line of the East-West alley right-of-way south of Douglas abutting odd-numbered Lots 1 through 11, inclusive, on the west, and even-numbered Lots 2 through 12, inclusive, on the east in N.A. English's Addition to the City of Wichita, Sedgwick County, Kansas;

commonly referred to as being located at 121 South Emporia, Wichita, Sedgwick County, Kansas and consisting of a public parking garage structure (the “**Parking Garage**”).

B. The City and the Wichita Public Building Commission (the “**PBC**”) are each owners of Condominium units, granting them certain rights in the Parking Garage as set forth in the Declaration.

C. In consideration of rents to be paid and the covenants to be observed as herein set forth, and each and every one of them, the City, on behalf of itself and on behalf of the PBC with the PBC's consent, does hereby lease and rent to Developer, for the Term and under the conditions herein set forth, a portion of the Parking Garage.

D. The City and Developer have entered into a certain Development Agreement dated as of September 16, 2016 (the “**Development Agreement**”) regarding the development of property owned by Developer immediately north of the Parking Garage more particularly described as:

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS.

and having a street address of 401 E. Douglas, Wichita, Kansas (the “**Developer Property**”).

E. Pursuant to and as a condition of the Development Agreement, the City and certain other parties have agreed to allow Developer to construct a skywalk to connect the Parking Garage with the Hotel (as hereinafter defined) pursuant to the terms of a certain Skywalk Agreement (the “**Skywalk Agreement**”) as referenced in the Development Agreement.

F. Pursuant to and as a condition of the Development Agreement, the City has agreed to lease a portion of the Parking Garage to Developer for use by employees and overnight guests of the hotel located on the Developer Property (for purposes of this Agreement, the “**Hotel**”) in accordance with this Agreement.

**NOW, THEREFORE**, for and in consideration of the premises and rent provided herein and the mutual covenants and agreements recited herein, the Parties agree as follows:

1. **Leased Premises.** City leases to Developer for use by the Hotel’s employees and overnight guests, 90 parking stalls plus any applicable Additional Parking Stalls (as defined below) within the Parking Garage (the “**Leased Property**”). Any of the parking stalls in the Parking Garage may constitute Leased Property; the parking stalls will not be specifically designated or reserved. The Leased Property may be used on a come and go basis during the Term hereof.

(a) **Additional Parking Stalls Request.** No sooner than 6 months after the Effective Date, and then not sooner than 6 months following the previous request, Developer may request in writing to increase or decrease the number of parking stalls that comprise the Leased Property. Requests to increase or decrease the number of parking stalls will be made in increments of 5 parking stalls or a multiple thereof.

(b) **Approval of Additional Parking Stalls.** If the City agrees to modify the number of parking stalls that comprise the Leased Property, then the City will notify Developer in writing. The City’s consent to modify the number of parking stalls under this **Section 1** may not be unreasonably withheld, conditioned or delayed. Any additional parking stalls will be “Additional Parking Stalls.” Any reduced parking stalls will cease to be “Additional Parking Stalls.” The Leased Property will not consist of less than 90 or greater than 120 aggregate parking stalls at any time.

(c) **No Rent Proration.** If a parking stall is a part of the Leased Property for any portion of a month in which rent is due, Developer will pay rent for that stall as if it were available for the entire month. Rent will not be prorated based upon the number of days a parking stall is available in a billing month.

(d) **Skywalk Access.** In addition to any rights of the City to restrict access to the skywalk under the Skywalk Agreement or the Development Agreement, the City, in its sole discretion, may block access to the skywalk from the Parking Garage: (a) if an Event of Default occurs under this Agreement; or (b) upon expiration or termination of this Agreement.

2. **Term.** The Term of this Agreement will be the Initial Term and any exercised Renewal Terms.

(a) **Initial Term.** The “**Initial Term**” of this Agreement will commence on the Effective Date and continue until the twentieth anniversary of the Effective Date.

(b) **Renewal Terms.** The Parties may extend the Agreement for two additional “**Renewal Terms**” of five years each. In order to request the exercise of a Renewal Term, the Developer must give the City written notice of its request to exercise a Renewal Term at least 90 days prior to the expiration of the then current Term. If within 30 days after receipt of Developer’s request to exercise a Renewal Term, the City notifies the Developer in writing that it agrees to exercise the requested Renewal Term, then the requested Renewal Term will be exercised and the

Term of the Agreement extended. Otherwise, the requested Renewal Term will not be exercised and the Agreement will terminate upon the expiration of the then current Term.

3. **Rent.**

(a) **Periodic Rent.** As part consideration for this Agreement and as rent for the use of the Leased Property Developer agrees to pay City the amounts set forth on **Exhibit A** attached hereto for each parking space included in the Leased Property for the applicable time period. Rent will be payable without demand, deduction, discount, set-off and/or notice in advance in monthly installments and will be due on the first (1st) day of the lease Term and the monthly anniversary thereafter. All payments will be made by check or money order and will be made payable to the order of the: City of Wichita, Kansas. All payment installments will be mailed or hand delivered to the Office of Property Management, 13th Floor, City Hall, 455 North Main Street, Wichita, 67202 on or before each monthly due date, until and unless such address is changed as City may specify from time to time by written notice delivered as stated hereinafter. Developer will be responsible for a late fee equal to 5% of any rent not paid by the due date.

(b) **Additional Rent – Equipment.** As additional rent, upon request by the City, the Developer will promptly reimburse the City for any costs and expenses incurred by the City to accommodate Developer’s use of the Parking Garage, including but not limited to, the costs of any new or upgraded equipment required to extend the hours of operation of the Parking Garage or as may otherwise be required in connection with use of the Parking Garage by Hotel guests.

(c) **Additional Rent – Taxes.** As additional rent, in the event any ad valorem property taxes are levied against all or a portion of the Parking Garage as a result of Developer’s use of the Parking Garage under this Agreement, the Developer will be responsible for full payment of such taxes.

4. **Waiver of Breach.** Any waiver of any breach hereof or indulgence as to the payment of any installment of rent at any time, or from time to time, will not be and will not be construed to be a waiver of any subsequent breach or imply any future indulgence.

5. **Use of Premises.** The Leased Property may be used and occupied only for transient parking for Developer’s employees and overnight guests of the Hotel. Further, Developer will not use, or permit the Leased Property, or any part thereof, to be used for any purpose or purposes other than the purpose or purposes for which the Leased Property are hereby leased. Developer will not commit, or suffer to be committed, any waste upon the Leased Property and Developer further agrees not to connect with electric wires, water, gas or sewer pipes, or any apparatus, machinery or device without the consent of City.

Developer expressly recognizes that the Parking Garage is publicly owned and that the City desires that the Leased Property be used in such a manner that gives the appearance of impartiality in political campaigns and on public issues; as such Developer will not use the Leased Property for any partisan or political activity or for overt public activities that take a position on policy issues before the City and its agencies, provided that this provision shall not prevent Developer from taking positions in newsletters, correspondence, internal meetings, etc. that otherwise are in accordance with the purposes of the organization.

Developer will neither use nor occupy the Leased Property for any unlawful, disreputable or ultra hazardous business purpose or activity nor operate or conduct its business in a manner constituting a nuisance of any kind. Upon notice or discovery, Developer agrees to immediately take action and cease any activity or use in violation of this Agreement.

6. **Conduct of Business.** Developer will conduct its business, and control its agents, employees, and invitees in such a manner as not to create any nuisance, or interfere with, annoy or disturb other occupants, guests, neighbors, or the City in the management of the Parking Garage.

7. **Lessees Indemnification and Non-Liability of Lessor.** The City will not be liable to Developer or to Developer's employees, patrons, guests or visitors in or upon the Parking Garage for any damage to person or property caused or claimed to have been caused by the negligence of Developer, Developer's agents, employees, or invitees. Unless directly caused by the City's gross negligence, Developer agrees to save and hold the City harmless of and from any claim arising with respect to any portion of the Parking Garage (a) leased to Developer or (b) used by the Developer or the Developer's employees, patrons, guests, or visitors.

The City will not be liable or responsible for, and the Developer will save and hold the City harmless of and for, any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority or other matter beyond the reasonable control of the City, or for any damage or inconvenience which may arise through repair or alteration of any part of the Parking Garage, or failure to make repairs, or from any cause whatever except the City's gross negligence.

8. **Mutual Waivers of Subrogation.** Each party hereby waives any and all claims against the other party for any and all liability or responsibility for any loss, injury or damage to any person(s), the Parking Garage, the building or the contents thereof which may be caused by fire, casualty, accident, or otherwise during the Term of the Agreement if, but only if, and only to the extent that, such loss or damage is covered by and recoverable under valid and collectible insurance carried by the waiving party.

9. **Liens - Regulations.** Developer will not permit or suffer any lien or encumbrance to attach to the Parking Garage or any part thereof and will indemnify and save harmless the City against the same. Developer, its agents and employees, will be subject to any and all applicable rules, regulations, orders and restrictions which are now in force or which may be hereafter adopted by the City in respect to the operation and maintenance of the Parking Garage described herein. Further, Developer will comply with all laws and ordinances of the State of Kansas, the City, and any other applicable governing body.

10. **Signs and Awnings.** No sign, notice, awning, advertisement, picture or other inscription of any kind will be placed or put upon any portion of the Parking Garage without the prior written consent of the City, which may be withheld in the City's sole discretion.

11. **Ownership Representation.** Under no circumstances will Developer represent to any party that Developer is the owner of the Parking Garage or the agent or trustee of the City. Developer understands and agrees that no authorization to act for, on or in behalf of the City is granted to Developer.

12. **Nondiscrimination.** Developer agrees to comply with the requirements of City of Wichita Administrative Regulation #23, Nondiscrimination and Equal Opportunity Statement, which is marked *Exhibit B* hereto and incorporated herein.

13. **Assignment and Sublease.** Developer will not assign, sublet, or transfer in any way its rights under this Agreement, in whole or in part, without prior consent of the City, which may be withheld in the City's sole discretion.

14. **Destruction.** In the event of the destruction of the Parking Garage containing the Leased Property by fire, windstorm, or other cause, this Agreement will immediately terminate and cease unless

the City within ten (10) days thereafter notifies Developer in writing of the City's desire to continue the Agreement, in which event the City will be obligated to restore the Parking Garage in due and reasonable time to substantially its former condition except as to any property owned by Developer therein, and in that event the rent will be abated until the Parking Garage is restored to condition for occupancy. Slight or partial damage by fire, windstorm, or other cause, which does not render the building substantially unfit for use and occupancy will not affect the terms of this Agreement.

15. **Events of Default.** The following will be considered, for all purposes, to be defaults under and breaches of this Agreement by Developer:

(a) Any failure of Developer to pay any rent installment hereby reserved and such failure continues for a period of twenty (20) days from the date such rent is due.

(b) Failure of Developer to perform or observe any of the terms, provisions, conditions and covenants of this Agreement, other than the payment of rent, and such failure continues for a period of ten (10) days after written notice thereof to Developer.

(c) Developer becomes bankrupt or insolvent, or files or has filed against it a petition in bankruptcy, or for the reorganization or arrangement, or for the appointment of a receiver or trustee of all or a substantial portion of Developer's property, or Developer makes an assignment for the benefit of creditors.

(d) The Leased Property comes into the hands of any person other than is expressly permitted under this Agreement.

(e) An event of default occurs and is continuing under the terms of the Development Agreement or the Skywalk Agreement.

16. **Termination.** This Agreement will terminate without any further required notice upon occurrence of any of the following.

(a) The expiration of the Term of this Agreement or any extension thereof.

(b) Any default or breach of any covenants and provisions of the Agreement by Developer and failure to cure such breach by Developer after notice periods identified hereinbefore, in which case the City will be entitled to possession of the Leased Property, and the City may distrain for rent due and damages and recover possession of the Leased Property as provided by law.

(c) At any point after the Effective Date, a Hotel is not open and operating on the Developer Property (i) for a period of 30 consecutive days; or (ii) for at least 150 days in any period of 180 consecutive days.

17. **Enforceability.** No waiver by the City or Developer of any breach of any term, covenant or condition hereof will be deemed to be a waiver of the same, or subsequent breach of the same, or any other term, covenant or condition. The acceptance of rent by the City will not be deemed a waiver of any earlier breach by Developer of any term, covenant, or condition hereof, regardless of the City's knowledge of such breach, when such rent is accepted, unless the City specifically agrees thereto. No covenant, term or condition of this Agreement will be deemed waived by the City or Developer unless waived in writing.

18. **Binding on Parties.** This Agreement will be, jointly and severally, binding on the Parties hereto, their respective heirs, devices, permitted successors and permitted assigns.

19. **Notice.** All Developer correspondence, notices and demands to the City must be given in writing to:

Office of Property Management  
Attention: John C. Philbrick  
City Hall - 13th Floor  
455 North Main Street  
Wichita, Kansas 67202

With a copy to:

City of Wichita  
Department of Urban Development  
Attention: Scot Rigby  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: [srigby@wichita.gov](mailto:srigby@wichita.gov)

and

City of Wichita  
Department of Law  
Attention: City Attorney  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: [jmagana@wichita.gov](mailto:jmagana@wichita.gov)

All City correspondence, notices and demands to Developer must be given in writing to:

Wichita Downtown Hotel, LLC  
Attention: Raju Sheth  
1950 N. Timberwood  
Wichita, KS 67206

20. **Exhibits.** All of the exhibits referenced hereinabove are part of the Agreement as if fully set forth herein.

21. **Captions.** The captions contained in this Agreement are for convenience of reference only, and in not way limit or enlarge the terms and conditions of this Agreement.

22. **Severability.** If any clause or provision of the Agreement is determined to be illegal, invalid or unenforceable under present or future laws effective during the Term of this Agreement, then and in that event, it is the intention of the Parties that the remainder of this Agreement will not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as

similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

23. **Amendments.** This Agreement may not be altered, changed or amended, except by instrument in writing signed by the Parties.

24. **Applicable Law.** This Agreement is governed by the laws of the State of Kansas.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective as of the Effective Date.

**CITY OF WICHITA, KANSAS**  
(the “**City**”)

By \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

Approved as to form:

\_\_\_\_\_  
Jennifer Magana, City Attorney and  
Director of Law

**WICHITA DOWNTOWN HOTEL, LLC**  
(the “**Developer**”)

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**CONSENT TO PARKING AGREEMENT**

Subject to the terms of this Consent, the Wichita Public Building Commission (the “PBC”) consents to the Parking Agreement (the “Parking Agreement”) to be entered into between the City of Wichita (the “City”) and Wichita Downtown Hotel, LLC (the “Developer”) regarding use of the William Street Parking Condominium (the “Parking Garage”), entered into as a condition of that certain Development Agreement between the City and the Developer dated September 16, 2016.

The PBC will not: (a) be considered a party to any agreement between the City and Developer; (b) be responsible for any duties or obligations owed to Developer under any agreement; (c) be liable to Developer or to Developer’s employees, patrons, guests or visitors in or upon the Parking Garage for any damage to person or property; or (d) be liable or responsible for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority or other matter, or for any damage or inconvenience which may arise through repair or alteration of any part of the Parking Garage, or failure to make repairs, or from any cause whatever.

**WICHITA PUBLIC BUILDING COMMISSION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**

**RENT SCHEDULE**

<b><u>Time Period</u></b>	<b><u>Monthly Rent Due per Parking Space included in the Leased Property</u></b>
Effective Date to 5 <sup>th</sup> Anniversary <sup>1</sup>	\$35.00
5 <sup>th</sup> Anniversary to 10 <sup>th</sup> Anniversary	40.25
10 <sup>th</sup> Anniversary to 15 <sup>th</sup> Anniversary	46.29
15 <sup>th</sup> Anniversary to 20 <sup>th</sup> Anniversary	53.23
First Renewal Term	Market Rate <sup>2</sup>
Second Renewal Term	Market Rate <sup>2</sup>

<sup>1</sup> For purposes of this Rent Schedule, “Anniversary” means the applicable anniversary of the Effective Date.

<sup>2</sup> “Market Rate” means the quoted asking rate for monthly parking within the Parking Garage.

**EXHIBIT B**

**CITY OF WICHITA ADMINISTRATIVE REGULATION #23,  
NONDISCRIMINATION AND EQUAL OPPORTUNITY STATEMENT**

**EXHIBIT I**  
**SKYWALK AGREEMENT**

## SKYWALK AGREEMENT

**THIS SKYWALK AGREEMENT** (this “**Agreement**”), is made and entered into as of \_\_\_\_\_, 20[\_\_\_] (the “**Effective Date**”), by and among the **CITY OF WICHITA, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the “**City**”), the **WILLIAM STREET PARKING CONDOMINIUM ASSOCIATION** (the “**Association**”), and **WICHITA DOWNTOWN HOTEL, LLC**, a Kansas limited liability company (“**Developer**”) (the City and Developer are collectively referred to as the “**Parties**” and each a “**Party**”).

### RECITALS

A. Developer is the owner of the land and building at the southeastern corner of the intersection of East Douglas Avenue and South Topeka Street, Wichita, Kansas, having a street address of 401 E. Douglas, Wichita, Kansas 67202, and legally described as:

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH’S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS (the “**Developer Property**”).

B. A Declaration of Condominium of William Street Parking Condominium (the “**Declaration**”) dated July 30, 2003, was recorded with the Sedgwick County Register of Deeds on July 30, 2003 at Film 2747, Page 1153, forming the William Street Parking Condominium (the “**Condominium**”) to govern rights in the following described real property:

Lots 1, 3, 5, 7, 9 and 11, on Topeka Avenue, N.A English's Addition to the City of Wichita, Sedgwick County, Kansas, and Lots 2, 4, 6, 8, 10 and 12, on Emporia Avenue, N.A English's Addition to the City of Wichita, Sedgwick County, Kansas, together with that portion of alley right-of-way described as the North-South 20 foot alley right-of-way between Topeka Avenue and Emporia Avenue from the north line of William Street to the South line of the East-West alley right-of-way south of Douglas abutting odd-numbered Lots 1 through 11, inclusive, on the west, and even-numbered Lots 2 through 12, inclusive, on the east in N.A. English's Addition to the City of Wichita, Sedgwick County, Kansas;

commonly referred to as being located at 121 South Emporia, Wichita, Sedgwick County, Kansas and consisting of a public parking garage structure (the “**Parking Garage**”).

C. The City and the Wichita Public Building Commission (the “**PBC**”) are each owners of Condominium units, granting them certain rights in the Parking Garage as set forth in the Declaration.

D. The Association owns the common areas and certain rights in the Parking Garage as set forth in the Declaration.

E. Developer wishes to construct, use, operate, maintain, and repair a skywalk (“**Skywalk**”) for the movement of pedestrians from the Developer Property to the Parking Garage.

F. The Association and the City, on behalf of itself and on behalf of the PBC with the PBC's consent, agree to allow Developer to attach the Skywalk to the Parking Garage subject to the terms of this Agreement.

**NOW THEREFORE**, in consideration of the Association, the City, and the PBC allowing Developer to attach the Skywalk to the Parking Garage, and the City allowing Developer to build the Skywalk over City property, and for other such good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Skywalk Plans.** All plans for the construction of the Skywalk shall first be approved by the City Engineer and Developer shall first obtain all necessary permits, including a right-of-way use permit (which the City will not unreasonably withhold, condition, or delay), from the City prior to the commencement of construction of the Skywalk. The general location and approximate dimensions of the Skywalk are shown in *Exhibit A*.

2. **Skywalk Operation.** Subject to the terms of this Agreement, the City hereby grants to Developer, its successors, assigns, agents, employees and invitees, the right and easement to operate, maintain, and use the Skywalk as a pedestrian walkway for so long as the Skywalk is attached to the Parking Garage.

3. **Construction and Maintenance Costs; Indemnity.** Developer agrees to assume and pay all costs of construction and maintenance of the Skywalk. Developer will indemnify the Association, the City, and the PBC, from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees, resulting from, arising out of, or in any way connected with the construction, use, and operation of the Skywalk.

4. **Maintenance.** Developer shall provide for the maintenance, repair, management, operation and cleaning of the Skywalk. Developer shall also complete any reasonable repairs to the Skywalk required by the City. In the event that the City determines repairs to the Skywalk are necessary in order to protect public safety, health, and welfare, the City shall send written notice to Developer of the needed repairs. If a dispute arises over what constitutes "reasonable repairs," the Parties will submit the dispute to mediation within thirty (30) days after delivery of the City's written notice and prior to taking any other legal action. The rights of the City to require reasonable repairs under this Agreement are in addition to, and do not replace or diminish in any way, the City's rights to govern the Skywalk pursuant to the City's building code or other statutes, ordinances, or regulations applicable to the Skywalk. For clarity, the City will not be bound to mediate or stay normal enforcement proceedings for building code violations or other defects subject to statutes, ordinances, or regulations applicable to the Skywalk.

5. **Skywalk Ownership.** The Skywalk shall at all times and for all purposes be deemed to be owned by Developer.

6. **Insurance.** Developer shall obtain comprehensive general liability insurance against claims for personal injury, death, or property damage occurring upon, in, or about the Skywalk, and to the Parking Garage, except for injury, death, or damage caused by the gross negligence of the City, its employees, or agents, with a reliable insurance company authorized to do business in the State of Kansas, in an amount of One Million Dollars (\$1,000,000) per person or per occurrence and One Million Dollars (\$1,000,000) in respect to property damage. The policy shall name the City, the PBC and the Association as additional insured as their interests may appear and shall provide that such insurance cannot be canceled without thirty (30) days prior written notice of such cancellation to the City.

7. **Operating Costs.** Any costs of operation of the Skywalk, including, but not limited to all utilities shall be borne by Developer.

8. **Skywalk Access Restriction – Developer.** Developer shall have the absolute right at any time and from time to time to restrict access to the Skywalk for purposes of maintenance, cleaning, safety, or as it otherwise deems prudent or necessary.

9. **Skywalk Removal.** Developer shall have the absolute right at any time to close or remove the Skywalk, but must repair any damage to the Parking Garage caused by such removal so that the Parking Garage is restored to the same condition as it was prior to construction of the Skywalk.

10. **Skywalk Access Restriction – Parking Garage Owners.** In addition to any rights of the City to restrict access to the skywalk under the Development Agreement between the City and Developer dated September 16, 2016, or any parking agreement between the Developer, the City and any other owners of the Parking Garage, allowing the Developer to use parking stalls within the Parking Garage, the City, in its sole discretion, may block access to the Skywalk from the Parking Garage: (a) if an event of default occurs under this Agreement; (b) upon termination of this Agreement; or (c) if the City determines that continued access to and use of the Skywalk poses a threat to public safety, health, and welfare.

11. **Notice.** All notices to be given with respect to the Agreement shall be in writing. Each notice shall be by certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth below or at such address that either of the parties may from time to time designate in writing. Notices shall be provided as follows:

To the City:

Office of Property Management  
Attention: John C. Philbrick  
City Hall - 13th Floor  
455 North Main Street  
Wichita, Kansas 67202

With a copy to:

City of Wichita  
Department of Urban Development  
Attention: Scot Rigby  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: srigby@wichita.gov

and

City of Wichita  
Department of Law  
Attention: City Attorney  
City Hall, 13<sup>th</sup> Floor  
455 N. Main  
Wichita, Kansas 67202  
Email: [jmagana@wichita.gov](mailto:jmagana@wichita.gov)

To Developer:

Wichita Downtown Hotel, LLC  
Attention: Raju Sheth  
1950 N. Timberwood  
Wichita, KS 67206

12. **Applicable Law.** The laws of the State of Kansas shall govern the validity, performance and enforcement of this Agreement.

13. **Binding on Parties.** The covenants, terms and conditions of this Agreement shall be binding upon and inure to the benefit of heirs, personal representative, lessees, sublessees, successors, and assigns of the parties hereto.

14. **Covenants Run with the Land.** The covenants, terms, and conditions of this Agreement shall run with the land comprising the Developer Property and the Parking Garage, and shall further be binding upon and inure to the benefit of the owners in fee of said parcel of real estate and their respective heirs, personal representative, successors, and assigns.

15. **Assignment.** Each party herein may, along with a conveyance or assignment of all of its respective interest in the real property, assign its interest in this Agreement, and shall, from and after the effective date of such assignment, be free of any further liability under this Agreement. An assignment by either party of its interest in this Agreement shall not be effective until written notice thereof shall have been given to the other party.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective as of the Effective Date.

**CITY OF WICHITA, KANSAS**  
(the “City”)

By \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

Approved as to form:

\_\_\_\_\_  
Jennifer Magana, City Attorney and  
Director of Law

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SEDGWICK    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared Jeff Longwell, personally known, who being by me duly sworn did say that he is the Mayor of the City of Wichita, Kansas, and that said instrument was signed and delivered on behalf of said municipal corporation and acknowledged to me that he executed the same as the free act and deed of said municipal corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

[SEAL]

**WILLIAM STREET PARKING  
CONDOMINIUM ASSOCIATION**  
(the "Association")

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SEDGWICK    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of the William Street Parking Condominium Association, and that said instrument was signed and delivered on behalf of said association and acknowledged to me that he/she executed the same as the free act and deed of said association.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

[SEAL]

**WICHITA DOWNTOWN HOTEL, LLC**  
(the “Developer”)

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SEDGWICK    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of Wichita Downtown Hotel, LLC, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

[SEAL]

**CONSENT TO SKYWALK AGREEMENT**

Subject to the terms of this Consent, the Wichita Public Building Commission (the “PBC”) consents to the Skywalk Agreement (the “Skywalk Agreement”) to be entered into between the City of Wichita (the “City”), the William Street Parking Condominium Association (the “Association”) and Wichita Downtown Hotel, LLC (the “Developer”) regarding use of the William Street Parking Condominium (the “Parking Garage”), entered into as a condition of that certain Development Agreement between the City and the Developer dated September 16, 2016.

The PBC will not: (a) be considered a party to any agreement between the City, the Association and Developer; (b) be responsible for any duties or obligations owed to Developer under any agreement; (c) be liable to Developer or to Developer’s employees, patrons, guests or visitors in or upon the skywalk or Parking Garage for any damage to person or property; or (d) be liable or responsible for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority or other matter, or for any damage or inconvenience which may arise through repair or alteration of any part of the skywalk or Parking Garage, or failure to make repairs, or from any cause whatever.

**WICHITA PUBLIC BUILDING COMMISSION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**

**GENERAL LOCATION AND APPROXIMATE DIMENSIONS OF THE SKYWALK**







GossenLivingston

Architecture  
425 South Emporia  
Wichita, KS 67202  
Tel (316) 265-1387  
Fax (316) 265-5446



Walker Parking  
Consultants/Engineers, Inc.



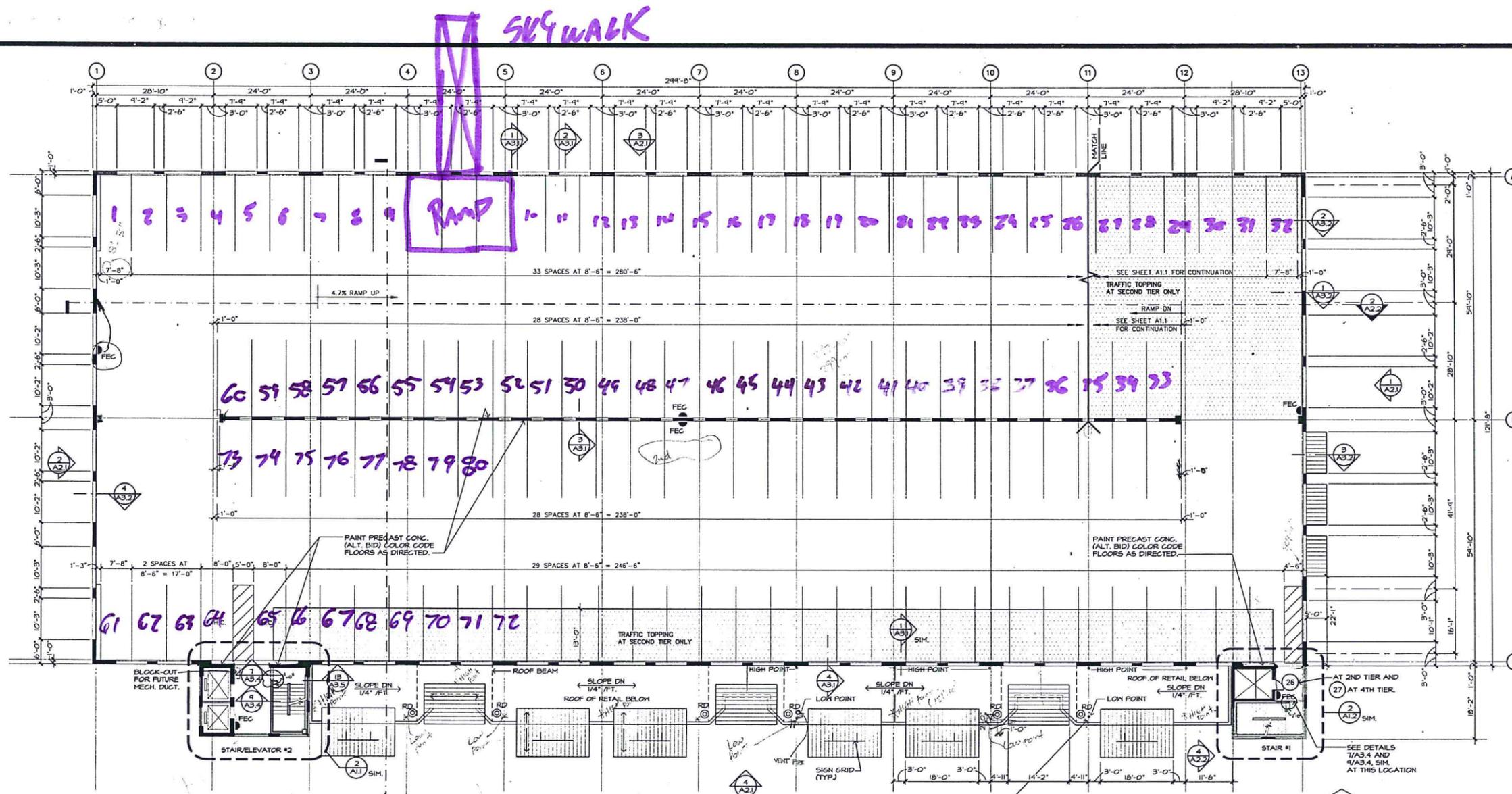
PROFESSIONAL  
ENGINEERING  
CONSULTANTS

# STATE OFFICE BUILDING PARKING GARAGE WILLIAM ST. BETWEEN EMPORIA AND TOPEKA WICHITA, KANSAS

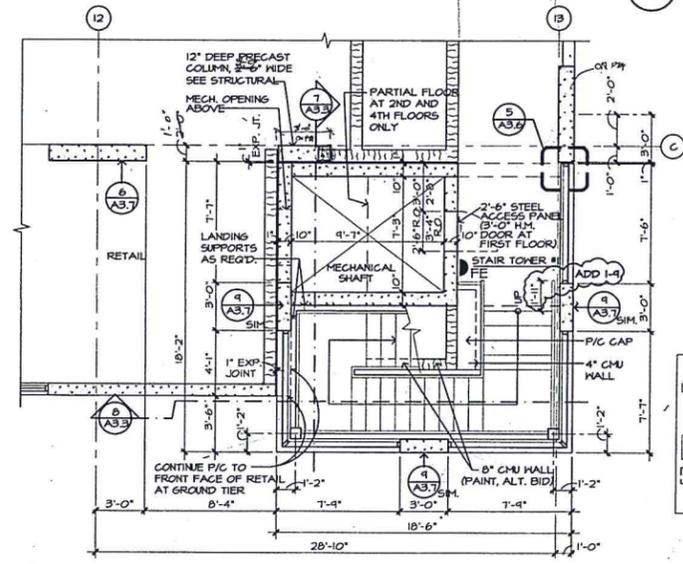
## TYPICAL TIER PLAN (2ND, 3RD, 4TH, AND ALTERNATE)

JOB NO. 017.010  
DATE 1/6/94  
DRAWN EBY  
CHECKED KRM

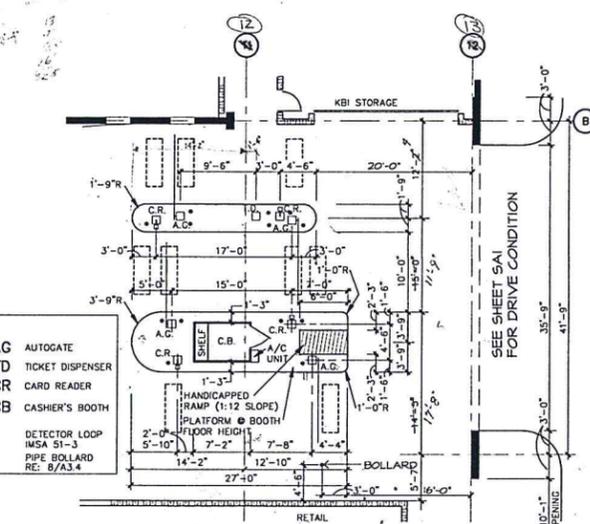
A1.2  
OF



1 TYPICAL TIER PLANS (2ND, 3RD, & 4TH)  
3/32"=1'-0" (ALTERNATE TIER SIMILAR TO TYP. TIERS)

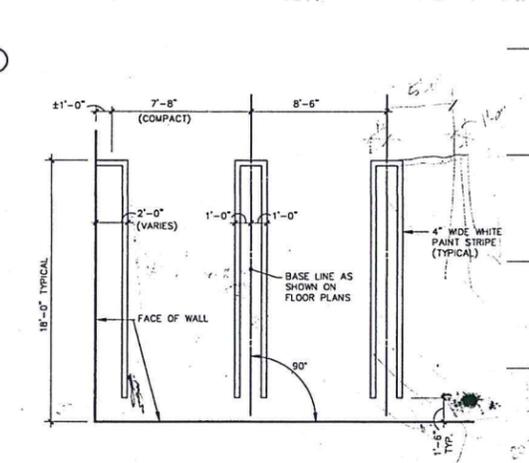


2 STAIR TOWER PLAN  
1/4"=1'-0"

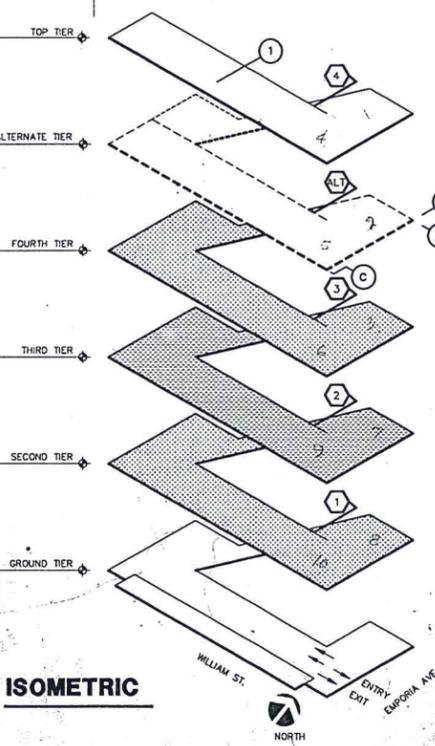


3 ENTRY/EXIT PLAN DETAIL  
1/8"=1'-0"

(TYP. DIMENSIONS & ELEVATIONS OF RETAIL BAYS:  
HIGH POINT OF STEEL ROOF BEAM AT RETAIL = EL. 121'-10 1/2"  
LOW POINT OF STEEL ROOF BEAM AT RETAIL = EL. 120'-2 1/2"



4 STRIPING DETAIL  
1/4"=1'-0"



ISOMETRIC

**EXHIBIT J**  
**CID PETITION**

COMMUNITY IMPROVEMENT DISTRICT PETITION

RECEIVED

AUG 09 '16

CITY CLERK OFFICE

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

- 1) The undersigned, Seneca Property LLC, as owner of record, whether resident or not, of 100% of the land area and 100% of the assessed value of the proposed community improvement district to be located within the City of Wichita, Kansas (the "City"), and Wichita Downtown Hotel, LLC, as contractor purchaser of such the real property, do hereby petition the City to create a community improvement district pursuant to the provisions of K.S.A. 12-6a26 *et seq.*, as amended (the "Act"). In furtherance of such request, the petitioners state in as follows:
  - (a) **General Nature of the Proposed Project:** The general nature of the proposed community improvement district project ("Project"), is the design, engineering, constructing, furnishing and equipping of a hotel, including a rooftop bar/restaurant and ground floor commercial space, together with related real property improvements, the City's administrative costs in establishing the District and other items permitted to be financed within the district under the Act.
  - (b) **Public Purpose:** The public purpose of the Project is to encourage significant economic activity in the City by refurbishing and expanding a vacant building in downtown. The project will increase the property tax value as well as continue the revitalization of the Douglas Avenue Corridor and Project Downtown.
  - (c) **Estimated Cost:** The total estimated cost of the Project is Fourteen Million Two Hundred Thousand Dollars (\$14,200,000), of which the maximum amount eligible for reimbursement is **Nine Hundred Thirty Thousand Dollars (\$930,000)** exclusive of the City's administrative costs. See attached "Exhibit A3" for a detailed budget.
  - (d) **Proposed Method of Financing:** The cost of the proposed Project is proposed to be financed by "Pay-as-you-go financing," as defined in the Act, and paid from the fund of the City identified in K.S.A. 12-6a34. The City will pay not to exceed \$930,000 to the developer and owner of the Project, or its successor(s) from the proceeds of the Sales Tax described below.
  - (e) **Proposed Amount of Sales Tax:** A community improvement district sales tax (the "Sales Tax") in the amount of 1.50% is proposed in the District for the purpose of financing the costs of the Project. It is proposed that the Sales Tax will expire 10 years from the date its collection begins.
  - (f) **Proposed Method and Amount of Assessment if any:** No assessments are proposed hereunder.

IN WITNESS WHEREOF, the undersigned petitioners have executed the above foregoing petition to create the district at the dates set forth opposite their respective signatures below:

SENECA PROPERTY, LLC  
By: [Signature]  
Name: Bradley R. Saville  
Title: MEMBER

STATE OF Kansas )  
COUNTY OF Sedgwick ) ss.

BE IT REMEMBERED that on this 10<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Bradley R. Saville, to me personally known, who being by me duly sworn did say that he is the Member of Seneca Property, LLC, and that the within instrument was signed and sealed on behalf of Seneca Property, LLC by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

8/12/2020

[SEAL]



[Signature: Kristy Biggs]  
Notary Public in and for said County and State

Print Name: Kristy Biggs

**Exhibit A-1**  
**Legal Description of District**

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

**Exhibit A-3**  
**Project Budget**

<u>Description</u>	<u>Cost</u>
Site Acquisition and Engineering	\$ 1,500,000
Demolition	\$ 250,000
Construction Hotel	\$ 6,250,000
Construction Retail	\$ 1,000,000
Furniture/Fixture Hotel/Retail	<u>\$ 3,000,000</u>
	Subtotal: \$ 12,000,000
	20% Contingency: <u>\$ 2,400,000</u>
	<b>Total: \$ 14,400,000</b>

(Published in the *Wichita Eagle* on August \_\_\_, 2016 and August \_\_\_, 2016)

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

**A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND THE PROPOSED LEVY OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 ET SEQ., AS MAY BE AMENDED.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping of buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

**WHEREAS**, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

**WHEREAS**, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the "Downtown Hilton CID"), the completion of a project relating thereto as more particularly described on **Exhibit A** attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

**WHEREAS**, the Petition was signed by the owner of all of the real property within the proposed Downtown Hilton CID and the contractor purchaser of such real property; and

**WHEREAS**, the proposed Downtown Hilton CID is located North of Kellogg Drive on the on the southeast corner of Douglas and Topeka Avenues within the City; and

**WHEREAS**, the petition proposes that the City impose a one percent (1.5%) CID Sales Tax within the Downtown Hilton CID which may be levied by ordinance following the hearing; and

**WHEREAS**, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the proposed CID Sales Tax within such district which may be levied by ordinance and shall give notice of said public hearing in accordance with the Act;

**ADOPTED AND APPROVED** by the governing body of the City of Wichita, Kansas, on \_\_\_\_\_, 2016.

(SEAL)

**CITY OF WICHITA, KANSAS**

By: \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

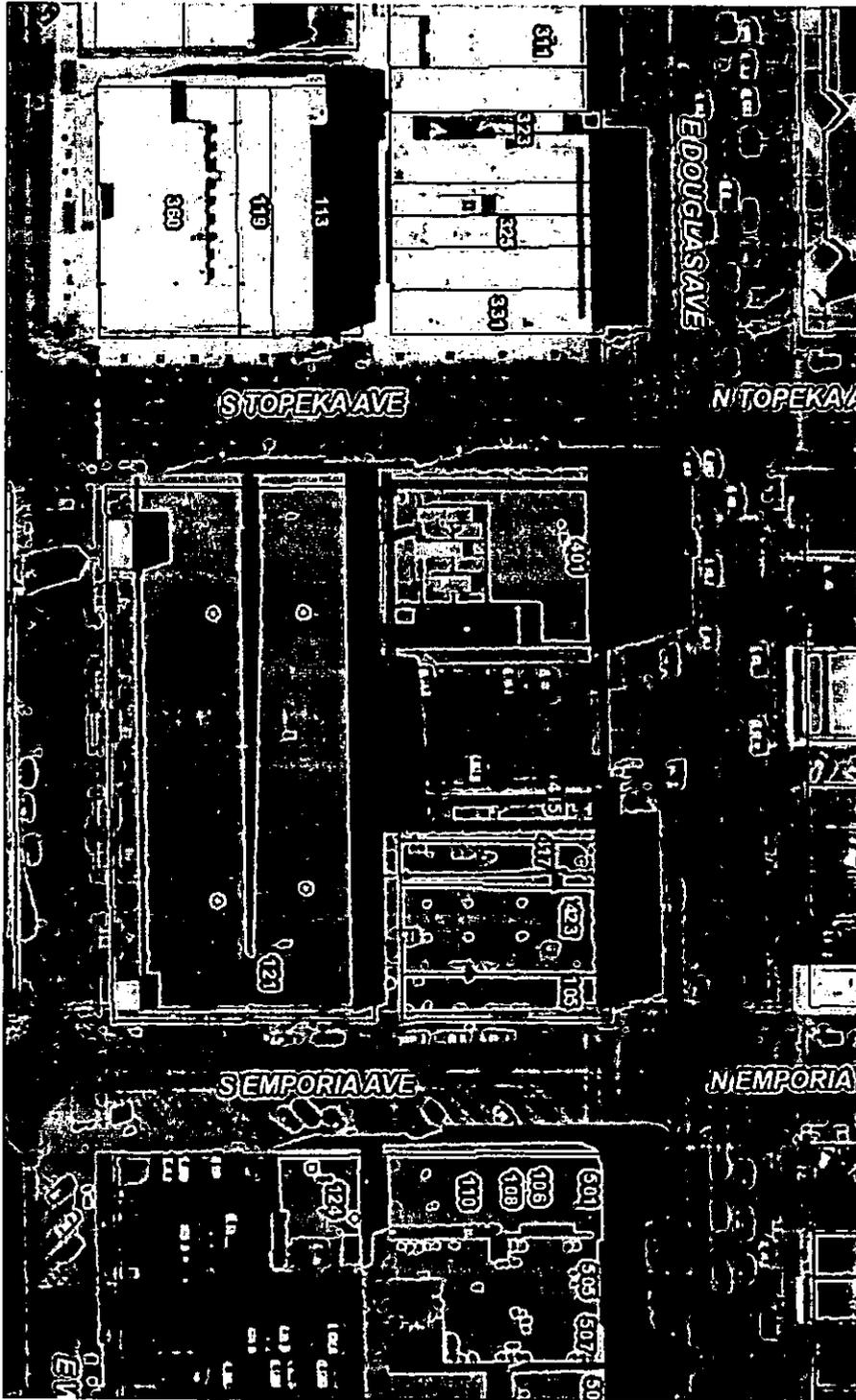
**CERTIFICATE**

I, hereby certify that the above and foregoing is a true and correct copy of Resolution No. \_\_\_\_\_ of the City of Wichita, Kansas, adopted by the governing body on \_\_\_\_\_, 2016, as the same appears of record in my office.

DATED: \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk

EXHIBIT B  
MAP OF DISTRICT



(Published in the *Wichita Eagle* on August 19, 2016 and August 26, 2016)

RESOLUTION NO. 16-217

**A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND THE PROPOSED LEVY OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AS MAY BE AMENDED.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping of buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

**WHEREAS**, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

**WHEREAS**, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the "Downtown Hilton CID"), the completion of a project relating thereto as more particularly described on **Exhibit A** attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

**WHEREAS**, the Petition was signed by the owner of all of the real property within the proposed Downtown Hilton CID and the contractor purchaser of such real property; and

**WHEREAS**, the proposed Downtown Hilton CID is located North of Kellogg Drive on the on the southeast corner of Douglas and Topeka Avenues within the City; and

**WHEREAS**, the petition proposes that the City impose a one and one-half percent (1.5%) CID Sales Tax within the Downtown Hilton CID which may be levied by ordinance following the hearing; and

**WHEREAS**, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the proposed CID Sales Tax within such district which may be levied by ordinance and shall give notice of said public hearing in accordance with the Act;

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

1. **Petition.** The Governing Body hereby finds that the Petition is in compliance with the provisions of the Act.

2. **Public Hearing.** Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Downtown Hilton CID and the imposition by the City of a one and one-half percent (1.5%) CID Sales Tax within the Downtown Hilton CID shall be held on September 6, 2016, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

3. **Description of the Project.** The general nature of the proposed community improvement district project ("Project"), is the design, engineering, construction, reconstruction, furnishing and equipping of a hotel, including a rooftop bar/restaurant and ground floor commercial space, together with related real property improvements, the City's administrative costs in establishing the District and other items permitted to be financed within the district under the Act.

4. **Estimated Costs of the Proposed Project.** The total estimated cost of the Project is Fourteen Million Two Hundred Thousand Dollars (\$14,200,000), of which the maximum amount eligible for reimbursement is Nine Hundred Thirty Thousand Dollars (\$930,000) exclusive of the City's administrative costs.

5. **Proposed Method of Financing.** The Project within the proposed Downtown Hilton CID will be financed on a pay-as-you-go basis from revenues received from the imposition of a one and one-half percent (1.5%) CID Sales Tax up to a maximum amount of \$930,000, plus the City's administrative costs, within the proposed Downtown Hilton CID. The tax is proposed to be limited to a ten-year period, even if the above-stated maximum amount has not then been raised. No assessments will be levied on property within the proposed Downtown Hilton CID.

6. **Boundaries of the Proposed Downtown Hilton CID.** A legal description of the proposed Downtown Hilton CID is set forth in **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Downtown Hilton CID is attached hereto as **Exhibit B** and incorporated herein by reference.

7. **Notice of Public Hearing.** Notice of such public hearing shall be given by publication of this Resolution once a week for two consecutive weeks in the official City newspaper, the last publication being not less than seven (7) days prior to the public hearing. In addition, the Clerk shall cause a copy of this Resolution by certified mail to all owners of property within the proposed District, such mailing to occur not less than ten (10) days prior to the public hearing

8. **Effective Date.** This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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8-16, 2016. ADOPTED AND APPROVED by the governing body of the City of Wichita, Kansas, on



CITY OF WICHITA, KANSAS

By Jeff Longwell  
Jeff Longwell, Mayor

ATTEST:

Karen Sublett  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña  
for Jennifer Magaña, City Attorney and Director of Law

CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of Resolution No. 16-217 of the City of Wichita, Kansas, adopted by the governing body on 8-16, 2016, as the same appears of record in my office.

DATED: 8-18, 2016.

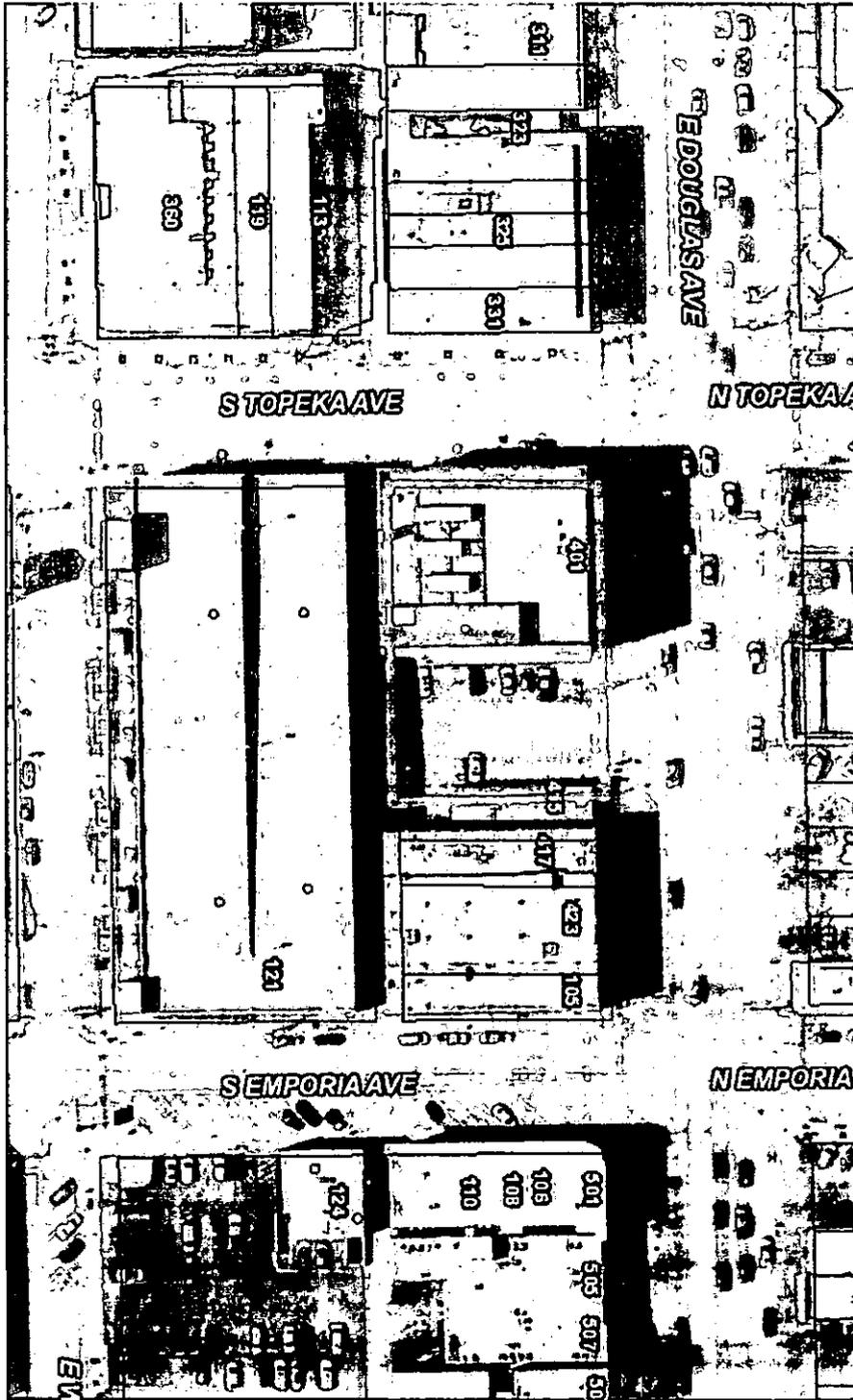
Karen Sublett  
City Clerk

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

EXHIBIT B  
MAP OF DISTRICT



JLN600809.70418\RESOLUTION CALLING HEARING (08-11-16)

(Published in the *Wichita Eagle* on August 19, 2016 and August 26 2016)

RESOLUTION NO. 16-217

**A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND THE PROPOSED LEVY OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 ET SEQ., AS MAY BE AMENDED.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping of buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

**WHEREAS**, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

**WHEREAS**, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the "Downtown Hilton CID"), the completion of a project relating thereto as more particularly described on **Exhibit A** attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

**WHEREAS**, the Petition was signed by the owner of all of the real property within the proposed Downtown Hilton CID and the contractor purchaser of such real property; and

**WHEREAS**, the proposed Downtown Hilton CID is located North of Kellogg Drive on the on the southeast corner of Douglas and Topeka Avenues within the City; and

**WHEREAS**, the petition proposes that the City impose a one and one-half percent (1.5%) CID Sales Tax within the Downtown Hilton CID which may be levied by ordinance following the hearing; and

**WHEREAS**, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the proposed CID Sales Tax within such district which may be levied by ordinance and shall give notice of said public hearing in accordance with the Act;

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

1. **Petition.** The Governing Body hereby finds that the Petition is in compliance with the provisions of the Act.

2. **Public Hearing.** Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Downtown Hilton CID and the imposition by the City of a one and one-half percent (1.5%) CID Sales Tax within the Downtown Hilton CID shall be held on September 6, 2016, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

3. **Description of the Project.** The general nature of the proposed community improvement district project ("Project"), is the design, engineering, construction, reconstruction, furnishing and equipping of a hotel, including a rooftop bar/restaurant and ground floor commercial space, together with related real property improvements, the City's administrative costs in establishing the District and other items permitted to be financed within the district under the Act.

4. **Estimated Costs of the Proposed Project.** The total estimated cost of the Project is Fourteen Million Two Hundred Thousand Dollars (\$14,200,000), of which the maximum amount eligible for reimbursement is Nine Hundred Thirty Thousand Dollars (\$930,000) exclusive of the City's administrative costs.

5. **Proposed Method of Financing.** The Project within the proposed Downtown Hilton CID will be financed on a pay-as-you-go basis from revenues received from the imposition of a one and one-half percent (1.5%) CID Sales Tax up to a maximum amount of \$930,000, plus the City's administrative costs, within the proposed Downtown Hilton CID. The tax is proposed to be limited to a ten-year period, even if the above-stated maximum amount has not then been raised. No assessments will be levied on property within the proposed Downtown Hilton CID.

6. **Boundaries of the Proposed Downtown Hilton CID.** A legal description of the proposed Downtown Hilton CID is set forth in **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Downtown Hilton CID is attached hereto as **Exhibit B** and incorporated herein by reference.

7. **Notice of Public Hearing.** Notice of such public hearing shall be given by publication of this Resolution once a week for two consecutive weeks in the official City newspaper, the last publication being not less than seven (7) days prior to the public hearing. In addition, the Clerk shall cause a copy of this Resolution by certified mail to all owners of property within the proposed District, such mailing to occur not less than ten (10) days prior to the public hearing

8. **Effective Date.** This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

8-16-, 2016. ADOPTED AND APPROVED by the governing body of the City of Wichita, Kansas, on



CITY OF WICHITA, KANSAS

By Jeff Longwell  
Jeff Longwell, Mayor

ATTEST:

Karen Sublett, MMC  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

Brian K. Magaña  
for Jennifer Magaña, City Attorney and Director of Law

CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of Resolution No. 16-217 of the City of Wichita, Kansas, adopted by the governing body on 8-16, 2016, as the same appears of record in my office.

DATED: 8-18, 2016.



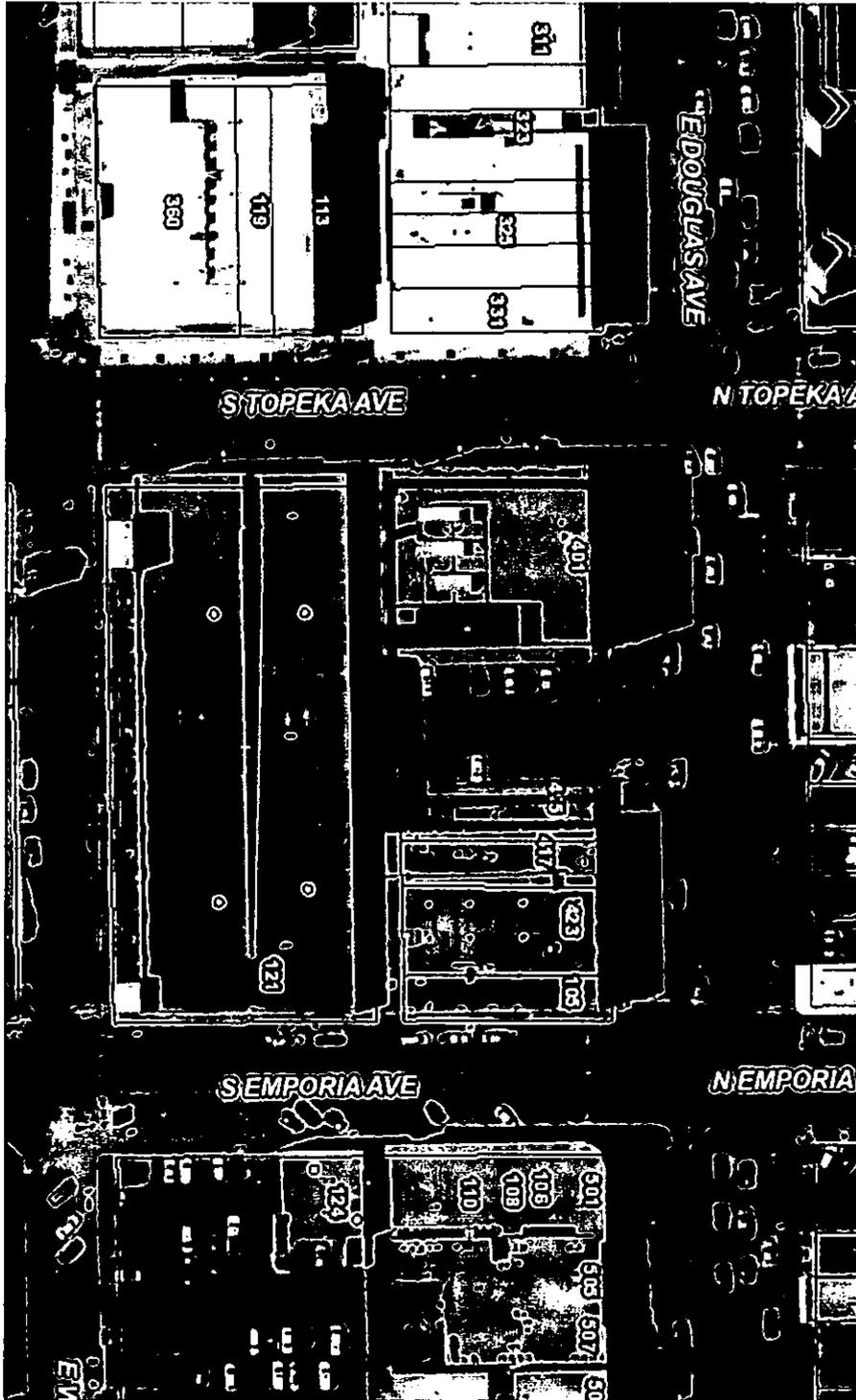
Karen Sublett  
City Clerk

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

EXHIBIT B  
MAP OF DISTRICT



**EXHIBIT K**

**LEGAL DESCRIPTION AND MAP OF DISTRICT**

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

Map of District

[District boundaries shown in bold outline.]



**EXHIBIT L**  
**PROJECT BUDGET/CID COSTS**

<b>Project Cost</b>	<b>Total Cost</b>	<b>CID Costs</b>
Building Demo	\$ 250,000	\$ 22,143
Construction – Hotel	6,250,000	553,571
Construction – Retail	1,000,000	88,572
Furniture, Fixtures, and Equipment	3,000,000	265,714
Contingency	<u>2,400,000</u>	<u>0</u>
<b>TOTAL</b>	<b>\$12,900,000</b>	<b>\$930,000</b>

**EXHIBIT M**

**FORM OF CERTIFICATION OF EXPENDITURES**

**CERTIFICATION OF EXPENDITURES**

Request No. \_\_\_\_\_

Date: \_\_\_\_\_

Pursuant to the Development Agreement (the “**Agreement**”) for the Wichita Downtown Hotel Community Improvement District between the City of Wichita, Kansas and the undersigned (the “**Developer**”), the Developer requests reimbursement and hereby states and certifies as follows:

1. The date and number of this request are as set forth above.
2. All terms in this request shall have and are used with the meanings specified in the Agreement.
3. The names of the persons, firms or corporations to whom the payments have been made and reimbursement is hereby requested, the amounts to be reimbursed and the general classification and description of the costs for which each obligation requested to be reimbursed hereby was incurred are as set forth on **Attachment I** hereto.
4. These costs have been incurred and are reasonable costs that are reimbursable under the Agreement.
5. Each item listed above has not been previously reimbursed from the CID Sales Tax Fund and no part thereof has been included in any other Certification of Expenditures or other disbursement request previously filed with the City.

**WICHITA DOWNTOWN HOTEL, LLC**

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

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**CITY OF WICHITA**

By: \_\_\_\_\_  
City Representative

**ATTACHMENT I  
TO CERTIFICATION OF EXPENDITURES**

REQUEST NO. \_\_\_\_\_

DATED \_\_\_\_\_

---

**SCHEDULE OF PAYMENTS REQUESTED**

Person, firm or corporation to whom payment was made	Amount to be reimbursed	General classification and description of the costs of issuance for which the Obligation to be reimbursed was incurred
---	----------------------------	---

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS  
HELD ON SEPTEMBER 6, 2016**

The governing body met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

The Mayor opened a public hearing for the purpose of receiving written or oral comments regarding the creation of the Downtown Hilton Community Improvement District and the imposition of a CID Sales Tax to be levied within said district. Thereafter, the Mayor adjourned the public hearing.

Thereupon, there was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CREATION OF A COMMUNITY  
IMPROVEMENT DISTRICT IN THE CITY OF WICHITA, KANSAS;  
AUTHORIZING THE REIMBURSEMENT OF CERTAIN ECONOMIC  
DEVELOPMENT PROJECT COSTS INCURRED WITHIN SAID DISTRICT;  
AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT  
DEVELOPMENT SALES TAX TO BE COLLECTED WITHIN SAID DISTRICT.**

Thereupon, Councilmember \_\_\_\_\_ moved that said Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. Said Ordinance was duly read and considered, and upon being put, the motion for the passage upon first reading of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Yea:

Nay:

\* \* \* \* \*

(Other Proceedings)

\* \* \* \* \*

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

---

City Clerk

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS  
HELD ON SEPTEMBER 13, 2016**

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

Thereupon, there was presented for second reading on the governing body's consent agenda an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CREATION OF A COMMUNITY  
IMPROVEMENT DISTRICT IN THE CITY OF WICHITA, KANSAS;  
AUTHORIZING THE REIMBURSEMENT OF CERTAIN ECONOMIC  
DEVELOPMENT PROJECT COSTS INCURRED WITHIN SAID DISTRICT;  
AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT  
DEVELOPMENT SALES TAX TO BE COLLECTED WITHIN SAID DISTRICT.**

Thereupon, Councilmember \_\_\_\_\_ moved that the consent agenda be passed. The motion was seconded by Councilmember \_\_\_\_\_. The motion that the consent agenda be passed, including final passage of said Ordinance, was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Ordinance was then duly numbered Ordinance No. 50-[\_\_\_\_], was signed by the Mayor and attested by the Clerk, and the Ordinance was directed to be published one time in the official newspaper of the City.

(Other Proceedings)

\* \* \* \* \*

**CERTIFICATE**

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

---

Karen Sublett, City Clerk

(Published in the *Wichita Eagle* on September 16, 2016)

**ORDINANCE NO. 50-314**

**AN ORDINANCE AUTHORIZING THE CREATION OF THE A COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF WICHITA, KANSAS; AUTHORIZING THE REIMBURSEMENT OF CERTAIN ECONOMIC DEVELOPMENT PROJECT COSTS INCURRED WITHIN SAID DISTRICT; AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT DEVELOPMENT SALES TAX TO BE COLLECTED WITHIN SAID DISTRICT.**

**WHEREAS**, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “Act”), cities are authorized to create community improvement districts as a method of financing economic development related improvements in a defined area within the city; and

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a city within the meaning of the Act; and

**WHEREAS**, a petition (the “Petition”) has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the “Downtown Hilton CID”), the completion of a project relating thereto as more particularly described below (the “Project”), and the imposition of a community improvement district sales tax as more particularly described below (the “CID Sales Tax”) in order to pay the costs of the Project; and

**WHEREAS**, the Petition was signed by the owner of all of the real property within the proposed Downtown Hilton CID and the contractor purchaser of such real property; and

**WHEREAS**, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district projects therein, and shall give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official city newspaper and by certified mail to all property owners within the proposed community improvement district, the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10) days prior to such hearing; and

**WHEREAS**, the City Council of the City (the “Governing Body”) adopted Resolution No. 16-217 on August 16, 2016 (the “Resolution”) directing that a public hearing on the proposed Downtown Hilton CID be held on September 6, 2016, declaring an intent to levy the CID Sales Tax, and directing the City Clerk to provide for notice of such public hearing as set forth in the Act; and

**WHEREAS**, the Resolution containing the following information: (a) the time and place of the hearing; (b) the general nature of the proposed Project; (c) the estimated costs of the proposed Project; (d) the proposed method of financing the costs of the Project; (e) the proposed amount of the CID Sales Tax; and (f) the map or boundary description of the proposed Downtown Hilton CID, was mailed (by certified mail) to all property owners within the proposed District on August 26, 2016, and published once each week

for two (2) consecutive weeks in the *Wichita Eagle*, the official City newspaper, on August 19, 2016 and August 26, 2016; and

**WHEREAS**, on September 6, 2016, the Governing Body conducted a public hearing (the “Public Hearing”) on the proposed Downtown Hilton CID, the proposed Project, maximum costs thereof and the imposition of the CID Sales Tax; and

**WHEREAS**, the Governing Body hereby finds and determines it to be advisable to create the Downtown Hilton CID, establish the boundaries thereof, authorize the Project, approve the estimated costs of such Project and approve the CID Sales Tax, all in accordance with the provisions of the Act.

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

**Section 1. Creation of District; Boundaries.** Based on the Petition and the information provided at the Public Hearing, the Governing Body hereby creates the proposed community improvement district within the City, which shall be designated as the Downtown Hilton Community Improvement District. The Downtown Hilton CID shall contain within its boundaries the real property legally described in *Exhibit A* attached hereto and the boundaries of which are contained in a map of the District attached as *Exhibit B* attached hereto.

**Section 2. Authorization of District Projects; Estimated Costs.** The Project to be undertaken within the Downtown Hilton CID consists of the design, engineering, construction, reconstruction, furnishing and equipping of a hotel, including a rooftop bar/restaurant and ground floor commercial space, together with related real property improvements, the City’s administrative costs in establishing the Downtown Hilton CID and other items permitted to be financed within the district under the Act. The total estimated cost of the proposed Project is \$14,200,000, of which not to exceed \$930,000, exclusive of the City’s administrative costs, shall be funded by the Downtown Hilton CID (collectively, the “Project Costs”).

**Section 3. Method of Financing.** In order to provide funds to finance the Project Costs, it is advisable to levy, in accordance with the provisions of the Act, the CID Sales Tax within the Downtown Hilton CID in an amount of 1.50% on the selling of tangible personal property at retail or rendering or furnishing taxable services within the Downtown Hilton CID. There will be no special assessments levied on property within the boundaries of the Downtown Hilton CID to pay the Project Costs. The Project will be privately financed. The Project Costs will be financed on a pay-as-you-go-basis, i.e., the Project Costs will be paid for by Wichita Downtown Hotel, LLC, as developer of the Project (the “Developer”) without the issuance of notes or bonds of the City pursuant to the Act. The Developer will be reimbursed for the Project Costs as moneys are deposited in the CID Sales Tax Fund for the Downtown Hilton CID through funds derived by the City from the collection of the CID Sales Tax. A CID Sales Tax Fund is hereby established for the Downtown Hilton CID in accordance with the provisions of the Act.

**Section 4. Levy of Sales Tax.** In order to provide funds to finance the Project Costs, the levy, in accordance the provisions of the Act, of a community improvement district sales tax within the Downtown Hilton CID, in an amount of 1.50% on the selling of tangible personal property at retail or rendering or furnishing taxable services within the Downtown Hilton CID, is authorized and directed. The collection of the CID Sales Tax shall commence no later than September 1, 2017, and shall expire 10 years from such commencement date, or when sufficient proceeds have been raised to cover the maximum amount of reimbursements plus the City’s administrative costs, whichever is earlier. The CID Sales Tax is limited to a ten-year period, even if the above-stated maximum amount has not then been raised. The CID Sales Tax shall be administered, collected and subject to the provisions of K.S.A. 12-187 *et seq.* and *Article V* of

the Development Agreement dated as of September 16, 2016 between the City and the Developer (the “Development Agreement”). The City Clerk shall provide a certified copy of this ordinance to the State Director of Taxation pursuant to K.S.A. 12-189 in accordance with the provisions of *Section 5.01* of the Development Agreement.

**Section 5. Effective Date.** This Ordinance shall be in force and take effect from and after its passage, approval and publication once in the official City newspaper.

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**PASSED** by the Governing Body of the City of Wichita, Kansas on September 13, 2016 and **SIGNED** by the Mayor.

(SEAL)

**CITY OF WICHITA, KANSAS**

By: \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

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**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on September 13, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that it was published in the *Wichita Eagle* on September 16, 2016.

DATED: September 16, 2016.

---

City Clerk

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***EXHIBIT A***  
**Legal Description of District**

LOTS 25, 27, 29, 31, 33, 35 AND 37, ON DOUGLAS AVENUE, IN N.A. ENGLISH'S ADDITION TO  
THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

**EXHIBIT B**  
**Map of District**



**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS  
HELD ON SEPTEMBER 6, 2016**

The governing body met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

Among other business, in accordance with a notice published on August 29, 2016, in the *Wichita Eagle*, a public hearing was held by the governing body relating to the proposed issuance of Taxable Industrial Revenue Bonds (Hilton Garden Inn Project) in the not to exceed principal amount of \$14,000,000 (the "Bonds"). All interested persons were afforded an opportunity to present their views on the issuance of the Bonds, and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT RELATED TO THE DEVELOPMENT OF A HOTEL FACILITY IN DOWNTOWN WICHITA.**

Thereupon, Councilmember \_\_\_\_\_ moved that said Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. Said Ordinance was duly read and considered, and upon being put, the motion for the passage upon first reading of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Yea:

Nay:

\* \* \* \* \*

(Other Proceedings)

\* \* \* \* \*

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

---

City Clerk

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS  
HELD ON SEPTEMBER 13, 2016**

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

Thereupon, there was presented for second reading on the governing body's consent agenda an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT  
AGREEMENT RELATED TO THE DEVELOPMENT OF A HOTEL FACILITY  
IN DOWNTOWN WICHITA.**

Thereupon, Councilmember \_\_\_\_\_ moved that the consent agenda be passed. The motion was seconded by Councilmember \_\_\_\_\_. The motion that the consent agenda be passed, including final passage of said Ordinance, was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Ordinance was then duly numbered Ordinance No. 50-[\_\_\_\_], was signed by the Mayor and attested by the Clerk, and the Ordinance was directed to be published one time in the official newspaper of the City.

(Other Proceedings)

\* \* \* \* \*

**CERTIFICATE**

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

---

Karen Sublett, City Clerk

(Published in the *Wichita Eagle* on September 16, 2016)

**ORDINANCE NO. 50-315**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT RELATED TO THE DEVELOPMENT OF A HOTEL FACILITY IN DOWNTOWN WICHITA.**

**WHEREAS**, Wichita Downtown Hotel, LLC, a Kansas limited liability company (the “Developer”), intends to develop the property located at the southeast corner of the intersection of Douglas Avenue and Topeka Street within the City through the design, engineering, constructing, reconstructing, furnishing and equipping of a hotel, including a Hilton Garden Inn franchise flag, at least 120 guest rooms, a minimum 2,500 square feet rooftop bar/restaurant, and a minimum 6,000 square feet of ground floor commercial space (the “Project”); and

**WHEREAS**, subject to certain conditions more particularly set forth in the Development Agreement herein authorized, the City agrees to incentivize the Project through the creation of a community improvement district, the issuance of industrial revenue bonds for the purposes of a sales tax exemption, the execution of a parking agreement and the execution of a skywalk agreement (collectively, the “Incentives”); and

**WHEREAS**, pursuant to the authority granted by Article 12, Section 5 of the Constitution of the State of Kansas, K.S.A. 12-6a26 *et seq.*, as amended, and K.S.A. 12-1740 *et seq.*, as amended, the City Council of the City (the “Governing Body”) hereby finds it necessary and desirable to enter into the Development Agreement with the Developer to formalize the construction and financing of the Project for the purposes described therein and set forth the conditions to the delivery of the Incentives by the City.

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

**Section 1. Approval of Development Agreement.** The Development Agreement between the City and the Developer relating to the Project is hereby approved in substantially the form presented to the Governing Body, with such changes as may be approved by the City Attorney. The Mayor is hereby authorized to execute the Development Agreement by and on behalf of the City and the City Clerk or Deputy City Clerk is hereby authorized to attest such signature.

**Section 2. Approval of Related Documents.** The Letter of Intent to issue industrial revenue bonds attached to the Development Agreement as *Exhibit G*, the Parking Agreement attached to the Development Agreement as *Exhibit H*, and the Skywalk Agreement attached to the Development Agreement as *Exhibit I*, are hereby approved in substantially the forms presented to the Governing Body, with such changes as may be approved by the City Attorney. The Mayor is hereby authorized to execute such related documents by and on behalf of the City and the City Clerk or Deputy City Clerk is hereby authorized to attest such signature.

**Section 3. Further Action.** The Mayor, City Clerk and other officials and employees of the City, including Gilmore & Bell, P.C., Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Ordinance, including execution on behalf of the City of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals.

**Section 4. Effective Date.** This Ordinance shall be in force and take effect from and after its passage, approval and publication once in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**PASSED** by the Governing Body of the City of Wichita, Kansas on September 13, 2016 and **SIGNED** by the Mayor.

(SEAL)

**CITY OF WICHITA, KANSAS**

By: \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on September 13, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that it was published in the *Wichita Eagle* on September 16, 2016.

DATED: September 16, 2016.

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City Clerk

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**City of Wichita  
City Council Meeting  
September 6, 2016**

**TO:** Mayor and City Council Members

**SUBJECT:** An Ordinance Creating Section 11.48.190 of the Code of the City of Wichita Pertaining to Bicycling Under the Influence (All Districts)

**INITIATED BY:** Wichita Police Department

**AGENDA:** New Business

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**Recommendation:** Place the ordinances on first reading.

**Background:** The City of Wichita defines “vehicle” as both human and mechanically operated devices. This definition has allowed the City of Wichita to charge bicyclists who drive under the influence of drugs or alcohol with DUI. The State of Kansas does not include human powered devices in the definition of vehicle, which precludes State charged DUI’s against bicyclists. The difference between State and City definitions of vehicle has made the prosecution of felonies more difficult. Defense attorneys have attempted to exclude City of Wichita DUI convictions because bicycle DUI’s do not count as priors in subsequent DUI charges. Defense attorneys have argued that every City of Wichita DUI is tainted due to the inconsistencies in definition. This problem can be resolved by adding a Bicycling Under the Influence charge separate from the DUI ordinance.

**Analysis:** The proposed ordinance will allow individuals operating the bicycle to be charged if they are under the influence to the extent they are a traffic or safety hazard. If convicted, the violation would not appear as a DUI on the person’s driving history. The bicyclist can request testing and the officer will be required to administer a test by breath or blood. Testing however, is not required by the officer to establish the charge.

This item was presented to the Pedestrian Advisory Board on August 8, 2016. One issue of concern raised was the proposed penalty for the offense. The board voted to approve the penalty contained in the ordinance, which is a misdemeanor, with a maximum of six months in jail and a fine not to exceed five hundred dollars. Unlike a DUI, there is no minimum jail term required to be served. The option to impose jail time gives the judge the ability to place a person on probation if he or she finds there is restitution or if the defendant needs drug/alcohol treatment.

**Financial Considerations:** None.

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

**Recommendation/ Actions:** It is recommended that the City Council place the ordinance on first reading and authorize the necessary signatures.

**Attachment:** Proposed ordinance.

First Published in The Wichita Eagle on September 16, 2016

CLEAN  
OCA #083303

07/27/15

ORDINANCE NO.316

AN ORDINANCE CREATING CHAPTER 11.48.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO BICYCLING UNDER THE INFLUENCE OF DRUGS AND/OR ALCOHOL.

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

SECTION 1. The title to Chapter 11.48.190 of the Code of the City of Wichita, Kansas, shall read as follows:

**“Chapter 11.48.190 Bicycling Under the Influence of Drugs and/or Alcohol”**

SECTION 2. Section 11.48.190 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

1. No person shall ride or attempt to ride a bicycle on any sidewalk, street, roadway, highway, or public path set aside for the exclusive use of pedestrian and bicycle traffic, including all public parks and playgrounds or other property under the ownership, jurisdiction or control of the City, the Board of Park Commissioners or any other agency created to provide a public service, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug to a degree which renders such person a hazard.
2. Any person arrested for a violation of this section may request to have a chemical test made of the person's blood, breath, or urine for the purpose of determining the alcoholic or drug content of that person's blood, and, if so requested, the arresting officer shall have discretion as to the appropriate test to be performed.

3. Any person, who, within the corporate limits of the City of Wichita, violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by six (6) month's imprisonment, or by both such fine and imprisonment.

SECTION 3. 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 13th day of September, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magana, City Attorney and  
Director of Law

**City of Wichita  
City Council Meeting  
September 6, 2016**

**TO:** Mayor and City Council Members  
**SUBJECT:** Ordinance Amendment to Sections 11.04.400, 11.28.030, 11.60.030, 11.60.330 of the Code of the City of Wichita Pertaining to Traffic (All Districts)  
**INITIATED BY:** Wichita Police Department  
**AGENDA:** New Business

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**Recommendation:** Place the ordinances on first reading.

**Background:** A number of Wichita ordinances do not match state law. While this is not always an issue, it can cause confusion for citizens and make cases more difficult to prosecute.

11.04.400: Definition of vehicle.

- State statute does not include human powered vehicles or electric wheelchairs/scooters.
- Wichita ordinance defines vehicles as human powered.
- A DUI can be charged on a bicycle in City but not in State court.
- Defense attorneys have moved to strike City of Wichita DUI priors in district court because it may have been on a bicycle, which would not count as a prior.
- DUI's on bicycles in Wichita carry no negative impact on driver's license with the state.
- The Bicycle/Pedestrian Review Board voted in favor of supporting this amendment.

11.28.030: Turn ordinance.

- Current City ordinance adds the term "at an intersection" to how turns should be made.
- State law mandates a turn must be made closest to the curb regardless of where the turn occurs.
- City of Wichita officers have charged DUI's with the reason for stop being a turn in violation of state law but not city law which leads to extensive litigation.
- Wide turns cause accidents whether the turns are at an intersection or out of a private drive.
- The ordinance is updated to include procedures at double turn lanes, which it currently lacks. For double turn lanes to be safe, officers need to enforce that each vehicle must remain in its own lane and complete the turn in the original lane.

11.60.030: Lighting headlamps.

- City ordinance has long contained an error which states lights must be on "at any time from a half hour after sunset to a half hour before sunrise."
- Officers stop cars at sunset only to learn in court the case must be dismissed because of the error.

11.60.330 Motorcycle handlebars and footrests.

- State law repealed its restriction on the type of handlebars and footrests allowed on a motorcycle.
- City ordinance bans “ape” style bars which places the grips above shoulder height.
- Current City ordinance also requires footrests for passengers when state law does not.

**Analysis:** All changes will create congruity between City ordinance and state statute. It will reduce confusion of officers, citizens, prosecutors, and judges.

**Financial Considerations:** None.

**Legal Considerations:** The ordinances have been prepared and approved as to form by the Law Department.

**Recommendation/ Actions:** It is recommended that the City Council place the ordinances on first reading and authorize the necessary signatures.

**Attachments:** Proposed new ordinances.

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED  
OCA #083303

4/5/16

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

AN ORDINANCE AMENDING SECTION 11.04.400 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO VEHICLES AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.04.400 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Sec. 11.04.400. - Vehicle.**

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except *electric personal assistive mobility device or devices moved by human power or* used exclusively upon stationary rails or tracks.

SECTION 2. The original of Section 11.04.400 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 \_\_\_\_\_, 2016.

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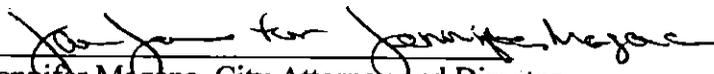
Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

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Karen Sublett, City Clerk

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Jennifer Magana, City Attorney and Director  
of Law

First Published in The Wichita Eagle on September 16, 2016

CLEAN  
OCA #083303

4/5/16

ORDINANCE NO. 50-317

AN ORDINANCE AMENDING SECTION 11.04.400 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO VEHICLES AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.04.400 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Sec. 11.04.400. - Vehicle.**

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive mobility device or devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION 2. The original of Section 11.04.400 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 13th day of September, 2016.

---

Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

---

Karen Sublett, City Clerk

---

Jennifer Magana, City Attorney and Director  
of Law

DELINEATED  
OCA #083303

4/5/16

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

AN ORDINANCE AMENDING SECTION 11.28.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PROCEDURE AT INTERSECTION AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.28.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 11.28.030. ~~Procedure at intersection.~~ *Required position and method of turning vehicles.*

(a) The driver of a vehicle intending to turn ~~at an intersection~~ shall do so as follows:

(a)——(1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b)——(2) *Left turns.* The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, a left turn at an intersection shall be made to the left of the center of the intersection, and any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(b) *Two-way left turn lanes.* Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices: (1) A left turn shall not be made from any other lane; (2) a vehicle shall not be driven in the lane except when preparing

*for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by the law.*

(c) The governing body may cause official traffic control devices to be placed ~~within or adjacent to intersections~~ and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning ~~at an intersection~~, and when such devices are so placed no driver of a vehicle shall turn a vehicle ~~at an intersection~~ other than as directed and required by such device.

SECTION 2. The original of Section 11.28.030 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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.

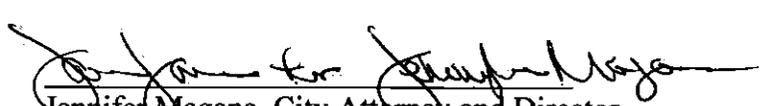
PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

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

  
\_\_\_\_\_  
Jennifer Magana, City Attorney and Director  
of Law

CLEAN  
OCA #083303

4/5/16

ORDINANCE NO. 50-318

AN ORDINANCE AMENDING SECTION 11.28.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PROCEDURE AT INTERSECTION AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.28.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 11.28.030. Required position and method of turning vehicles.

(a) The driver of a vehicle intending to turn shall do so as follows:

(1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) *Left turns.* The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, a left turn at an intersection shall be made to the left of the center of the intersection, and any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(b) *Two-way left turn lanes.* Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices: (1) A left turn shall not be made from any other lane; (2) a vehicle shall not be driven in the lane except when preparing

for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by the law.

(c) The governing body may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning, and when such devices are so placed no driver of a vehicle shall turn a vehicle other than as directed and required by such device.

SECTION 2. The original of Section 11.28.030 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 13th day of September, 2016.

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Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

---

Karen Sublett, City Clerk

---

Jennifer Magana, City Attorney and Director of Law

DELINEATED  
OCA #083303

4/5/16

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

AN ORDINANCE AMENDING SECTION 11.60.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO LIGHTING HEADLAMPS – WHEN AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.60.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 11.60.030. Lighting headlamps—When.

(a) Every ~~motor~~ vehicle, *except as provided in subsection (b)*, upon a highway within this city ~~at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernable at a distance of one thousand feet ahead, at all times shall display lighted head and other lamps and illuminated~~ *illuminating* devices as ~~hereinafter~~ required for different classes of vehicles, subject to exceptions with respect to parked vehicles: ~~and, further, that stoplights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices.~~

(1) *From sunset to sunrise*

(2) *When due to insufficient light or unfavorable atmospheric conditions, including smoke or fog, persons and vehicles on the street or highway are not clearly discernible at a distance of 1,000 feet ahead; or*

(3) *When windshield wipers are in continuous use as a result of rain, sleet, or snow.*

(b) ~~Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, the provision shall apply during, the time stated in subsection (a) of this section in respect to a vehicle without load upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.~~

*Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and tail lights at all times that such vehicles are operated on any street or highway.*

(c) Whenever in this chapter requirement is declared as to the mounted height of lamps or devices, it means from the center of such lamp or device to the level ground on which the vehicle stands when such vehicle is without a load.

SECTION 2. The original of Section 11.60.030 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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.

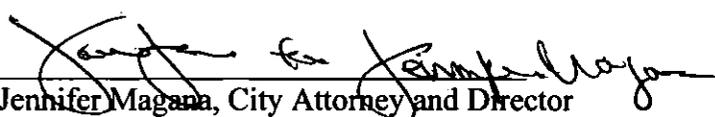
PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

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

  
\_\_\_\_\_  
Jennifer Magana, City Attorney and Director  
of Law

CLEAN  
OCA #083303

4/5/16

ORDINANCE NO. 50-319

AN ORDINANCE AMENDING SECTION 11.60.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO LIGHTING HEADLAMPS – WHEN AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 11.60.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Sec. 11.60.030. Lighting headlamps—When.

(a) Every vehicle, except as provided in subsection (b), upon a highway within this city shall at all times display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles.

(1) From sunset to sunrise;

(2) When due to insufficient light or unfavorable atmospheric conditions, including smoke or fog, persons and vehicles on the street or highway are not clearly discernible at a distance of 1,000 feet ahead; or

(3) When windshield wipers are in continuous use as a result of rain, sleet, or snow.

(b) Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and tail lights at all times that such vehicles are operated on any street or highway.

(c) Whenever in this chapter requirement is declared as to the mounted height of lamps or devices, it means from the center of such lamp or device to the level ground on which the vehicle stands when such vehicle is without a load.

SECTION 2. The original of Section 11.60.030 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 13th day of September, 2016.

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Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

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Karen Sublett, City Clerk

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Jennifer Magana, City Attorney and Director  
of Law

OCA #083303

3/17/2016

ORDINANCE NO. 50-320

AN ORDINANCE REPEALING THE ORIGINAL OF SECTION 11.60.330 OF THE CODE OF THE CITY OF WICHITA, PERTAINING TO MOTORCYCLES – FOOTRESTS AND HANDLEBARS.

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

SECTION 1. The original of Section 11.60.330 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its passage and publication in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 13th day of September, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer L. Magaña  
City Attorney and Director of Law

**City of Wichita  
City Council Meeting  
September 6, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Amendment to Agreement for I.A.T.S.E. Local 190 (All Districts)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New Business

**Recommendation:** Approve the Amendment to the Agreement for International Alliance of Theatrical Stage Employees (I.A.T.S.E. Local 190).

**Background:** In April of 1991, the City entered into an agreement with the I.A.T.S.E. Local 190 which outlined the nature of work, wages and hours of service for stagehand employees for Century II. In 2010, these fees were increased to their current rates. The I.A.T.S.E. Local 190 has requested an increase in current fees to cover the additional costs for workers compensation, liability and unemployment insurance. I.A.T.S.E. has also requested the addition of a new section entitled “Grievance and Arbitration Procedure,” which outlines how breaches of a specific provision of the Agreement are to be processed.

**Analysis:** Rates at Century II for theatrical and performing services employees have not increased in the past six years. In order for Century II to remain competitive with other facilities and to retain skilled theatrical stagehand services for its clients, negotiation with the I.A.T.S.E. Local 190 to establish competitive rates was recently completed. The Amendment changes Section V of the original agreement regarding wages, increasing the percentage in the first sentence from 25.5% to 27.5%. The following rates would apply upon signing by the Union and adoption by the Wichita City Council.

Current Rates	Head	Assistant	Rigger
Hourly rate	\$20.66	\$18.86	\$ 37.54
Performance fee	\$69.13	\$63.10	\$125.60
Performance hourly fee	\$23.04	\$21.03	\$ 41.87
New Rates	Head	Assistant	Rigger
Hourly rate	\$24.50	\$22.50	\$ 44.50
Performance fee	\$82.00	\$74.50	\$149.00
Performance hourly fee	\$27.33	\$21.03	\$ 41.87

New procedures outlining how grievances are to be handled support increased communication between I.A.T.S.E and Century II staff. From the time of any alleged occurrence that gives rise to a grievance, the complaining party will have 15 business days to submit the grievance in writing. Once a grievance is received, the responding party will then have ten business days to respond in writing. Grievances not

resolved will be referred for arbitration with cost to be shared equally by the parties. Providing clear guidelines for all grievances will ensure they are handled in a fair and consistent manner.

**Financial Considerations:** Implementation of the new rates will result in the above hourly rates being charged to Century II clients. These fees are paid directly to the I.A.T.S.E. Local 190 and are not part of the Century II fee structure.

**Legal Considerations:** The Law Department has approved the Amendment to the Agreement as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Amendment to the Agreement for International Alliance of Theatrical Stage Employees (I.A.T.S.E. Local 190) and authorize the necessary signatures

**Attachments:** Original Agreement between City and I.A.T.S.E. 190  
Amendment to Agreement between City and I.A.T.S.E. 190

Effective 4.15.91.

4/8/91

1

AGREEMENT

THIS AGREEMENT is entered into by and between the City of Wichita, Kansas, hereinafter referred to as "City" and Local 190 of the International Alliance of Theatrical Stage Employees, hereinafter referred to as "Local 190."

WITNESSETH:

WHEREAS, City operates the Century II facility, hereinafter referred to as "Auditorium;" and

WHEREAS, Local 190 is a labor organization of theatrical employees whose members are skilled in performing the services necessary for presentations to be exhibited in the Auditorium; and

WHEREAS, the producers of such presentations should be informed of the labor costs which they will incur for skilled theatrical employees in the job classifications that the producer will need to properly exhibit a presentation.

NOW, THEREFORE, IT IS AGREED:

SECTION 1 - DEFINITIONS

As used in this Agreement, the following words shall have these meanings:

"Director" shall be the Century II Director appointed by the City Manager of City.

"Performance" shall be the art of exhibiting or presenting to the general public or a particular audience a presentation.

"Producer" shall include any entity, whether it be a person, group of persons, association, firm or corporation that undertakes a presentation at the Auditorium.

"Theatrical Employee" shall include those employees referred by Local 190 of the job classifications competent to do the work, labor, or render a service to a producer at the Auditorium as defined in Section II herein.

"Yellow Card System" is a method of indicating the acceptable number of skilled workers required for union touring stage productions.

SECTION II - NATURE OF WORK

Local 190 shall furnish skilled theatrical employees to all producers of presentations exhibited on the stages of the

Auditorium (which shall include such arena events as circuses, ice shows, rodeos and similar activities) and perform work, labor, and render services which shall include: packing in and out; building scenery; hanging draperies; rigging, installing, operating and maintaining all stage equipment, including curtains, screens, switchboards, amplification systems, electrical systems, spotlights, floodlights, effect lights, decorative lights, and dimmers; installing acoustical bandshells; installing, operating, recording, maintaining during a presentation and removal of all sound and video recording, production and reproduction equipment.

Local 190 acknowledges that it has been notified that there is the presence of asbestos containing materials in certain areas of the Auditorium and that theatrical employees working in those areas will be required to comply with the City of Wichita's asbestos operations and maintenance plan in effect at the time the work is performed.

Local 190 shall be responsible for any damage done to City property through its employees by willful neglect or improper operation.

### SECTION III - ADVANCE COMMITMENT

Local 190 is affiliated with the International Alliance of Theatrical Stage Employees and nothing in this contract shall be construed to interfere with any obligation owed to such international alliance.

### SECTION IV - NUMBER OF THEATRICAL EMPLOYEES FOR PRESENTATIONS

If a presentation is operating under the "yellow card system" the number of skilled theatrical employees in the appropriate classifications as are needed for a performance shall be agreed upon between Local 190 and the producer.

Every producer of a presentation on an Auditorium stage shall not employ fewer than a minimum crew of theatrical employees, which shall consist of a head carpenter, electrician, sound person and property person. If a presentation requires no sound amplification, then the minimum crew will not include the sound person. If a presentation requires no stage or set changes and/or is presented in front of the curtain, then the minimum crew may be reduced to one employee. It is further understood that a minimum of one employee will be required at any time the house sound amplification is used on stage and one employee for each follow spotlight. The exception to the above shall be in instances of presentation by non-profit institutions which have as their purpose the training of students in the knowledge and expertise of the theatre arts. In these instances the minimum crew of theatrical employees shall be one employee at any time equipment or props are being hung or removed from hanging, lights being set, during all dress and technical rehearsals and all

performances unless a greater number of employees are required by the Director. For each paid technician under this exception (excluding one technical director) the minimum crew will be increased by one theatrical employee. This exception shall apply in the Theater only.

The number of required theatrical employees must be mutually agreed to by both the producer and the representative of Local 190; otherwise, the Director of Century II will make the final determination.

Local 190 has the legal responsibility of insuring that the necessary FICA, Federal and State income taxes are withheld from theatrical employees wages. Therefore, the representative of Local 190 may determine whether a producer of a presentation is equipped to place the theatrical employees on the producer's payroll. Otherwise, the producer shall, as a condition precedent to presenting a performance in the Auditorium, designate a payroll company approved by Local 190 as its agent for the purpose of paying the theatrical employees employed by the producer and withholding the FICA, Federal and State income taxes. Said payroll company shall pay the theatrical employees their wages in accordance with Section V - Wages herein, and in addition thereto the producer shall pay an additional twenty-three percent (23%) of the total amount paid to the theatrical employees to the payroll company for providing such payroll services for the producer. Local 190 shall designate an approved payroll company in writing to the Director.

*amended*

**SECTION V - WAGES**

Local 190 shall furnish theatrical employees to producers upon the terms and conditions herein contained in the following classifications, at the wage scales herein provided, plus twenty-three percent (23%) of the total wages of the theatrical employees.

	<u>Hourly Rate</u>	<u>Performance Rate</u>
(1) Head carpenter	\$ 12.00	\$ 40.45
(2) Head electrician	12.00	40.45
(3) Head property person	12.00	40.45
(4) Head sound person	12.00	40.45
(5) Head floor operator	12.00	40.45
(6) Assistants to above Classifications	10.85	38.15
(7) Camera operator	12.00	40.45
(8) Spotlight operator	12.00	40.45
(9) Truckloader	12.00	N/A

**SECTION VI - HOURS OF SERVICE**

Theatrical employees shall receive the hourly rate for the work, labor or services which are necessary to get a presentation

ready for its performance or to restore the stage after the performance, and shall receive the performance rate for each performance, which shall not exceed three hours past scheduled starting time. The performance rate shall include theatrical employees ready and available one half hour before the performance at no additional cost. At a performance longer than three hours, the hourly rate shall prevail at one-third the performance scale, for such time as exceeds the regular three hours.

If a performance or call is split into two segments by a dining period of more than one hour, then each segment of the presentation call shall be classified as separate.

Theatrical employees shall receive pay for a minimum of four hours whenever called on the job. If such call includes a dining period such period will be considered as part of the minimum call. Time and one-half the regular hourly rate shall prevail after they have worked eight hours in any twenty-four hour period for any one producer. Twice the regular hourly rate shall prevail after fourteen hours in any twenty-four hour period. At any time that a minimum of eight hours are worked and eight hours off duty not granted, the time and one-half hourly rate shall prevail for any one producer.

All hours worked by theatrical employees on the traditional holidays known as New Year's, Independence, Labor, Thanksgiving, and Christmas days, and after twelve o'clock midnight and before eight o'clock a.m. shall be paid at one and one-half times the applicable rate.

Theatrical employees shall be allowed one hour dining period following every five hours of work. If theatrical employees are not allowed the dining period after five hours of work they shall receive double and one-half their prevailing rate of pay after the fifth hour of work, and such double and one-half time will continue until they have been allowed the dining period. The union representative will keep the promoter informed of an approaching meal penalty, and provide possible alternatives to avoid the penalty. If the required work does not allow for a normal meal break, then the following options are available to the promoter.

a. The producer may provide food for the stage crew, in which case they remain on the clock, and the meal period will be reduced to 30 minutes.

b. Allow one of the members of the crew to go out and bring food in for the entire crew, in which case they remain on the clock, and the meal period will be reduced to 30 minutes.

The Director reserves the right to request specific individuals to work certain events based on having a particular skill or work experience, and to exercise general control over all operations in the Auditorium which includes the conduct of

theatrical employees while on the premises of the Auditorium. If at any time the Director, by specific written notice, advises that a theatrical employee is unsatisfactory, that employee will no longer be allowed to perform work in the Auditorium until such time as the Director advises the Business Agent for Local 190 otherwise in writing.

The Business Agent of Local 190 will provide the Director, upon request, a monthly report of all theatrical employees' activities in the Auditorium for the preceding month in a form acceptable to the Director.

#### SECTION VII - NONDISCRIMINATION

Local 190 agrees that it will comply with the requirements of City of Wichita Administrative Regulation #23 and the Revised Nondiscrimination and Equal Employment Opportunity Statement for Contracts and Agreements, attached hereto as Exhibit "A" and incorporated herein by this reference.

#### SECTION VIII

This Agreement shall become effective on the 15<sup>th</sup> day of April, 1991, and shall remain in force and effect until 60 days following written notice by either party to the other party of an intent to amend, modify or terminate the Agreement.

**AMENDMENT TO AGREEMENT**

THIS AMENDMENT TO AGREEMENT is entered into by and between the City of Wichita, Kansas, hereinafter referred to as "City", and Local 190 of the International Alliance of Theatrical Stage Employees, hereinafter referred to as "Local 190" on this \_\_\_\_ day of September, 2016.

WITNESSETH:

WHEREAS, the parties have heretofore entered into an agreement (hereinafter referred to as "Agreement") with Century II on the 29<sup>th</sup> day of January, 1991; and

WHEREAS, the parties amended said Agreement on December 18, 1992, January 1, 2000, April 25, 2000, May 16, 2000, January 1, 2008, and June 1, 2010; and

WHEREAS, the parties now desire to amend said Agreement to address wages and grievances.

NOW, THEREFORE, IT IS AGREED upon between the parties that the Agreement and subsequent amendments is further amended and as follows:

1. Section V (Wages) of said Agreement is amended by changing the percentage in the first sentence thereof from twenty five and one half percent (25.5%) to twenty seven and one half percent (27.5%). Implementation of the new rate would cause hourly rates charged to the client as follows:

	HEAD	ASSISTANT	RIGGER
Hourly rate	\$24.50	\$22.50	\$ 44.50
Performance fee	\$82.00	\$74.50	\$149.00
Performance hourly fee	\$27.33	\$24.83	\$ 49.66

2. New Section (Grievance and Arbitration Procedure) shall be added to the Agreement as follows:

A. Except as specifically provided in this Agreement, a grievance shall be defined as a dispute or complaint on the part of the Local 190 or City pertaining to an alleged breach of a specific provision of this Agreement and shall be processed and disposed of in the following manner:

B. Within fifteen (15) business days following the alleged occurrence giving rise to the grievance, said grievance shall be reduced to writing by the complaining party (Local 190 or City), and be presented to the Business Agent of Local 190 or the Manager of Century II. The written grievance shall specify the facts, the specific provision of the contract alleged to be

violated, and the relief requested. The responding party shall answer a grievance so presented in writing within ten (10) business days after its presentation.

C. A grievance which has not been resolved hereunder may, within ten (10) business days be referred for arbitration by Local 190 or City (employees shall have no independent right to arbitration) to an arbitrator selected in accordance with the Labor Arbitration Rules of the American Arbitration Association or the Federal Mediation and Conciliation Service (FMCS) and in accordance with their rules and procedures. The selection of the mediation service shall be at the option of the grieving party.

D. The fees and expenses of the arbitrator shall be borne equally by the parties.

E. The arbitrator shall have jurisdiction only over disputes arising out of grievances, as defined in section A. of this Grievance Procedure and he or she shall have no power to add to, subtract from, or modify in any way any of the terms of this Agreement.

F. The award of an arbitrator hereunder shall be final, conclusive and binding upon City or Local 190, unless said award is modified or overturned in writing by the City Manager within twenty (20) business days after the arbitrator's decision.

G. The term "business day" as used in this Article shall be deemed to be exclusive of Saturdays, Sundays, and holidays recognized in this Agreement.

H. Any disposition of a grievance from which no appeal is taken within the time limits specified herein shall be deemed resolved on the basis of the responding party's last answer and shall not thereafter be considered subject to the Grievance and Arbitration provisions of this Agreement. Time is of the essence, provided, however, time limits may be extended by mutual agreement in writing.

3. All other provision of said Agreement, and amendments thereto, not herein amended are reaffirmed by the parties and shall continue in full force and effect according to the terms thereof.

4. This Amendment shall take effect upon signing by Local 190 and adoption by the Wichita City Council.

[THIS SPACE INTENTIONALLY LEFT BLANK]

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

**CITY OF WICHITA, KANSAS**

**I.A.T.S.E. LOCAL 190**  
A KANSAS CORPORATION

By \_\_\_\_\_  
Jeff Longwell, Mayor

By \_\_\_\_\_  
President, I.A.T.S.E. Local 190

ATTEST:

APPROVED AS TO FORM:

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

By \_\_\_\_\_  
Jennifer Magana, Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** 2<sup>nd</sup> Saturday Artisan Market - Community Event with Alcohol Consumption (District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New Business

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**Recommendation:** Adopt the resolution to allow alcohol consumption during the 2<sup>nd</sup> Saturday Artisan Market, October 8, 2016.

**Background:** A Community Event Application that would establish a Temporary Entertainment District (TED) and allow alcohol consumption has been submitted for the 2<sup>nd</sup> Saturday Artisan Market, scheduled for October 8, 2016. In accordance with Section 3.11.065(d) of the Code of the City of Wichita and the Community Events Procedure, a resolution is required to authorize consumption of alcoholic liquor on sidewalks and on public streets that have been closed to motor vehicle traffic during such licensed community event. The City Council has approved the request for street closures involved in this event earlier today and area businesses and residents have been notified of the street closure, which are depicted on the attached map. The TED will include a portion of the 100 block of North Cleveland from the south curb line on East 1<sup>st</sup> Street North, extending south approximately 300 feet to a point even with the southern edge of The Workroom's parking lot. Upon review of the application for this community event and upon consideration of the factors set forth in the Code of the City of Wichita, the City Council shall determine if such approval should be given.

**Analysis:** Section 3.11.080 of the Code of the City of Wichita sets forth criteria which must be considered for approval of a proposed community event. Those factors applicable to this event include findings that the event will not obstruct the operation of emergency vehicles or equipment; the event does not present a safety, noise, or traffic hazard; the event conforms to regulations regarding the use and/or the allowable number of participants for the proposed location; the proposed event does not violate any laws of the City of Wichita, State of Kansas or the United States; and that closures of public streets have been approved by the City Council. Applying this criteria, staff has reviewed the application of The Workroom for a community event with consumption of alcoholic liquor allowed and finds that such criteria has been met and recommends approval of the event permit.

**Financial Consideration:** There are no financial considerations.

**Legal Consideration:** The Law Department has prepared the proposed resolution and approved as to form.

**Recommendation/Actions:** It is recommended that the City Council adopt the resolution to allow alcohol consumption upon sidewalks and public streets within the parameters outlined in the Community Event Application during the 2<sup>nd</sup> Saturday Artisan Market, October 8, 2016 and authorize the necessary

signatures.

**Attachments:** Resolution and map of proposed sites for consumption of alcoholic liquor for the 2<sup>nd</sup> Saturday Artisan Market event.

**RESOLUTION NO. 16-331**

**A RESOLUTION AUTHORIZING THE CONSUMPTION OF ALCOHOLIC LIQUOR ON PUBLIC STREETS DURING 2<sup>ND</sup> SATURDAY ARTISAN MARKET COMMUNITY EVENT**

WHEREAS, the City Council has approved as a community event 2<sup>nd</sup> Saturday Artisan Market to occur on October 8, 2016.

WHEREAS, the City Council has approved the 100 block of North Cleveland Avenue to be closed to vehicular traffic for this event from the south curb of East 1<sup>st</sup> Street North for approximately 300 feet to the south, to a point even with the southern edge of the parking lot of The Workroom. Such street closure shall be approved from 9:00 a.m. to 6:00 p.m. on Saturday, October 8, 2016 with the consumption of alcoholic liquor allowed thereon from 10:00 a.m. to 5:00 p.m. on Saturday, October 8, 2016.

WHEREAS, a temporary permit for the consumption of alcoholic liquor at 2<sup>nd</sup> Saturday Artisan Market has been applied for and will be issued by the State of Kansas and the City of Wichita upon the presentation of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council, pursuant to Section 3.11.065(d) of the Code of the City of Wichita, and in consideration of the factors set forth in Section 3.11.080 of the Code of the City of Wichita, grants its approval for the consumption of alcoholic liquor on the city streets, sidewalks and public right of ways which are located within the designated event area of 2<sup>nd</sup> Saturday Artisan Market to occur from 10:00 a.m. to 5:00 p.m. on Saturday, October 8, 2016, as set forth above.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this 6th day of September, 2016.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

Approved as to Form:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and  
Director of Law

**Event Perimeter**

**Street Closure:**

- Entrance/ Exits
- Alcohol Signage



City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Event with Alcohol Consumption – Autumn and Art at Bradley Fair (District II)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New Business

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**Recommendation:** Adopt the resolution to allow alcohol consumption during Autumn and Art at Bradley Fair on September 16 – 18, 2016.

**Background:** A Community Event application that would establish a Temporary Entertainment District (TED) and allow alcohol consumption been submitted for Autumn and Art at Bradley Fair, scheduled for September 16 through September 18, 2016. In accordance with Section 3.11.065(d) of the Code of the City of Wichita and the Community Events procedure, a resolution is required to authorize consumption of alcoholic liquor on sidewalks and public streets, which have been closed to motor vehicle traffic during such licensed community event. The City Council has approved the request for street closures involved in this event earlier today and area businesses and residents have been notified of the street closures, which are depicted on the attached map. The TED will include the 1900 through 2100 blocks of North Bradley Fair Parkway from Rock Road to Executive Drive and East Wilson Estates Parkway from North Bradley Fair Parkway to Red Brush Drive. Upon review of the application for this Community Event, a copy of which is attached hereto, and upon consideration of the factors set forth in Section 3.11.080 of the code of the City of Wichita, the Council shall determine if such approval should be given.

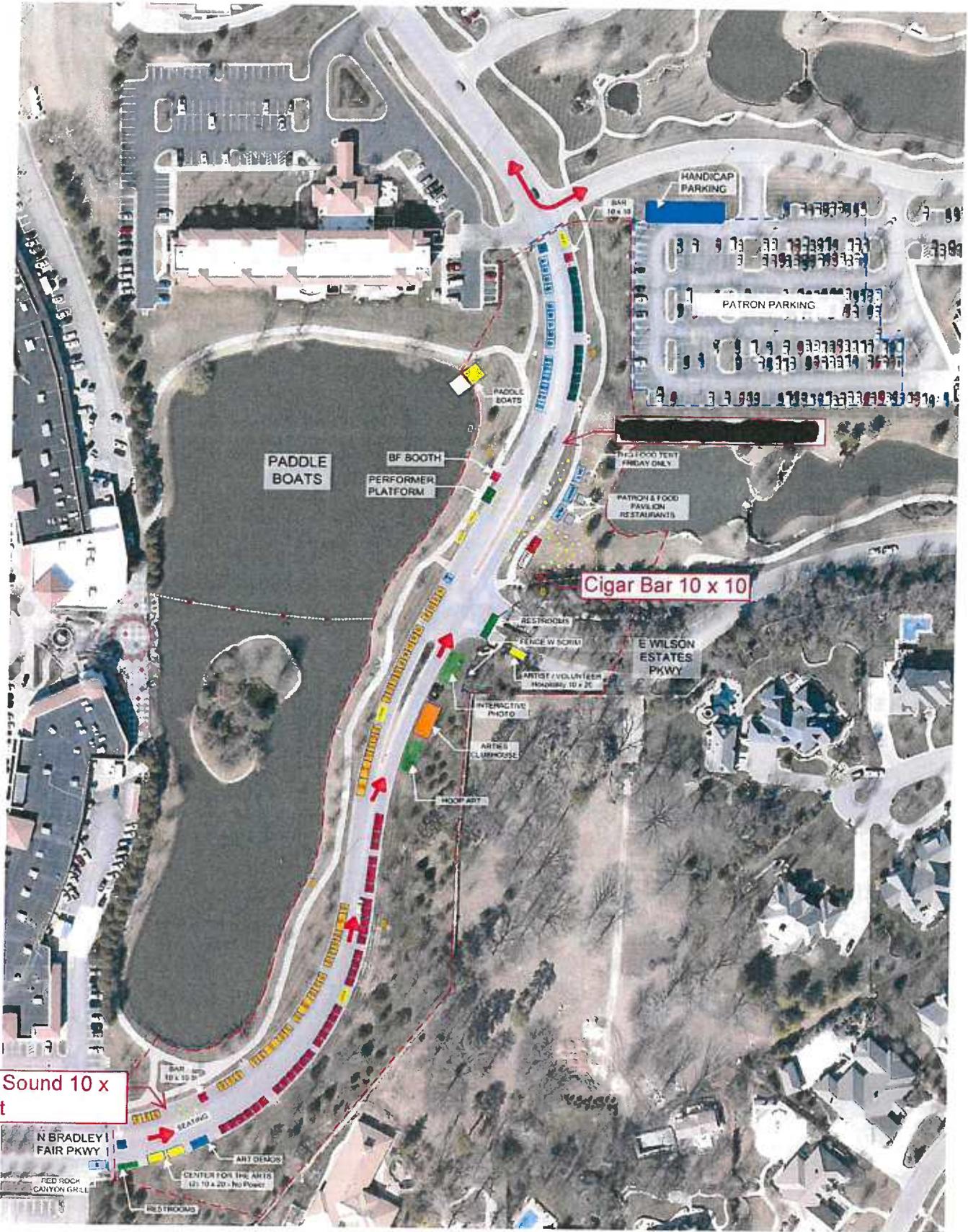
**Analysis:** Section 3.11.080 of the Code of the City of Wichita sets forth criteria which must be considered for approval of a proposed community event. Those factors applicable to this event include findings that the event will not obstruct the operation of emergency vehicles or equipment; the event does not present a safety, noise, or traffic hazard; the event conforms to regulations regarding the use and/or the allowable number of participants for the proposed location; the proposed event does not violate any laws of the City of Wichita, State of Kansas or the United States; and that closures of public streets have been approved by the City Council. Applying this criteria, staff has reviewed the application of Autumn and Art at Bradley Fair for a community event with consumption of alcoholic liquor allowed and finds that such criteria has been met and recommends approval of the event permit.

**Financial Consideration:** There are no financial considerations.

**Legal Consideration:** The Law Department has prepared the proposed resolution and approved as to form.

**Recommendation/Actions:** It is recommended that the City Council adopt the resolution to allow alcohol consumption upon sidewalks and public streets within the parameters outlined in the Community Event Application during the Autumn and Art at Bradley Fair event, September 16 - 18, 2016.

**Attachments:** Resolution and map of proposed sites for consumption of alcoholic liquor for the Autumn and Art at Bradley Fair event.



Living Sound 10 x 10 tent

**RESOLUTION NO. 16-332**

**A RESOLUTION AUTHORIZING THE CONSUMPTION OF ALCOHOLIC LIQUOR ON PUBLIC STREETS DURING THE AUTUMN and ART AT BRADLEY FAIR**

WHEREAS, the City Council has approved as a community event, the Autumn and Art at Bradley Fair, to occur from September 16 through September 18, 2016.

WHEREAS, the City Council has approved North Bradley Fair Parkway from Rock Road to Executive Drive and East Wilson Estates Parkway from North Bradley Fair Parkway to Red Brush Drive to be closed to vehicular traffic for such event from 6:00 a.m. on Friday, September 16 to 11:00 p.m. on Sunday, September 18, 2016, and with the consumption of alcoholic liquor allowed thereon from 5:00 p.m. to 11:00 p.m. on September 16, from 9:00 a.m. to 11:00 p.m. on September 17 and from 9:00 a.m. to 10:00 p.m. on September 18, 2016.

WHEREAS, a temporary permit for the consumption of alcoholic liquor at Autumn and Art at Bradley Fair has been applied for and will be issued by the State of Kansas and the City of Wichita upon the presentation of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council, pursuant to Section 3.11.065(d) of the Code of the City of Wichita, and in consideration of the factors set forth in Section 3.11.080 of the Code of the City of Wichita, grants its approval for the consumption of alcoholic liquor on the city streets, sidewalks and public right of ways which are located within the designated event area of the Autumn and Art at Bradley Fair to occur from September 16, 2016 at 5:00 p.m. through September 18, 2016 at 10:00 p.m. as set forth above and to occur upon the dates and during the times above stated.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this 6th day of September, 2016.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

Approved as to Form:

\_\_\_\_\_  
Jennifer Magana, City Attorney and  
Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Sale of Hyatt Regency Hotel (District I)  
**INITIATED BY:** Office of Urban Development  
**AGENDA:** New Business

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**Recommendation:** Approve the Hyatt Regency Wichita sale agreement with Philip G. Ruffin.

**Background:** On September 25, 2001, the City Council authorized the purchase of the Hyatt Regency Wichita Hotel in downtown Wichita from the original developer, East Bank Hotel Associates, LLC. On April 19, 2016, the City Council authorized staff to draft and issue a Request for Proposals (RFP) for the sale of the Hyatt Regency Hotel to address recent inquiries. The RFP was posted on the City's website, national publication websites, as well as copies of the RFP were mailed to developer lists provided by Purchasing and Urban Development. The City received numerous contacts both locally, regionally and nationally expressing interest in the hotel property.

**Analysis:** Offer to Purchase proposals were received in June from Riverfront Partners, LLC and Philip G. Ruffin. Philip G. Ruffin submitted the highest purchase offer at \$20,000,000. Documentation submitted with the Ruffin package provided evidence of experience operating full-service hotels. Mr. Ruffin's financial capacity was independently reviewed by a third party, Allen, Gibbs & Houlik L.C., and deemed appropriate.

Following direction from the City Council at the July 12, 2016 Council meeting, staff and outside legal and financial counsels have negotiated a sale agreement with Mr. Ruffin for the purchase price of \$20,000,000. If approved, the closing and depositing of funds will occur no later than September 30, 2016.

**Financial Considerations:** Proceeds from the sale of the Hyatt Regency Hotel will be directed to the City's general fund.

**Legal Considerations:** The sale agreement has been reviewed with the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the sale agreement with Philip G. Ruffin.

**Attachments:** Sale Agreement

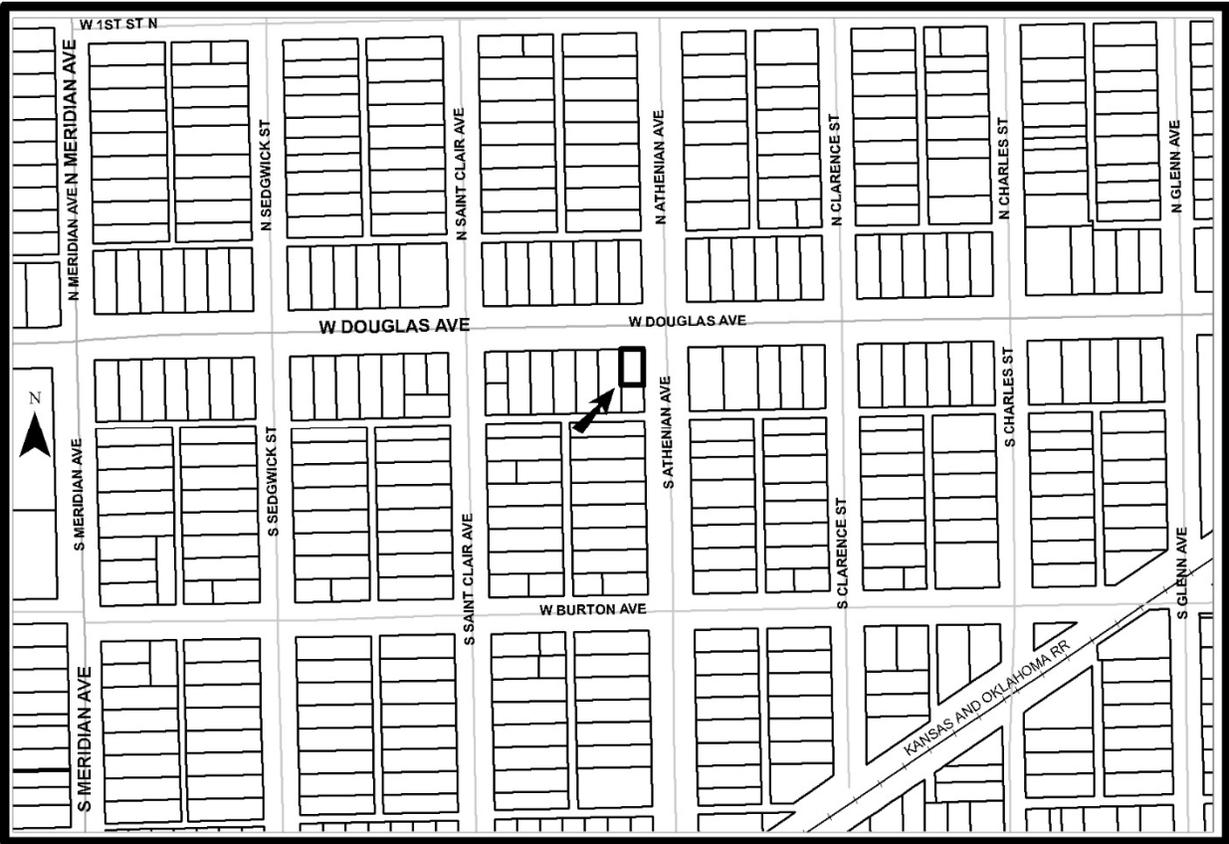
City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** CON2016-00026 – Conditional Use to Permit a Nightclub in the City within 300 Feet of Residential Zoning, Generally Located South of West Douglas Avenue and East of South Meridian Avenue at 2201 West Douglas Avenue (District IV)  
**INITIATED BY:** Metropolitan Area Planning Department  
**AGENDA:** Planning (Non-Consent)

**MAPC Recommendation:** The MAPC voted (7-1) to approve the request subject to staff recommended conditions and an eight-foot tall privacy fence.

**DAB Recommendation:** District Advisory Board IV recommended denial of the request (9-0).

**MAPD Staff Recommendation:** Metropolitan Area Planning Department staff recommended approval of the request subject to conditions.



**Background:** The application area, 2201 W. Douglas, is located south of Douglas and three blocks east of Meridian in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a single-story commercial building, and the business advertising itself as The Metro Court occupies the east half of commercial building. Abutting the site to the east is a paved on-street parking in the Athenian right-of-way with enough space for seven (7) on-street parking spaces (see attached site plan). A drinking establishment has functioned on the site for many years. The nightclub was closed for over three years but recently reopened. The site is currently in the process of obtaining a drinking establishment license allowing the sale of alcohol to exceed 50% of gross sales. A drinking establishment is permitted in LC zoning, but the site is legal non-conforming under the Unified Zoning Code (UZC) because it is within 300 feet of residential zoning. The conditional use application is proposed so that the site also can attain an entertainment establishment license, allowing dancing and live entertainment. The combination of these two licenses would make this site a “nightclub in the city.” Nightclub in the city is defined by the UZC as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is in a small commercial area surrounded by residential zoning in all directions.

North of the site is zoned SF-5 Single-Family Residential and TF-3 Two-Family Residential and is development with single family residences. The property immediately south of the site is zoned LC Limited Commercial is developed with a single-family residence. Further south of the site are properties zoned SF-5, TF-3, and B Multi-Family Residential that are developed with single-family residences, duplexes, and multi-family residences. Properties east of the site are zoned SF-5 and are developed with single-family residences. The properties immediately west of the site are zoned LC and are developed with commercial uses, a single-family residence, and a multi-family residence. Further west are properties zoned SF-5 and TF-3 that are developed single-family residences duplexes.

**Analysis:** On August 1, 2016, District Advisory Board (DAB) IV reviewed the application and recommended denial (9-0). Several members of the public spoke at the DAB hearing and cited experiences with loud music, drugs, prostitution, public urination, and other crimes associated with the nightclub from when it was open previously.

On August 4, 2016, the Metropolitan Area Planning Commission (MAPC) approved the request (7-1) subject to the conditions stated in the attached Resolution. One citizen spoke in opposition to the request and cited the same concerns expressed at the DAB meeting.

Protest petitions have been received totaling 23.84% of the land area within 200 feet of application area. Because the protest is greater than 20%, approval of the request requires a three-fourths majority vote of the City Council.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

**Legal Considerations:** The Law Department has reviewed and approved the Resolution as to form.

**Recommendation/Actions:** It is recommended that the City Council either: 1) adopt the findings of the MAPC, approve the Conditional Use subject to the MAPC recommended conditions, adopt the Resolution, and authorize the necessary signatures (six of seven votes required), 2) deny the request by making alternate findings (five of seven votes required), or 3) return the application to the MAPC for reconsideration (four of seven votes required).

**Attachments:** Resolution  
MAPC Minutes  
DAB IV Report  
Protest Petition Map

**RESOLUTION No. 16-333**

A RESOLUTION AUTHORIZING A NIGHTCLUB IN THE CITY WITHIN 300 FEET OF RESIDENTIAL ZONING ON APPROXIMATELY 0.09-ACRES ZONED LC LIMITED COMMERCIAL, GENERALLY LOCATED SOUTH OF DOUGLAS AVENUE AND EAST OF MERIDIAN AVENUE AT 2201 WEST DOUGLAS AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

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

**SECTION 1.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a Nightclub in the City within 300 feet of residential zoning, on approximately 0.09-acres zoned LC Limited Commercial legally described below:

**Case No. CON2016-00026**

A Conditional Use to allow a Nightclub in the City within 300 feet of residential zoning, on approximately 0.09-acres zoned LC Limited Commercial described as:

The north 80 feet of Lots 1 and 2, Block 1, Martinson's 9<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas, generally located south of Douglas Avenue and east of Meridian Avenue at 2201 West Douglas Avenue.

SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall meet the UZC parking requirements by obtaining a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.
- (2) The applicant shall install an 8-foot tall privacy fence (per the Unified Zoning Code's standards for a solid screening fence) on the west and north sides of the south 60 feet of Lots 1-2, Block 1 Martinson's 9th Addition, at the applicant's expense. The applicant shall be responsible for the maintenance and repair of the privacy fence, and it shall be at the applicant's expense. The applicant shall record a covenant with the Sedgwick County Register of Deeds stating that the installation, maintenance and repair of the 8-foot tall privacy fence (per the Unified Zoning Code's standards for a solid screening fence) shall be the applicant's responsibility and at the applicant's expense. The 8-foot tall privacy fence shall be erected within 30 days of approval of the Conditional Use request.
- (3) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (4) The site shall be developed and maintained in conformance with the approved site plan.
- (5) No outside loudspeakers or outdoor entertainment is permitted.
- (6) The site shall maintain all necessary licenses for a nightclub in the city.
- (7) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (8) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

September 6, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

**ATTEST:**

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

(SEAL)

Approved as to form:

\_\_\_\_\_  
Jennifer Magana, City Attorney and Director of Law

**EXCERPT MINUTES OF THE AUGUST 4, 2016 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION HEARING**

**Case No.: CON2016-00026** - Homer Morgan Revocable Trust, c/o Homer Morgan, trustee (applicant) and Stephen M. Joseph (agent) request a City Conditional Use permit for a Tavern and Drinking Establishment and an Entertainment Establishment and Nightclub in the City within 300 feet of residential zoning on property zoned LC Limited Commercial zoned property on property described as:

The North 80 feet of lots 1 and 2, Block 1, Martinson's 9<sup>th</sup> Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The application area, 2201 W. Douglas, is located south of Douglas and three blocks east of Meridian in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a single-story commercial building, and the business advertising itself as The Metro Court occupies the east half of commercial building. Abutting the site to the east is a paved on-street parking in the Athenian right-of-way with enough space for seven (7) on-street parking spaces (see attached site plan). A drinking establishment has functioned on the site for many years, but the business is currently closed. The site currently in the process of obtaining a drinking establishment license allowing the sale of alcohol to exceed 50% of gross sales. A drinking establishment is permitted in LC zoning, but the site is legal non-conforming under the Unified Zoning Code (UZC) because it is within 300 feet of residential zoning. The conditional use application is proposed so that the site also has can attain an entertainment establishment license, allowing dancing and live entertainment. The combination of these two licenses would make this site a "nightclub in the city." Nightclub in the city is defined by the UZC as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is in a small commercial area surrounded by residential zoning in all directions.

North of the site is zoned SF-5 Single-Family Residential and TF-3 Two-Family Residential and is development with single family residences. The property immediately south of the site is zoned LC Limited Commercial is developed with a single-family residence. Further south of the site are properties zoned SF-5, TF-3, and B Multi-Family Residential that are developed with single-family residences, duplexes, and multi-family residences. Properties east of the site are zoned SF-5 and are developed with single-family residences. The properties immediately west of the site are zoned LC and are developed with commercial uses, a single-family residence, and a multi-family residence. Further west are properties zoned SF-5 and TF-3 that are developed single-family residences duplexes.

**CASE HISTORY:** The site was platted as the English Pub Addition to Wichita in 1982. The building on the property was built in 1930.

**ADJACENT ZONING AND LAND USE:**

North: SF-5, TF-3	Single-family residences
South: LC, SF-5, TF-3, B	Single-family residences, duplexes, and multi-family residences
East: SF-5	Single-family residences
West: LC, SF-5, TF-3	Commercial uses, multi-family, duplexes, single-family

**PUBLIC SERVICES:** Douglas is a paved arterial street with two lanes and on-street parking on both sides of the street at this location.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential" and within the Delano Neighborhood Revitalization Plan Area. The Delano Neighborhood Revitalization Plan has an object to improve business opportunities along Douglas. The UZC requires one off-street parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 64 people. The building occupies the entire site; therefore, no off-street parking is provided. The applicant's site plan demonstrates seven (7) on-street parking spaces abutting the site in the Athenian right-of-way. The applicant will require a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.

**RECOMMENDATION:** Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall meet the UZC parking requirements by obtaining a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is zoned SF-5 Single-Family Residential and TF-3 Two-Family Residential and is development with single family residences. The property immediately south of the site is zoned LC Limited Commercial is developed with a single-family residence. Further south of the site are properties zoned SF-5, TF-3, and B Multi-Family Residential that are developed with single-family residences, duplexes, and multi-family residences. Properties east of the site are zoned SF-5 and are developed with single-family residences. The properties immediately west of the site are zoned LC and are developed with commercial uses, a single-family residence, and a multi-family residence. Further west are properties zoned SF-5 and TF-3 that are developed single-family residences duplexes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a drinking establishment. The site could be developed with any permitted uses in the LC district and it could continue to be a legal non-conforming drinking establishment without the conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investments Plan, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's 2035 Wichita Future Growth Concept Map identifies this location as "residential" and within the Delano Neighborhood Revitalization Plan Area. The Delano Neighborhood Revitalization Plan has an object to improve business opportunities along Douglas. The UZC requires one off-street parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 64 people. The building occupies the entire site; therefore, no off-street parking is provided. The applicant's site plan demonstrates seven (7) on-street parking spaces abutting the site in the Athenian right-of-way. The applicant will require a variance to reduce and/or waive the off-street parking requirement, which may be combined with an off-site parking agreement with a nearby property to meet the UZC parking requirement.
6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the LC zoning district.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He reported that DAB IV voted to deny the request and referred Commissioners to the DAB memo dated 8-2-16 which sited neighbors' concerns and various nuisance factors associated with drinking establishments including late night hours, loud music, and general bad behavior of the patrons of the club.

**ELLISON** asked about the other businesses in the strip center.

**LONGNECKER** said it is an unusual strip center and he believes parking may be a problem in keeping businesses there.

**WARREN** questioned the parking variance process and whether you can actually get 64 people in that club. He asked if this were an auto parts store would there be the same parking requirement.

**LONGNECKER** indicated that the parking variance was a separate process. He added that the Fire Marshall determines the occupancy of an establishment. He said an auto parts store could go at this location "by right" and would have no parking requirement. He said the parking requirement is part of the application for the conditional use.

**STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT** said this location is a problem because of the parking. He clarified that the location was closed for about 11 months and reopened three weeks ago as a legal non-conforming use. He said the location does not need a conditional use permit to operate as it is operating now. He said his client is attempting to bring all of the establishments he owns into compliance with City zoning requirements. He said this is a neighborhood bar that has been there for 50 years. He said people don't drive there they walk there. He said they do not think the occupancy number for the establishment is correct and that is why they believe they can provide the necessary parking. He said this is a tiny bar. He said they are going to ask the Fire Department to come back and re-evaluate the occupancy. He said there is parking available behind the building next to the club, and they think they can get a shared parking agreement with that establishment which they believe will be enough parking if the occupancy is set correctly. He said this location does not get any Police calls. He concluded by stating that this is not a destination bar.

**ELLISON** asked what was located to the south of the club.

**LONGNECKER** said a residence.

**ROSE WRIGHT, 111 SOUTH ATHENIAN** said she lived right behind the bar and added that it has been closed for three years. She said she has had people urinating in her yard. She said the bar has been re-opened for just two weeks and she has had a lawn ornament stolen out of her yard. She said she has also had stuff stolen off of her front porch and windshields broken out of her vehicles. She said people park in her driveway and a lot of other things. She said in the 18 years she has lived there the bar has changed hands several times and was even a strip joint once. She said the loud noise and music keep her awake at night so she can't get up and go to work. She added that there have been numerous Police calls to this location.

**VINCENT HANCOCK, 406 SOUTH VINE, PRESIDENT DELANO NEIGHBORHOOD ASSOCIATION** said he lives about a half mile from here. He mentioned the Staff Report and the reference to the Delano Neighborhood Revitalization Plan to improve commercial opportunities in the area. He said he agreed that this is an unusual retail cluster and he added that believes it does not belong in the residential neighborhood. He said the neighborhood complaints about this establishment were so severe that the previous Delano Neighborhood Association President who moved to New Jersey e-mailed him about this case. He said she wrote him that he hasn't heard half of what she heard about this location when she was neighborhood association president. He said the neighbors don't want this being used for its current use as a drinking establishment let alone adding entertainment establishment. He said this is just not an appropriate location for this activity.

**JOSEPH** reiterated that the location has not been closed for three years. He said there are public records of drinking establishment licenses and leases for that time period. He said if they had been closed that long they couldn't make a conditional use application because they would have lost the "grandfather clause." He said this location is "grandfathered" in and can continue as a drinking establishment until it is vacant for two years. He said they will try to do something to improve the parking.

**DENNIS** asked what was the plan for getting people from the parking lot to the facility without going through the neighbor's yard.

**JOSEPH** said his client owns property behind his building and will make a pathway from there to the sidewalk and north to the street.

**ELLISON** asked if the owner has considered other uses for the property other than a drinking establishment.

**JOSEPH** said he doubts his client has ever considered any other type of use. He said his client's principal business has been an automatic music company. He said he makes his money by owning taverns and drinking establishments and leasing them machines like juke boxes, pool tables, and those type of things.

**DAILEY** commented that the applicant should have made arrangements for parking before coming to the Planning Commission. He added just because the establishment had a license doesn't mean it was being operated. He said you can have a license on a car and not drive it. He asked about sales receipts and tax payments for the three-year period.

**JOSEPH** said the parking and other requirements are conditional on approval of the zoning. He said they are not going to take the time and effort to do those things and spend money until they know they can get the conditional use perm. He said that is the way the zoning process is set up. He said they have the required documentation such as rent payments, machine receipts and leases to prove that the establishment was open for business.

**WARREN** agreed this is a horrible place for this type of business, but it is there. He asked if the applicant would consider building a fence along the north and west property line. He said that might mitigate some of the neighbors' concerns.

**JOSEPH** said they are committed to do anything the Commission asks or suggests and added they would accept that as a condition. He said they have already discussed a fence north to south on the shared parking lot.

**ELLISON** clarified that the applicant would agree to erect a 6-8 foot screening fence.

**DAILEY** asked the neighbor if the fence along her property would help satisfy her concerns so people wouldn't be cutting across her yard.

**WRIGHT** asked who she holds responsible if there is damage to her property. She said all this is yet to be seen, she said the applicant doesn't even keep his own yard mowed.

**FOSTER** asked who owns the shared parking area.

**JOSEPH** said he doesn't know the owner's name, but pointed out that the strip center has several owners. He also clarified that they will build a fence running north and south behind the neighbor to the south's property so there will be no access to Mrs. Wright's yard in any way.

**DENNIS** asked if the Commission can legally require the applicant to build a fence on someone else's property.

**LONGNECKER** said under the UZC you can put screening on abutting properties if the LC zoning is separated from the properties by an alley. He said he believes it is doable with the property owner's consent.

**WARREN** clarified that the fence would not be on the neighbor's property.

**MOTION:** To approve subject to staff recommendation with installation of an 8-foot fence on the north and west property lines, and south property line of the neighbor; get permission of the property owner to the south to install a fence on her property; and require a parking agreement with the property owner to the west.

**WARREN** moved, **TODD** seconded the motion.

**FOSTER** commented on protecting the neighborhood and the Delano Plan and said the only alternative is to deny the conditional use application so he feels like they have two bad alternatives.

**LONGNECKER** reiterated that they can continue as a drinking establishment, this application just allows them an entertainment license so they will be in conformance with the UZC.

**MILLER STEVENS** commented that regardless of what the Planning Commission decides on this application, people are going to be in this establishment drinking. She said today's motion provides some level of protection for the neighbor. She said anything the Commission decides today is not going to get rid the neighborhood of the drinking establishment.

**ELLISON** asked about a time frame maybe six months.

**WARREN AMENDED** the **MOTION**, with permission of the second **TODD** that the changes in the motion needed to be completed before the applicant can operate as an entertainment establishment.

The **AMENDED MOTION** carried (7-1). **FOSTER** – No.



**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC Members  
**FROM:** Rebecca Fields, Community Services Representative, District IV  
**SUBJECT:** CON2016-00026  
**DATE:** August 2, 2016

On Monday, August 1, 2016, the District IV Advisory Board considered a request for a: **Conditional Use for a Nightclub in the City within 300 feet of residential zoning, south of Douglas and east of Meridian (2201 W Douglas – Metro Court)**

The DAB Members were provided the MAPD staff report for review.

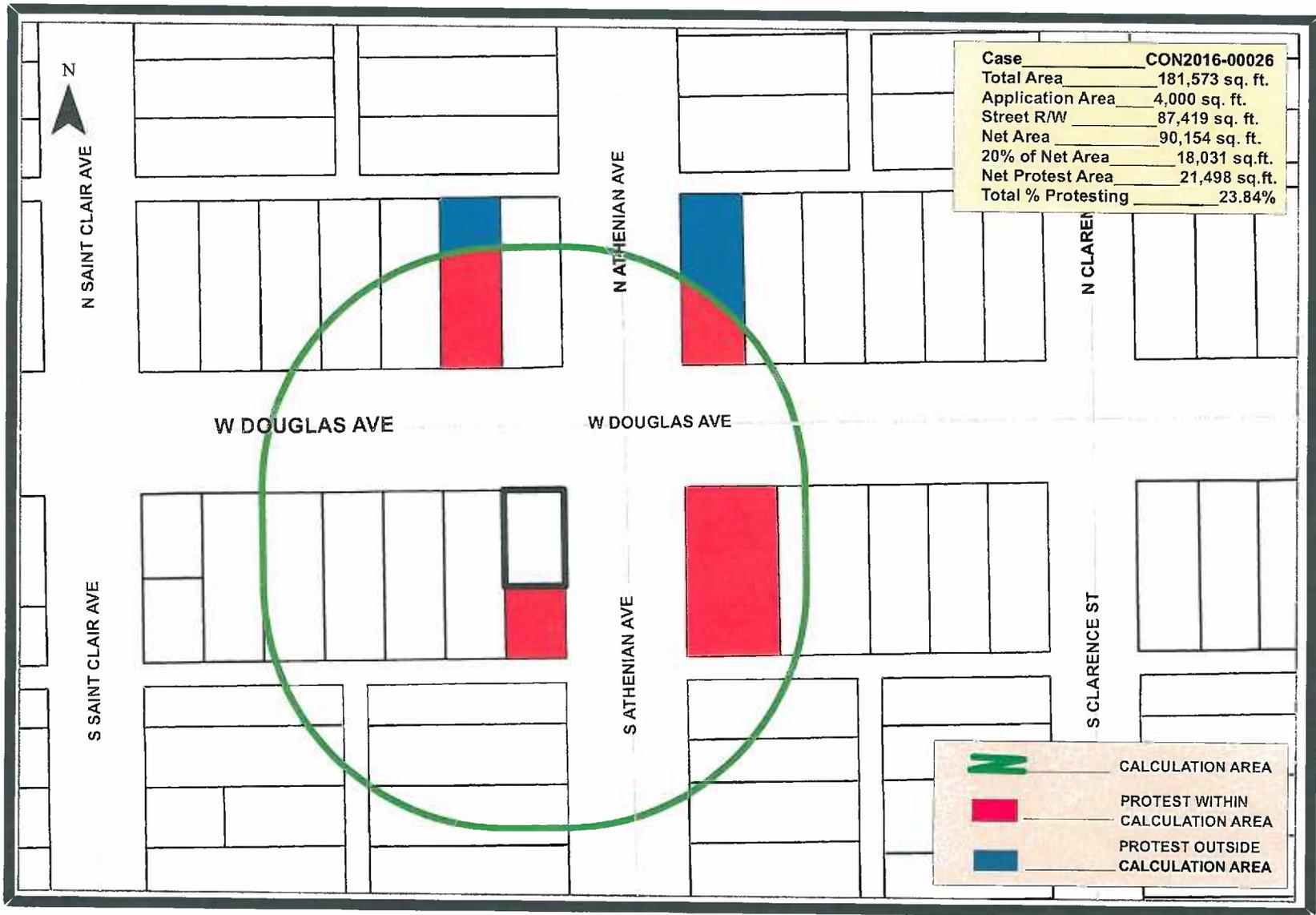
This establishment was closed for over three (3) years but reopened on July 30, 2016. It is licensed for 64 occupants, and therefore need 32 parking spaces according to code. There are only seven (7) parking spaces available on the street that are shared with abutting businesses. There are residents to the north, south, and east of this property.

Several residents who live within 300 feet of this establishment stated that this establishment has loud music that they can hear from their residences and that crime was reduced when the establishment was vacated over three years ago. One resident stated that he witnessed sales of drugs and claims that prostitutes were once operating out of a motor home behind the establishment. And another resident claims that she has witnessed club patrons urinating in her yard.

There was additional testimony that the previous occupants had shootings and ran a car theft ring. However, WPD was not present at this time to substantiate this.

**The DAB members voted 9-0 to recommend the application be DENIED.**

**Please review this information when CON2016-00026 is considered.**



City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** CON2016-00038 – City Conditional Use Request for a Group Residence, Limited, on SF-5 Single-Family Residential Zoned Property Generally Located North of West 29th Street North and West of North Arkansas Avenue at the Southeast Corner of West 31st Street North and North Hood Avenue (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Non-Consent)

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**MAPC Recommendation:** The MAPC recommended approval of the request (6-2).

**DAB Recommendation:** District Advisory Board VI recommended denial of the request (9-1).

**MAPD Staff Recommendation:** The Metropolitan Area Planning Department staff recommended denial of the request.



**Background:** The applicant requests a conditional use to operate a “group residence, limited,” for nine male residents on the SF-5 Single-Family Residential (SF-5) zoned site located on the southeast corner of West 31st Street North and North Hood Avenue. Per the Unified Zoning Code (UZC, Sec.II-B.5.k), a group residence, limited, is a residential facility occupied by six to 15 persons providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect. The applicant has stated that the group residence will be an Oxford House for nine adult men recovering from drug and/or alcohol addiction. There are no resident counselors in an Oxford House.

The UZC requires the consideration of a conditional use for a group residence, limited, in the SF-5 zoning district and in all residential zoning districts with one exception. A group residence, limited, is allowed by right in the B Multi-Family Residential (B) and in the non-residential zoning districts GO General Office (GO), NR Neighborhood Retail (NR), LC Limited Commercial (LC), GC General Commercial (GC), CBD Central Business District (CBD) and the AFB Air Force Base (AFB). The term group residence does not include “group homes” or “correctional placement residences”; UZC, Sec.II-B.5.i and Sec.II-B.5.k.

The site is developed with an eight bedroom, four bathroom, 2,086 square-foot single-story, brick and lap siding single-family residence (built 1983). The applicant has stated that there will be one resident per bedroom in seven bedrooms and one bedroom with two residents. On-site parking is provided by what looks like a double-wide, paved drive way and a gravel parking lot located on the west side of the site, along Hood Avenue. No size was given on the site plan for the west gravel parking area, which may be encroaching into the Hood Avenue right of way. The UZC requires one parking space per bedroom for a group residence. The proposed site requires eight parking spaces. Because the site plan does not give the size of the parking areas and does not confirm that the west parking area is not encroaching into Hood Avenue, staff cannot confirm that the required on-site parking is provided.

The site is located in a large area, from 29th Street North to 37th Street North, from the west side of the Little Arkansas River to Arkansas Avenue, of almost unbroken SF-5 zoned single-family residences. The exceptions are scattered LC zoned properties located along the arterials 29th Street North and Arkansas Avenue, four TF-3 zoned properties, a B zoned property and a group of three properties zoned GC and GO. SF-5 zoned single-family residences abut the east and south sides of the corner site. SF-5 zoned single-family residences are located adjacent to the west, across Hood Avenue, and north, across 31st Street North, sides of the corner site. The appraiser’s link shows the single-family residences located closest to the site being built over a wide time frame, from 1937-1992.

**Analysis:** On August 1, 2016, District Advisory Board (DAB) VI considered the requested conditional use. Planning had recommended denial, but had also offered an option to approve with conditions if the MAPC found the request appropriate. These conditions are:

- (1) The group residence, limited, is for a maximum of nine adult males for recovery from drug and alcohol addiction under the concept and affiliation of Oxford House, Inc.
- (2) The residence must be approved by the Wichita Fire Department, the Metropolitan Area Building and Construction Department and any other applicable federal, state and local standards.
- (3) The site will developed with an approved revised site plan. The site plan shall include, but not be limited to, an on-site paved parking area that conforms to the UZC’s parking standards for one parking space per bedroom. The site plan must be submitted for review and approval by the MAPD.
- (4) The applicant shall obtain all required federal, state, local and other applicable permits and inspections.
- (5) The site shall be developed as shown on the approved site plan, within 90 days of approval by the appropriate governing body or the conditional use shall be declared null and void.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the

Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

There were protesters at the DAB VI meeting. The DAB voted to deny (9-1) the requested conditional use.

On August 4, 2016, the Metropolitan Area Planning Commission (MAPC) considered and approved (6-2) the requested conditional use with the following condition:

- (1) The group residence, limited, is for a maximum of nine adult males for recovery from drug and alcohol addiction under the concept and affiliation of Oxford House, Inc.

There were protesters at the MAPC meeting. Planning staff has received valid protests to the request totaling 3.05% of the total land area located within the 200-foot protest radius. Because valid protests totaled less than 20 percent of the total land area located within the 200-foot protest radius four votes are required to overturn the protest.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

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

**Recommendation/Actions:** It is recommended that the City Council: 1) Concur with the findings of the MAPC and approve the requested conditional use subject to the MAPCD's condition enumerated (simple majority of four votes), 2) Overturn the recommendation of the MAPC and deny the request (requires five votes), 3) Modify the MAPC's conditions of approval by making alternate findings (requires five votes) or, 4) Return the requested conditional use to the MAPC for reconsideration (requires four votes).

**Attachments:**

- MAPC minutes
- DAB memo
- Protest map
- Resolution
- Site Plan

RESOLUTION No. 16-334

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A GROUP RESIDENCE, LIMITED, ON APPROXIMATELY 0.17-ACRES ZONED SF-5 SINGLE-FAMILY RESIDENTIAL (“SF-5”), GENERALLY LOCATED NORTH OF WEST 29<sup>TH</sup> STREET NORTH AND WEST OF NORTH ARKANSAS AVENUE, ON THE SOUTHEAST CORNER OF NORTH HOOD AVENUE AND WEST 31<sup>ST</sup> STREET NORTH IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

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

**SECTION 1.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a Group Residence, Limited, on approximately 0.17-acres zoned Single-Family Residential (“SF-5”) legally described below:

**Case No. CON2016-00038**

A Conditional Use to allow a Group Residence, Limited, on approximately 0.17-acres zoned Single-Family Residential (“SF-5”) legally described as:

Lot 1 except the East 60 feet, Schlender Addition, Wichita, Sedgwick County, Kansas; generally located north of West 29<sup>th</sup> Street North and west of North Arkansas Avenue, on the southeast corner of West 31<sup>st</sup> Street North and North Hood Street.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

- (1) The group residence, limited, is for a maximum of nine adult males for recovery from drug and alcohol addiction under the concept and affiliation of Oxford House, Inc.
- (2) The residence must be approved by the Wichita Fire Department, the Metropolitan Area Building and Construction Department and any other applicable federal, state and local standards.
- (3) The site will developed with an approved revised site plan. The site plan shall include, but not be limited to, an on-site parking area that conforms to the UZC’s parking standards and provide for one parking space per bedroom. The site plan must be submitted for review and approval by the MAPD.
- (4) The applicant shall obtain all required federal, state, local and other applicable permits and inspections.
- (5) The site shall be developed as shown on the approved site plan, within 90 days of approval by the appropriate governing body or the conditional use shall be declared null and void.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the “Official Zoning District Map” on file in the office of the Planning Director of

the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date  
September 6, 2016.

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Jeff Longwell, Mayor

**ATTEST:**

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Karen Sublett, City Clerk

(SEAL)

Approved as to form:

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Jennifer Magana, City Attorney and Director of Law

**EXCERPT MINUTES OF THE AUGUST 4, 2016 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION HEARING**

**Case No.: CON2016-00038** - Metal Arts Properties, LLC (owners) and Alissa Huibsch (applicant) request a City Conditional Use permit for a Group Residence Limited in SF-5 Single-family Residential zoning for property described as:

Lot 1 except the East 60 feet, Schlender Addition, Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests a conditional use to operate a group residence, limited, for nine male residents on the SF-5 Single-Family Residential (SF-5) zoned site located on the southeast corner of West 31st Street North and North Hood Avenue. Per the Unified Zoning Code (UZC, Sec.II-B.5.k), a group residence, limited, is a residential facility occupied by six to 15 persons providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect.

The UZC requires the consideration of a conditional use for a group residence, limited in the SF-5 zoning district and in all residential zoning districts with one exception. A group residence, limited, is allowed by right in the B Multi-Family Residential (B), GO General Office (GO), NR Neighborhood Retail (NR), LC Limited Commercial (LC), GC General Commercial (GC), CBD Central Business District (CBD) and the AFB Air Force Base (AFB) zoning districts. The term group residence does not include Group Homes or Correctional Placement Residences; UZC, Sec.II-B.5.i and Sec.II-B.5.k. A group of not more than five persons (excluding servants) not related by blood or marriage, may live together as a single housekeeping unit in a dwelling unit/ single-family residence; UZC Sec.II.B.4.n.

The applicant has stated that the group residence will be an Oxford House. Per the Oxford House web site:

Oxford House is a concept in recovery from drug and alcohol addiction. In its simplest form, an Oxford House describes a democratically run, self-supporting and drug free home. Oxford House, Inc., is the national, non-profit umbrella organization which provides the network connecting all Oxford Houses and allocates resources to duplicate the Oxford House concept where needs arise. The number of residents in a House may range from six to fifteen. There are houses for men, houses for women, and houses which accept women with children. A house with a mix of men and women is not allowed. There are no resident counselors in an Oxford House. A recovering individual can live in an Oxford House for as long as he or she does not drink alcohol, does not use drugs, and pays an equal share of the house expenses. The average stay is about a year, but many residents stay three, four, or more years. There is no pressure on anyone in good standing to leave. While Oxford House is not affiliated with Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), its members realize that recovery from alcoholism and drug addiction can only be assured by the changing of their lifestyle through full participation in AA and NA. The Oxford House concept in recovery was established in 1975.

The site is developed with an eight bedroom, four bathroom, 2,086-square foot single-story, brick and lap siding single-family residence (built 1983). The applicant has stated that there will be one resident per bedroom in seven bedrooms and one bedroom with two residents. On-site parking is provided by what looks like a double-wide, paved drive way and a gravel parking lot located on the west side of the site, along Hood Avenue. No size was given on the site plan for the west gravel parking area, which may be encroaching into the Hood Avenue right of way. The UZC requires one parking space per bedroom for a group residence. The proposed site requires eight parking spaces. Because the site plan does not give the size of the parking areas and does not confirmed that the west parking area is not encroaching into Hood Avenue, staff cannot confirm that the required on-site parking is provided.

The site is located in a large area, from 29<sup>th</sup> Street North to 37<sup>th</sup> Street North, from the west side of the Little Arkansas River to Arkansas Avenue, of almost unbroken SF-5 zoned single-family residences. The exceptions are scattered LC zoned properties located along the arterials 29<sup>th</sup> Street North and Arkansas Avenue, maybe four TF-3 zoned properties, a B zoned property and a group of three properties zoned GC and GO. Staff found no apparent conditional uses located in the area's the SF-5 zoned properties. SF-5 zoned single-family residences abut the east and south sides of the corner site. SF-5 zoned single-family residences are located adjacent to the west, across Hood Avenue, and north, across 31<sup>st</sup> Street North, sides of the corner site. The appraiser's link shows the single-family residences located closest to the site being built over a wide time frame, from 1937-1992.

**CASE HISTORY:** The site is located on Lot 1 except the east 60 feet, Schlender Addition, which was recorded with the Register of Deeds on April 2, 1982. The area was annexed into the City between 1961-1970.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

**PUBLIC SERVICES:** The site has access onto Hood Avenue, a sand and gravel residential street and 31<sup>st</sup> Street North a paved, two-lane, residential street. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2035 Wichita Future Growth Concept Map" shows the site and the area it is located in as "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita.

**RECOMMENDATION:** The intent of the proposed group residence, limited is provide peer group assistance for the recovery from drug and/or alcohol addiction based on and supported by a national organization, Oxford House. The UZC allows consideration of a group residence, limited as a conditional use in all of the residential zoning districts with the exception of the B zoning district, which allows it by right. The proposed site provides a residence for a maximum of nine adult men recovering from drug and/or alcohol addiction located in, as previously stated, a large mostly unbroken neighborhood of SF-5 zoned single-family residences. The Oxford House webb site states that the average stay in such a residence is about a year, but many residents stay three, four, or more years. Based on this length of residency, the proposed facility's residential population is more transient in its nature, which would seem to be like the residency of multi-family development and not (as usually argued) a single-family neighborhood where the length of residency may be longer based on the ownership living on-site. Multi-Family residential and non-residential zoning would seem to be a more appropriate zoning for the proposed use. A neighborhood with a more diverse zoning pattern would also be a more appropriate neighborhood than the one the proposed site is located in. Based upon the information available prior to the public hearings, planning staff recommends that the request for a conditional use be **DENIED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a large area, from 29<sup>th</sup> Street North to 37<sup>th</sup> Street North, from the west side of the Little Arkansas River to Arkansas Avenue, of almost unbroken SF-5 zoned single-family residences. The exceptions are scattered LC zoned properties located along the arterial 29<sup>th</sup> Street North and Arkansas Avenue, maybe four TF-3 zoned properties, a B zoned property and a group of three properties zoned GC and GO. Staff found no apparent conditional uses located in the area's the SF-5 zoned properties. SF-5 zoned single-family residences abut the east and south sides of the corner site. SF-5 zoned single-family residences are located adjacent to the west, across Hood Avenue, and north, across 31<sup>st</sup> Street North, sides of the corner site. The appraiser's link shows the single-family residences located closest to the site being built over a wide time frame, from 1937-1992.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which is meant to accommodate low to moderate-density, single-family residential development and complementary land uses within the City of Wichita. The SF-5 zoned site could be developed as single-family by right.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** If approved the request would introduce a new use to the SF-5 zoned single-family residential neighborhood. Approval of the proposed conditional use would permit the site to become group residence, limited, specifically a facility that provides peer group assistance for the recovery from drug and/or alcohol addiction based on and supported by a national organization, Oxford House. The average stay in such a residence is about a year, but many residents stay three, four, or more years. Based on this length of residency, the proposed facility's population is more transient in its nature, which would seem to be like the residency of multi-family development and not (as usually argued) a single-family neighborhood where the length of residency may be longer based on the ownership living on-site. Multi-Family residential and non-residential zoning would seem to be a more appropriate zoning for the proposed use. A neighborhood with a more diverse zoning pattern would also be a more appropriate neighborhood than the one the proposed site is located in.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Future Growth Concept Map” shows the site and the area it is located in as “residential.” The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, small parks and other similar residential- serving uses are located in these areas. The site is located outside of the established central area of Wichita.

The UZC classifies a group residence, limited, as a residential use. The UZC requires consideration and approval of a conditional use to operate a group residence, limited, on the SF-5 zoned land.

- (5) **Impact of the proposed development on community facilities:** Approval of this request will have a minimal impact on community facilities.

However if the MAPC feels the conditional use is appropriate, staff recommends the following conditions, with the MAPC making findings for their approval:

- (1) The group residence, limited, is for a maximum of nine adult males for recovery from drug and alcohol addiction under the concept and affiliation of Oxford House, Inc.
- (2) Prior to occupancy the residence must be approved by the Wichita Fire Department, the Metropolitan Area Building and Construction Department and any other applicable federal, state and local standards.
- (3) The site will developed with an approved revised site plan. The site plan shall include, but not be limited to, an on-site paved parking area that conforms to the UZC’s parking standards for one parking space per resident. The site plan must be submitted for review within 30-days of approval by the appropriate governing body.
- (4) The applicant shall obtain all required federal, state, local and other applicable permits and inspections.
- (5) The site shall be developed as shown on the approved site plan, within 60 days of approval by the appropriate governing body or the conditional use shall be declared null and void.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He said an application for a Group Residence was what was submitted by the applicant. He referred to a hand out from an attorney that staff received earlier this afternoon, which he said he would have the City Attorney deal with. He reported that the DAB recommended denial at the 8-1-16 meeting. He added that unfortunately the applicant did not attend that meeting and could participate in the dialogue.

**SEAN HIPPS, METAL ARTS PROPERTIES** indicated that they were not aware of the meeting on Monday and did not make a conscious decision not to attend and would be happy to explain what they are requesting. He indicated that they were passing out a packet to address questions they have become aware of. He said he had a letter from the City dated 2011 that indicates they are allowed eight residents. He said they would like to increase that to nine residents. He gave a brief background stating that they purchased this Oxford House about two years ago. He said he believes they need more Oxford Houses and every room is important to them. He clarified that he did not speak on behalf of Oxford House, just as a representative of Metal Arts Properties. He mentioned that the City recommended that they go through this process. He said he knows an alumni from this house who is now a taxpayer and a contributing member of the community and if this room were not available, maybe that would not be the case.

**DUSTIN GRAY, METAL ARTS PROPERTIES, 14620 WEST VALLEY HI COURT** said Metal Arts is a family owned business. He mentioned that he was an alumni of Wedgwood Oxford House and believes he owes them his life which is why Metal Arts Properties stepped in and bought the location when they heard they were in trouble. He briefly explained how Oxford Houses were run and that they were not a half-way house but self-governed and more like a family. He also clarified that he could not speak for Oxford House. He said they are here because the City asked them to make the application. He said this Oxford House has been in operation for 21 years. He said it has been a positive influence on the neighborhood and one of the nicest homes in the neighborhood. He said there are seven members currently residing in the house. He briefly reviewed a diagram of the bedrooms and bathrooms in the house and said it is spacious and accommodating. He said parking has never been an issue and that there were seven parking spaces that are rarely full because some of the residents of the House may not have a driver's license or a car. He said other homes in the neighborhood use the street for parking.

**GRAY** said people get scared when they hear the terms addict and alcoholic but he said these diseases affect all classes, races and genders from the top of the social order to the bottom. He said Oxford Houses have proven to be a good resource for people in recovery and have an extremely high success rate. He said he was the owner of Metal Arts and employed over 30 people so he is giving back to the community. He said they would like the nine beds so they can help more people.

**HIPPS** requested that the application be approved without any of the staff recommendations except that they will never go above nine occupants.

**MILLER STEVENS** asked what led to the City's request that they submit this application.

**GRAY** said he believed it was fallout over an Oxford House located in College Hill.

**MILLER STEVENS** clarified then they have had more than eight people in the house prior to this.

**GRAY** said yes they have had nine beds for well over 12 years, but that doesn't mean there are always nine members in the house. He explained the interview process and requirement for 100% sobriety and indicated that if residents drink or use drugs they are gone. He said Oxford Houses have a no tolerance policy.

**MILLER STEVENS** said so Oxford House has no permit for a group residence because they are just renting the house from Metal Arts.

**GRAY** said that was correct and added that he used to sit in on meetings at the house to give advice, etc., but since he has become a landlord, that is a conflict of interest. He referred to the letter from the Oxford lawyer referencing the Fair Housing Act and that Oxford Houses are treated as family dwellings because addicts are considered disabled.

**WARREN** asked how many Oxford Houses are located in Wichita.

**GRAY** said he was not sure but he thinks about 29 houses. He added that Oxford House had their annual convention in Wichita several years ago.

**JOHN AGNEW, 116 N. MARLEN, HAYSVILLE** said he was a member of the Oxford House Alumni Association. He said he was present to ask the Commission to consider letting the location have nine members. He said some of the reasons are economics; how many people does it take to run the house in addition to policing each other. He said making it affordable for someone to live in an Oxford House is part of the equation. He said they want to provide low cost housing in nice neighborhoods for people seeking recovery. He said Oxford houses have always had to face the issue of "NIMBY" "Not In My Back Yard." But they want to blend in with the neighborhood, not stick out like a sore thumb.

**AGNEW** gave a brief over view of the success rate of Oxford Houses (65%-87%), services offered for both men and women and women with children. He said some of the homes are located in zoning that allows more than eight individuals. He commented that the Staff Report refers to the transient nature of Oxford House residents, but said some people stay at a House between 4-5 years. He said as Co-Chair of one of the Governor's Behavioral Health Subcommittees and working with Substance Abuse of Kansas he can say that the City and State use Oxford Houses as a resource. He referenced the City's Drug Court and Federal and State Departments of Community Corrections. He concluded by asking the Commission to allow nine residents at this location.

**VERONICA CASADOS, 3257 HOOD COURT** said she lives one and half blocks from this site. She commented that the community didn't know about this proposal until last Wednesday when the sign was posted about the rezoning with a number of call. She said they quickly gathered some residents in the neighborhood to attend the DAB meeting held Monday. She said the neighborhood was under the impression that there were only five people in the house and most of the community is supportive of that. She said their biggest concern is raising this to nine people because they feel it becomes a density issue not only for the neighborhood but she questioned whether having nine people in a 2,000 square foot house is a supportive living environment, especially nine people who are struggling with addiction. She said five residents is fine with the neighborhood, nine residents is not.

**DAILEY** asked if there have already been between 8-9 people at the location and things have been going okay what is her objection.

**CASADOS** said they don't know how many people have been living there, they have heard many different things. She said it is evident there is more activity at the house and more parking in the street.

**REVEREND BRIAN HITCHCOCK, 1055 WEST 35<sup>TH</sup> STREET NORTH** said he lives at the Wedgwood Oxford House and in the last 18 months he has been there the only time the police came was to check on the welfare of one of the residents. He said the house has always had 8-9 members. He said this facility has saved his life. He said he believes the application should be approved. He said Oxford houses are needed in this town because they need more beds. He briefly reviewed the inner workings of the Oxford House.

**PATRICK \_\_\_\_\_, 1055 WEST 35<sup>TH</sup> STREET NORTH** said he also resides at the Wedgwood Oxford House. He briefly reviewed the inner workings of the house referencing the interview process. He said they are a tightknit group, like brothers living together who are serious about recovery. He asked that the Commission allow them nine people because they need the beds in Wichita.

**VICTOR \_\_\_\_\_, 2709 NORTH LORRAINE** said he has been involved with Oxford Houses for about 15 years in various capacities as well as serving on several state wide committees on drug abuse and recovery. He said he also lived in an Oxford House for a little over two years and if it was not for that, he didn't know where he'd be. He briefly reviewed his experience during his stay at the facility reuniting with his family and children. He said nine people can provide each other with rehabilitation support and help each other get their lives back on track. He said Oxford Houses are self-supporting and don't live off the government. He gave several statistics regarding Oxford House participant's success rates, community involvement and becoming productive members of society. He said they would like to come to a reasonable solution and let them operate with nine members as they have been doing in the past.

**MOTION:** To approve subject to the alternative staff recommendation for a total of nine adult males.

**WARREN** moved, **TODD** seconded the motion.

**DENNIS** asked what was staff's reason for recommending denial of the application.

**LONGNECKER** said staff did not feel the density was appropriate for this Single-family neighborhood; however, he referred to the alternative staff recommendations listed on page five of the Staff Report if the Commission felt this was an appropriate use.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** clarified that this was not a vote on Oxford Houses and he applauds what they do. He said a number of years ago the City received a complaint that there were 12-15 people living in a home in single-family zoning. He said that was in violation of the UZC. He said; however, under the Fair Housing Act and American with Disabilities Act (ADA) there has to be reasonable accommodation of someone with a disability. He said former alcoholics and/or drug abusers fall under the ADA. He said in order to make a reasonable

accommodation the City looked at establishment of a “group home” as defined in State Statute. He briefly reviewed those requirements which were up to eight residents and two staff members. He added that Oxford House has no professional staffing. He mentioned case law Oxford House vs. the City of St. Louis and said financial considerations do not have to be taken into account. He said the house can have eight residents “by right” but if they want to go beyond that, the conditional use permit for a group home is required. He said this hearing is not a judgement on Oxford Houses or what they do this hearing is about current City Policy.

**DAILEY** clarified that Commissioner Warren was excluding the six conditions listed on page 5 of the Staff Report.

**WARREN** indicated that was correct and said he feels that they are just “bureaucratic pile ons.”

**DENNIS** said he didn’t have a problem with those other requirements and cannot support the motion as it stands. He said he would support the motion if everything recommended by staff was included.

The **MOTION** carried (6-2). **DAILEY** and **DENNIS** – No.



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**INTEROFFICE  
MEMORANDUM**

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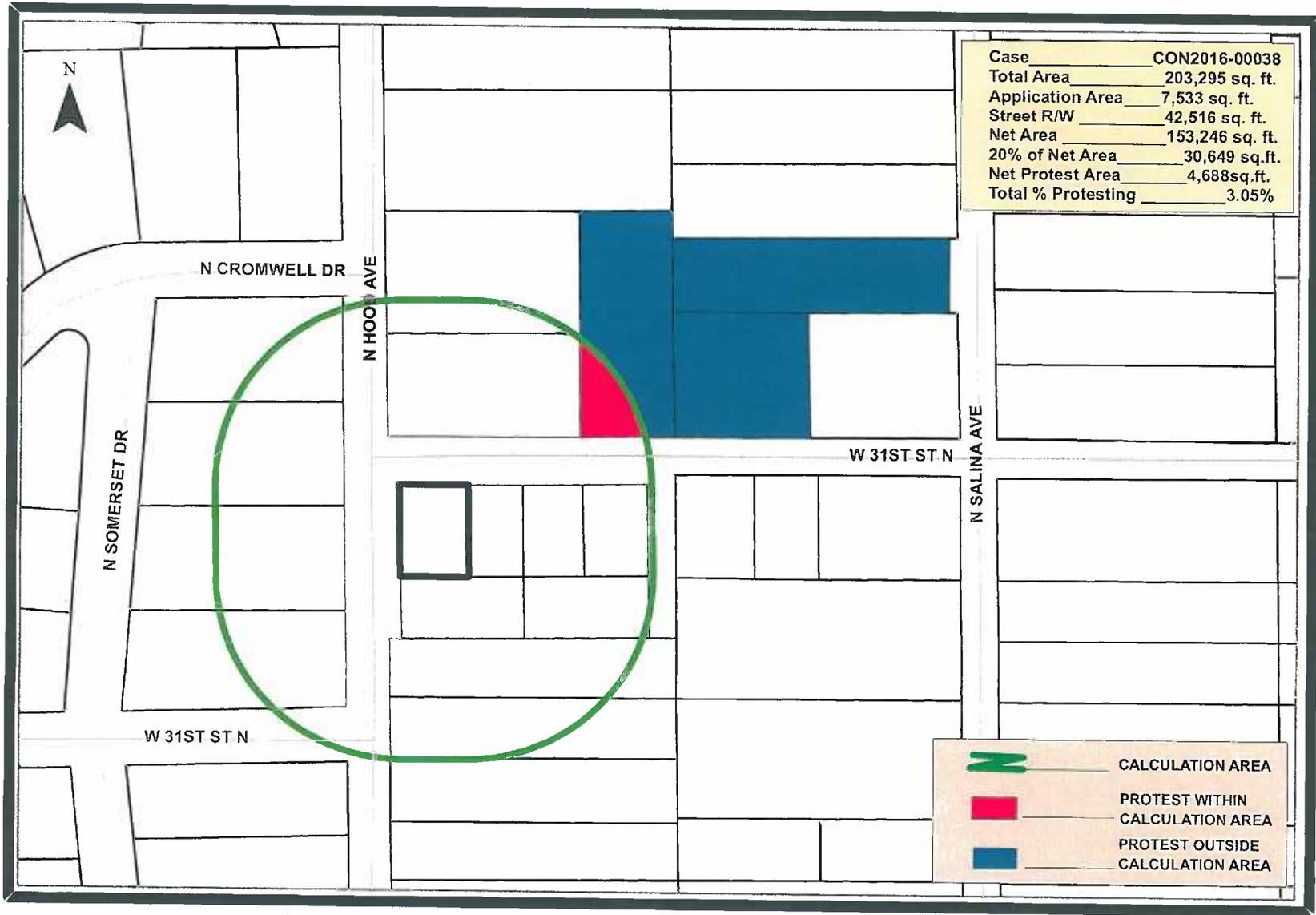
**TO:** MAPC  
**FROM:** Martha Sanchez, Community Service Representative, District VI  
**SUBJECT:** CON2016-00038  
**DATE:** August 2, 2016

On Monday, August 1, 2016, the District VI Advisory Board considered a request for a conditional use to operate a group residence, limited, for nine male residents on the SF-5 Single-Family Residential (SF-5) zoned site located on the southeast corner of West 31st Street North and North Hood Avenue.

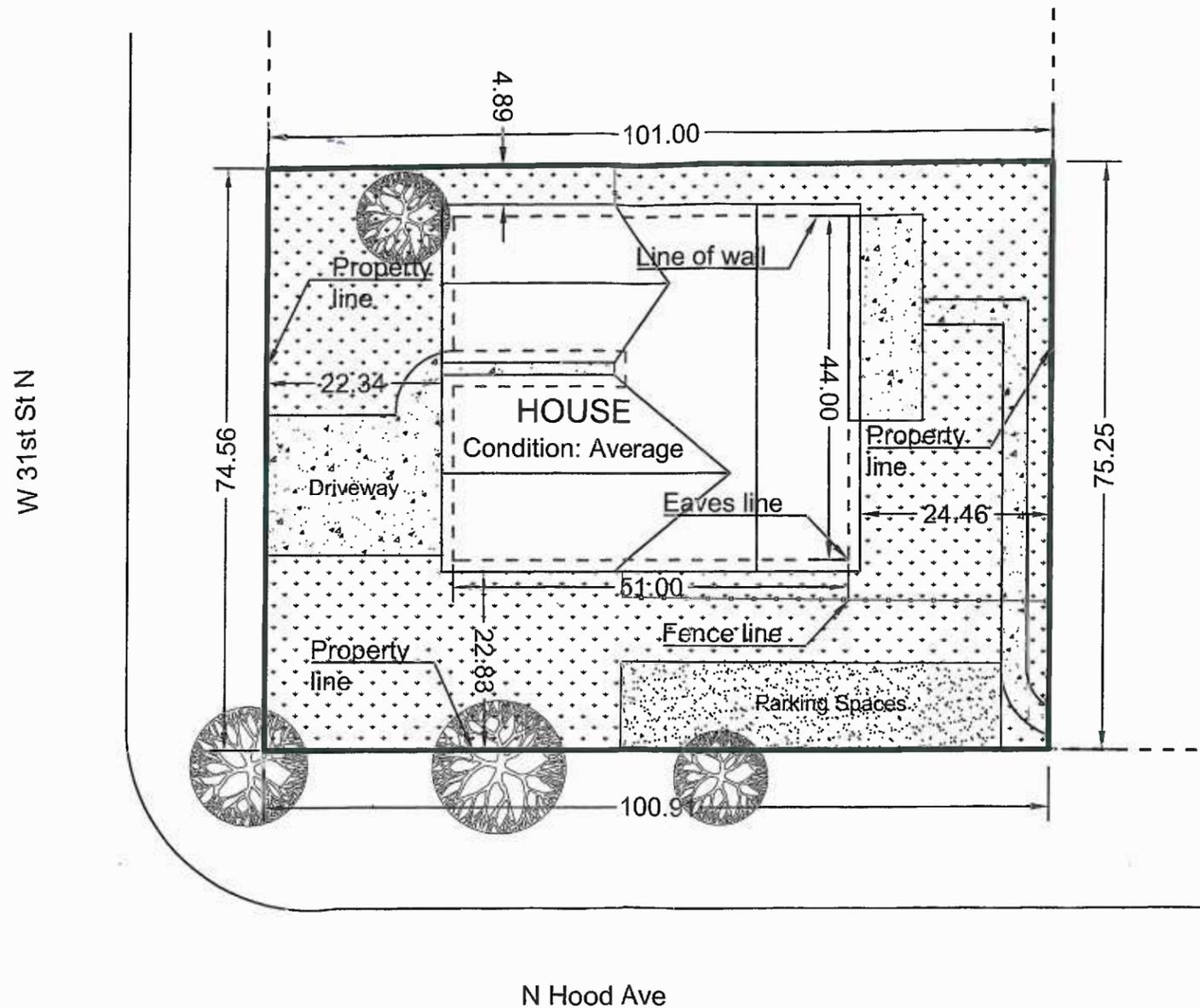
**Action Taken: Dunakey/Claycomb made a motion to recommend approval that MAPC accept Staff's recommendation to deny the request.**

**Motion carried: (9-1)**

Please review this information when **CON2016-00038** is considered.



CON 2016-38



Owner: METAL ARTS PROPERTIES LLC  
 Address: 1055 W 31st St N  
 Wichita, KS 67204  
 Parcel #: 099-32-0-33-02-011.02  
 Legal Desc: LOT 1 EXC E 60 FT  
 SCHLENDER ADDITION  
 Lot: 7,405 SF  
 Floor size: 2,086 SF  
 Scale 1"=20'

Wichita, Kansas  
August 29, 2016  
10:00 a.m., Monday  
Conference Room, 12<sup>th</sup> Floor

MINUTES - BOARD OF BIDS AND CONTRACTS\*

The Board of Bids and Contracts met with Marty Strayer, Administrative Assistant, Public Works and Utilities, Amy Belcher, Accountant, Finance, representing the Director of Finance, John Page, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Logan Bradshaw, Fellow, representing the City Manager's Office and Karen Sublett, City Clerk, present.

Minutes of the regular meeting date August 22, 2016, were read and on motion approved.

Bids were opened August 26, 2016, pursuant to advertisements published on:

**37<sup>th</sup>, Oliver to Woodlawn (37<sup>th</sup>, Oliver to Woodlawn) 87N-0613-01/472-85157.**

Defer two weeks-Pending KDOT Approval

**2016 Sanitary Sewer Reconstruction Phase 9 (north of Lincoln, east of I-135 Hwy) 468-85137 (620855).**

Stannard Construction d/b/a WB Carter - \$82,529.50

**2015/2016 Arterial Sidewalk and Wheelchair Ramp Program – Phase 1 (north of 63<sup>rd</sup> Street South, east of 135<sup>th</sup> Street West) 472-85297 (707107).**

Barkley Construction\* - \$447,775.00 \*Engineer's Estimate

**Lateral 101, Main 6, Sanitary Sewer #12 Ann Walenta Commercial Addition 468-85121 (744421)**

Wilks Underground Utilities, LLC\* - \$31,958.28 Group 1 Base Bid  
\$ 1,200.00 Group 2 Add Alternate  
\$33,158.25 Bid Total

**Fawnwood, Onewood Auburn Hills 16<sup>th</sup> Addition 472-84290 (765998)**

Cornejo & Sons LLC - \$230,092.73

Purchasing Manager recommended that the contracts be awarded/deferred as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

On motion the Board recommended that the contracts be awarded/deferred as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

On motion the Board of Bids adjourned.

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Marty Strayer, Administrative Assistant  
Department of Public Works and Utilities

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Karen Sublett, MMC  
City Clerk

## FORMAL BID REPORT

TO: Robert Layton, City Manager  
 DATE: August 29, 2016

**ENGINEERING BIDS – GARY JANZEN, CITY ENGINEER****August 12, 2016**

Paving – 37<sup>th</sup>, Oliver to Woodlawn – Public Works & Utilities Department/Engineering Division  
 (Defer to September 12, 2016) (Pending KDOT Approval)

**August 26, 2016**

2016 Sanitary Sewer Reconstruction Phase 9 (north of Lincoln, east of I-135 Hwy) – Public Works & Utilities  
 Department/Engineering Division

**Stannard Construction d/b/a WB Carter** **\$82,529.50**

2015/2016 Arterial Sidewalk & Wheelchair Ramp Program – Phase 1 (north of 63<sup>rd</sup> Street South, east of 135<sup>th</sup>  
 Street West) – Public Works & Utilities Department./Engineering Division

**Barkley Construction (Engineer's Estimate)** **\$447,775.00**

Lateral 101, Main 6, Sanitary Sewer #12 to serve Ann Walenta Commercial Addition – Public Works & Utilities  
 Department/Engineering Division

**Wilks Underground Utilities, LLC** **Base Bid** **\$31,958.25**

**Add Alternate** **1,200.00**

**Aggregate Bid Total** **\$33,158.25**

Paving - Fawnwood, Onewood to serve Auburn Hills 16<sup>th</sup> Addition - Public Works & Utilities  
 Department/Engineering Division

**Cornejo & Sons, LLC** **\$230,092.73**

ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.

  
 Melinda A. Walker  
 Purchasing Manager

**PAVING BID TABULATION SUMMARY**

BOARD OF BIDS - August 12, 2016

Q640808/RQ640809

FB640140		Engineer's Construction Estimate	Kansas Paving	Flint Hills Materials LLC	Pearson Construction LLC
37th, Oliver to Woodlawn			\$3,224,344.00	\$3,071,775.48	\$3,121,331.80
(37th, Oliver to Woodlawn)	BID BOND		X	X	
	ADDENDA	3	X	X	
87N-0613-01/472-85157					
		Engineer's Construction Estimate	APAC Kansas	Comejo & Sons LLC	
37th, Oliver to Woodlawn			\$3,911,747.00	\$3,162,564.47	
(37th, Oliver to Woodlawn)	BID BOND				
	ADDENDA	3	X	X	
87N-0613-01/472-85157					
		Engineer's Construction Estimate			
37th, Oliver to Woodlawn					
(37th, Oliver to Woodlawn)	BID BOND				
	ADDENDA	3			
87N-0613-01/472-85157					
		Engineer's Construction Estimate			
37th, Oliver to Woodlawn					
(37th, Oliver to Woodlawn)	BID BOND				
	ADDENDA	3			
87N-0613-01/472-85157					
DEFER 2 WEEKS PENDING KDOT APPROVAL					

CHECKED BY:                       
 REVIEWED BY:





**SANITARY SEWER BID TABULATION SUMMARY**

BOARD OF BIDS - August 26, 2016

RQ640931

FB640170		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction
Lateral 101, Main 6, Sanitary Sewer #12	GROUP 1 BASE BID	\$39,438.00	\$39,798.00	\$51,069.00	\$54,410.00
Ann Walenta Commercial Addition	GROUP 2 ADD ALT		\$2,000.00	\$1,000.00	\$9,900.00
	BID BOND				
468-85121 (744421)	ADDENDA	2			
<b>BID TOTAL</b>		\$39,438.00	\$41,798.00	\$52,069.00	\$64,310.00
		Engineer's Construction Estimate	Nowak Construction	Wilks Underground Utilities LLC	Danco Enterprises Inc.
Lateral 101, Main 6, Sanitary Sewer #12	GROUP 1 BASE BID	\$39,438.00	\$48,458.67	\$31,958.25	\$36,795.00
Ann Walenta Commercial Addition	GROUP 2 ADD ALT		\$1,210.00	\$1,200.00	\$500.00
	BID BOND				X
468-85121 (744421)	ADDENDA	2			
<b>BID TOTAL</b>		\$39,438.00	\$49,668.67	\$33,158.25	\$37,295.00
		Engineer's Construction Estimate	Dutton Construction & Plumbing LLC	Stannard Construction d/b/a WB Carter	
Lateral 101, Main 6, Sanitary Sewer #12	GROUP 1 BASE BID	\$39,438.00	\$33,395.00		
Ann Walenta Commercial Addition	GROUP 2 ADD ALT		\$1,800.00		
	BID BOND		X		
468-85121 (744421)	ADDENDA	2	X		
<b>BID TOTAL</b>		\$39,438.00	\$35,195.00		
		Engineer's Construction Estimate			
Lateral 101, Main 6, Sanitary Sewer #12	GROUP 1 BASE BID	\$39,438.00			
Ann Walenta Commercial Addition	GROUP 2 ADD ALT				
	BID BOND				
468-85121 (744421)	ADDENDA	2			
<b>BID TOTAL</b>		\$39,438.00			
Contract awarded for Base Bid plus Add Alternate \$33,158.25					

CHECKED BY: Kp  
 REVIEWED BY: ps

### PAVING BID TABULATION SUMMARY

BOARD OF BIDS - August 26, 2016

RQ640938

FB640171		Engineer's Construction Estimate	APAC - Kansas Inc	Comejo & Sons LLC	Kansas Paving Company
Fawnwood, Onewood		\$381,756.00	\$282,444.83	\$230,092.73	\$262,782.70
Auburn Hills 16th Addition 472-84290 (765998)	BID BOND				
	ADDENDA	1			
Engineer's Construction Estimate					
Fawnwood, Onewood		\$381,756.00	\$235,958.83		
Auburn Hills 16th Addition 472-84290 (765998)	BID BOND				
	ADDENDA	1			
Engineer's Construction Estimate					
Fawnwood, Onewood		\$381,756.00			
Auburn Hills 16th Addition 472-84290 (765998)	BID BOND				
	ADDENDA	1			
Engineer's Construction Estimate					
Fawnwood, Onewood		\$381,756.00			
Auburn Hills 16th Addition 472-84290 (765998)	BID BOND				
	ADDENDA	1			

CHECKED BY:           KP            
 REVIEWED BY:           PK

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL AUGUST 30, 2016**

- a. Pawnee Avenue from Hydraulic to Grove Street (Pawnee Avenue, east of Hydraulic) (87N-0597-01/472-85101/707048/636345/620713/211513/775071/664018) See Special Provisions. (District III) - \$7,220,000.00

To be Bid: July 22, 2016

**PRELIMINARY ESTIMATE of the cost of:**Pawnee Avenue from Hydraulic to Grove Street  
(Pawnee Avenue, east of Hydraulic)All work done and all materials furnished to be in accordance with plans and specifications  
on file in the office of the City Engineer.

<b>LUMP SUM BID ITEMS - Paving (707048)</b>		
1	Field Office & Laboratory (Type A)	1 ea
2	Mobilization	1 LS
3	Mobilization (DBE)	1 LS
4	Removal of Existing Structures	1 LS
5	Site Clearing	1 LS
6	Site Restoration	1 LS
<b>LUMP SUM BID ITEMS - Traffic (707048)</b>		
7	Traffic Signalization, Pawnee and Hydraulic	1 LS
8	Traffic Signalization, Pawnee and SE Boulevard	1 LS
9	Traffic Signalization, Pawnee and SB I-135 Ramps	1 LS
10	Traffic Signalization, Pawnee and NB I-135 Ramps	1 LS
11	Traffic Signalization, Pedestrian	1 LS
12	Traffic Signalization, Pawnee & Hydraulic Temporary	1 LS
13	Traffic Signalization, Pawnee & SE Boulevard Temporary	1 LS
14	Traffic Signalization, Pawnee & SB I-135 Ramps Temporary	1 LS
15	Traffic Signalization, Pawnee & NB I-135 Ramps Temporary	1 LS
16	Traffic Signalization, Pedestrian Temporary	1 LS
17	Pavement Markings	1 LS
18	Signing, Except Street Name Signs	1 LS
19	Traffic Control	1 LS
<b>LUMP SUM BID ITEMS - Landscaping (707048)</b>		
20	Seeding	1 LS
21	Sodding	1 LS
<b>MEASURED QUANTITY BID ITEMS - Paving (707048)</b>		
22	Pavement and/or Curb Removed	33,360 sy
23	Excavation DO NOT BID	0 ey
24	Fill, Compacted (95% Density) DO NOT BID	0 ey
25	Crushed Rock Base 8", Reinforced	1,261 sy
26	Crushed Rock Base 7", Reinforced	1,377 sy
27	Crushed Rock Base 6", Reinforced	34,054 sy
28	Sidewalk, Drive, &/or Pkg Lot Removed	8,264 sy
29	AC Pavement 7" (5" Bit. Base)	1,042 sy
30	AC Pavement 2" Mill & Overlay	578 sy
31	AC Pavement 6"	152 sy
32	Asphalt Widening	19 sy
33	Interlayer Pavement Reinforcement	20 sy
34	Concrete Approach 12", Bridge	263 sy
35	Concrete Approach 12", Railroad	331 sy
36	Concrete Pavement 12" (Reinf)	510 sy
37	Concrete Pavement 9" (Reinf)	6,255 sy
38	Concrete Pavement 9" (NRDJ)	22,399 sy
39	Concrete Pavement (VG) 8" (Reinf.)	1,298 sy
40	Concrete Driveway 8"	32,758 sf
41	Concrete Safety Barrier, Special	110 lf
42	Concrete C & G, Type 1 (6" & 1-1/2")	7,697 lf
43	Concrete C & G, Type 1 (6" & 1-1/2"), Special	170 lf
44	Concrete C & G, Type 3 (8" & 1-1/2")	2,484 lf
45	Concrete Curb, Mono Edge (6" & 1-1/2")	1,176 lf
46	Concrete Curb, Mono Edge, Special	11 lf
47	Concrete Sidewalk 4"	33,310 sf
48	Concrete Sidewalk 5"	5,452 sf
49	Sidewalk Thickening	1,127 lf
50	Concrete Sidewalk Protection Curb	507 lf
51	Concrete Sidewalk Protection Curb, Special	24 lf
52	Wheelchair Ramp w/ Detectable Warnings	42 ea
53	Concrete Pavement 4" (Stamped & Colored)	1,290 sy
54	Brick Pavers, Cross-Walk	833 sy
55	Concrete Base 8", Reinf.	833 sy
56	Concrete Ramp Nose Section (Median)	9 ea
57	Concrete Approach Footing, Bridge	54 cy
58	Concrete Approach Footing, Railroad	70 cy
59	Concrete C & G Removed & Replaced	787 lf

60	Concrete Curb, Mono Edge, Removed & Replaced	115	lf
61	Concrete Driveway Removed & Replaced	166	sf
62	Concrete Pavement Removed & Replaced	38	lf
63	AC Pavement Median Surface Removed & Replaced	341	sy
64	Fence, Temporary	400	lf
65	Aggregate Hookup	88	sy
66	Bus Bench, Remove and Reset	2	ea
67	MH Adjusted	6	ea
68	MH Adjusted w/ New Ring & Cover	9	ea
69	Valve Box Adjusted	33	ea
70	Monitoring Well Capped	2	ea
71	Pipe Removed	1,119	lf
72	Inlet Removed	17	ea
73	Manhole Removed	4	ea
74	MH Stack Removed	2	ea
75	Bollard, Pipe	4	ea
76	Sign, Business, Relocated	1	ea
77	Mailbox Removed and Reset	12	ea

**MEASURED QUANTITY BID ITEMS - Drainage (707048)**

78	Pipe, SWS 15" RCP	33	lf
79	Pipe, SWS 18" RCP	1,097	lf
80	Pipe, SWS 24" RCP	355	lf
81	Pipe, SWS 30" RCP	184	lf
82	Pipe, SWS 36" RCP	505	lf
83	Pipe, SWS 23"x 14" HERCP	145	lf
84	Pipe, SWS 30"x 19" HERCP	350	lf
85	Pipe, SWS 45"x 29" HERCP	162	lf
86	Pipe, SWS 60"x 38" HERCP	153	lf
87	Pipe, SWS 48" RCP	13	lf
88	Pipe, SWS 54" RCP	43	lf
89	Pipe, SWS 4" PVC, Perforated	610	lf
90	Fill, Sand (Flushed and Vibrated)	3,903	lf
91	Inlet, Curb (Type 1) (L=5' W= 4')	1	ea
92	Inlet, Curb (Type 1) (L=10' W= 4')	13	ea
93	Inlet, Curb (Type 1) (L=10' W= 5')	1	ea
94	Inlet, Curb (Type 1) (L=10' W= 7')	2	ea
95	Inlet, Curb (Type 1) (L=15' W= 4')	1	ea
96	Inlet, Curb (Type 1) (L=15' W= 7')	1	ea
97	Inlet, Curb (Type 1) (L=15' W= 9')	1	ea
98	Inlet, Curb (Type 1A) (L=10' W= 4')	2	ea
99	Inlet, Curb (Type 2) (L=6'-4"x W= 3'x4")	6	ea
100	Inlet, Curb (Type 2) Special (L=6'-4"x W=7')	1	ea
101	Inlet Hook-up	30	ea
102	Inlet, Drop (Single)	1	ea
103	Inlet, Drop (Double Double)	1	ea
104	Inlet, Grated Driveway, Double	1	ea
105	Manhole-Water Quality-BMP DO NOT BID	0	ea
106	MH, Standard SWS (5')	1	ea
107	MH, Standard SWS (6')	3	ea
108	MH Stack (4')	2	ea
109	MH, Reinforced Concrete (L=4', W=4')	1	ea
110	MH, Reinforced Concrete (L=5', W=5')	3	ea
111	MH, Reinforced Concrete (L=8'-6", W=8'-6")	1	ea
112	Pipe Plug, Temporary	2	ea
113	Sidewalk Flume	1	ea
114	Concrete Flume	17	lf
115	Inlet Top	1	ea
116	Headwall RC 54"	1	ea
117	Rip-Rap, Light Stone	36	sy

**MEASURED QUANTITY BID ITEMS - Traffic (707048)**

118	Streetlight Pole and Base, Remove and Reset	8	ea
119	AC Pavement 6", Temporary	1,000	sy
120	AC Pavement 6", Temporary (Phase Shifts)	1,630	sy
121	Crushed Rock Base 5", Temporary	1,158	sy
122	Signing, Elec. Portable Message (each per day)	300	days

**MEASURED QUANTITY BID ITEMS - Erosion Control BMP (707048)**

123	BMP, Back of Curb Protection	7,214	lf
124	BMP, Curb Inlet Protection	32	ea
125	BMP, Drop Inlet Protection	1	ea
126	BMP, Silt Fence	154	lf
127	BMP, Ditch Check	1	ea
128	BMP, Construction Entrance	8	ea

<b>MEASURED QUANTITY BID ITEMS - Landscaping (707048)</b>		
129	Tree Removed, Large	8 ea
130	Tree Removed, Small	6 ea
<b>LUMP SUM BID ITEMS - Paving (Non-Participating) (707048)</b>		
131	Transport of Salvaged Materials	1 LS
<b>MEASURED QUANTITY BID ITEMS - Paving (Non-Participating) (707048)</b>		
132	Stairs	5 lf
133	Handrail	2 ea
134	Protection Curb (1601 E Pawnee)	29 lf
<b>LUMP SUM BID ITEMS - Traffic (Non-Participating) (707048)</b>		
135	Signing, Street Name Signs Only	1 LS
<b>LUMP SUM BID ITEMS - Sanitary Sewer (Non-Participating) (620713)</b>		
136	Pipe, Connect to Existing	1 LS
<b>MEASURED QUANTITY BID ITEMS - Sanitary Sewer (Non-Participating) (620713)</b>		
137	Pipe, SS 8"	98 lf
138	Fill, Flowable	28 lf
139	Pipe, Point Repair	1 ea
140	MH, Outside Drop Constructed (6')	1 ea
141	MH, Joint Wrap	50 lf
142	MH Removed	3 ea
143	Pipe Removed	99 lf
144	MH Reconstructed	1 ea
145	MH Frame and Cover, Replaced	1 ea
146	Air Testing, SS Pipe	98 lf
147	AC Pavement 6" Temporary (Utility Patch)	58 sy
<b>LUMP SUM BID ITEMS - MH Replacement Sta. 28+80.45 (Non-Participating) (620713)</b>		
148	Auger Cast Piling	4,040 lf
149	Concrete (Reinf)	22 cy
150	Structural Steel (Merchant Quality)	24,932 lbs.
151	Excavation, Class III	656 cy
152	Bypass Pumping (Excluding Fuel)	1 LS
153	MH Removed, Special	1 ea
154	Concrete	51 cy
155	Concrete Collar, Special	2 ea
156	Removal of Existing Structures	1 LS
157	Fill, Sand (Flushed and Vibrated)	700 cy
158	Traffic Control (including temp pavement markings)	1 LS
159	Concrete Safety Barrier, Temporary	413 lf
160	MH, Reinforced Concrete (10' x 8')	1 ea
<b>MEASURED QUANTITY BID ITEMS - MH Replacement Sta. 28+80.45 (Non-Participating) (620713)</b>		
161	MH, Joint Wrap	87 lf
162	AC Pavement 6" Temporary (Phase Shifts)	550 sy
163	Crushed Rock Base 5", Temporary	550 sy
164	Bypass Pumping (Fuel)	25,000 gal
<b>MEASURED QUANTITY BID ITEMS - Water (Non-Participating) (636345)</b>		
165	Water Meter Box Adjusted	12 ea
166	Water Meter Box-Relocated DO NOT BID	0 ea
167	Pipe, DICL 4"	7 lf
168	Pipe, DICL 6"	55 lf
169	Pipe, DICL 8"	21 lf
170	Pipe, DICL 16"	5 lf
171	Pipe, WL 8"	1,261 lf
172	Pipe, WL 16"	90 lf
173	Fire Hydrant Assembly	4 ea
174	Fire Hydrant Removal	3 ea
175	Valve Assembly, Anchored 8"	5 ea
176	Valve Assembly, Blowoff	1 ea
177	Service Line, Short 1"	18 ea
178	Service Line, Long 1"	11 ea
179	Water Meter Installed	5 ea
180	Water Meter Removed DO NOT BID	0 ea
181	Pipe, Cut and Cap	5 ea
182	Pipe, Plug Existing	2 ea
183	AC Pavement 6", Temporary (Utility Patch)	1,054 lf
184	Fire Hydrant Adjustment DO NOT BID	0 ea
185	Fire Hydrant Relocation	1 ea
<b>Lump Sum Bid Items - Paving (707048)</b>		
186	Excavation	6,014 cy
187	Fill, Compacted (95% Density)	892 cy
<b>Measured Quantity Bid Items - Drainage (707048)</b>		
188	8" PVC Cross Connection	100 lf
189	Pipe Abandoned in Place (SWS)	234 lf
190	Abandon Structure (SWS)	1 ea
191	36" Steel Casing, Bored and Jacked	42 lf

**Measured Quantity Bid Items - Sanitary Sewer (Non-Participating) (620713)**

192	Pipe Abandoned in Place (SS)	227	lf
193	Abandon Structure (SS)	1	ea
194	Fill, Sand (Flushed and Vibrated)	326	lf
195	MH Lining	1	ea

**Measured Quantity Bid Items - Water (Non-Participating) (636345)**

196	Pipe, WL 2" (Minnesota)	43	lf
197	Pipe, WL 8" (Minnesota)	72	lf
198	Pipe, WL 8", Directional Drill	333	lf
199	Service Line, Short 2" (2323 S Hydraulic)	1	ea
200	Service Line, Short 2"	1	ea
201	Service Line, Short 6" (2323 S Hydraulic)	1	ea
202	Service Line, Short 1", Temporary	3	ea
203	Service Line, Long 1", Temporary	11	ea
204	Service Line, Short 2", Temporary	1	ea
205	Service Line, Long 2", Temporary	1	ea

**Construction Subtotal**

- RR (Panel)
- RR (Flagging) (707048)
- Soil Testing (707048)
- TIP Fee (707048)
- Design Supplemental #1 (707048)
- Design Supplemental #2 (707048)
- Design Supplemental #2 (620713)
- Design Supplemental #2 (Water - Other OCA)
- Engineering & Inspection (707048)
- Engineering & Inspection (636345)
- Engineering & Inspection (620713)
- Administration (707048)
- Publication (707048)
- Right-of-Way/Utilities/Demo (707048)

**Total Estimated Cost**

\$7,220,000.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.



Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_ (DATE)

\_\_\_\_\_  
City Clerk

211513/775071/664018 (707048/636345/620713) 87N-0597-01/472-85101

Page \_\_\_\_\_

EXHIBIT \_\_\_\_\_

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL SEPTEMBER 6, 2016**

- a. Pawnee Avenue from Hydraulic to Grove Street (Pawnee Avenue, east of Hydraulic) (87N-0597-01/472-85101/707048/636345/620713/211513/775071/664018) See Special Provisions. (District III) - \$7,220,000.00
- b. 29th Street North between Greenwich and 127th Street East Water System Improvements (29th Street North, east of Greenwich) (448-90719/636344/775070) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$880,000.00
- c. Water Distribution System to serve Harry's Landing Addition (north of Harry, east of Rock) (448-90735/735558/470231) Does not affect existing traffic. (District II) - \$52,000.00
- d. Lateral 14, Main 11, War Industries Sewer to serve Harry's Landing Addition (north of Harry, east of Rock) (468-85113/744423/480115) Does not affect existing traffic. (District II) - \$61,500.00
- e. Fontana from 119th Street West to the west end of existing Fontana; Pine Grove Circle from Fontana to and including the cul-de-sac; Judith from Fontana to Westlakes Circle; and Westlakes Circle east and west from Judith, to and including the cul-de-sacs; and a 6' wide sidewalk along the south side of Fontana from 119th Street West to the west end of existing sidewalk to serve Fontana 5th Addition (east of 119th Street West, north of 29th Street North) (472-84801/766368/490391) Does not affect existing traffic. (District V) - \$772,000.00

To be Bid: July 22, 2016

**PRELIMINARY ESTIMATE of the cost of:**Pawnee Avenue from Hydraulic to Grove Street  
(Pawnee Avenue, east of Hydraulic)All work done and all materials furnished to be in accordance with plans and specifications  
on file in the office of the City Engineer.

<b>LUMP SUM BID ITEMS - Paving (707048)</b>		
1	Field Office & Laboratory (Type A)	1 ea
2	Mobilization	1 LS
3	Mobilization (DBE)	1 LS
4	Removal of Existing Structures	1 LS
5	Site Clearing	1 LS
6	Site Restoration	1 LS
<b>LUMP SUM BID ITEMS - Traffic (707048)</b>		
7	Traffic Signalization, Pawnee and Hydraulic	1 LS
8	Traffic Signalization, Pawnee and SE Boulevard	1 LS
9	Traffic Signalization, Pawnee and SB I-135 Ramps	1 LS
10	Traffic Signalization, Pawnee and NB I-135 Ramps	1 LS
11	Traffic Signalization, Pedestrian	1 LS
12	Traffic Signalization, Pawnee & Hydraulic Temporary	1 LS
13	Traffic Signalization, Pawnee & SE Boulevard Temporary	1 LS
14	Traffic Signalization, Pawnee & SB I-135 Ramps Temporary	1 LS
15	Traffic Signalization, Pawnee & NB I-135 Ramps Temporary	1 LS
16	Traffic Signalization, Pedestrian Temporary	1 LS
17	Pavement Markings	1 LS
18	Signing, Except Street Name Signs	1 LS
19	Traffic Control	1 LS
<b>LUMP SUM BID ITEMS - Landscaping (707048)</b>		
20	Seeding	1 LS
21	Sodding	1 LS
<b>MEASURED QUANTITY BID ITEMS - Paving (707048)</b>		
22	Pavement and/or Curb Removed	33,360 sy
23	Excavation DO NOT BID	0 ey
24	Fill, Compacted (95% Density) DO NOT BID	0 ey
25	Crushed Rock Base 8", Reinforced	1,261 sy
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47	Concrete Sidewalk 4"	33,310 sf
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51	Concrete Sidewalk Protection Curb, Special	24 lf
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59	Concrete C & G Removed & Replaced	787 lf

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63	AC Pavement Median Surface Removed & Replaced	341	sy
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65	Aggregate Hookup	88	sy
66	Bus Bench, Remove and Reset	2	ea
67	MH Adjusted	6	ea
68	MH Adjusted w/ New Ring & Cover	9	ea
69	Valve Box Adjusted	33	ea
70	Monitoring Well Capped	2	ea
71	Pipe Removed	1,119	lf
72	Inlet Removed	17	ea
73	Manhole Removed	4	ea
74	MH Stack Removed	2	ea
75	Bollard, Pipe	4	ea
76	Sign, Business, Relocated	1	ea
77	Mailbox Removed and Reset	12	ea
<b>MEASURED QUANTITY BID ITEMS - Drainage (707048)</b>			
78	Pipe, SWS 15" RCP	33	lf
79	Pipe, SWS 18" RCP	1,097	lf
80	Pipe, SWS 24" RCP	355	lf
81	Pipe, SWS 30" RCP	184	lf
82	Pipe, SWS 36" RCP	505	lf
83	Pipe, SWS 23"x 14" HERCP	145	lf
84	Pipe, SWS 30"x 19" HERCP	350	lf
85	Pipe, SWS 45"x 29" HERCP	162	lf
86	Pipe, SWS 60"x 38" HERCP	153	lf
87	Pipe, SWS 48" RCP	13	lf
88	Pipe, SWS 54" RCP	43	lf
89	Pipe, SWS 4" PVC, Perforated	610	lf
90	Fill, Sand (Flushed and Vibrated)	3,903	lf
91	Inlet, Curb (Type 1) (L=5' W= 4')	1	ea
92	Inlet, Curb (Type 1) (L=10' W= 4')	13	ea
93	Inlet, Curb (Type 1) (L=10' W= 5')	1	ea
94	Inlet, Curb (Type 1) (L=10' W= 7')	2	ea
95	Inlet, Curb (Type 1) (L=15' W= 4')	1	ea
96	Inlet, Curb (Type 1) (L=15' W= 7')	1	ea
97	Inlet, Curb (Type 1) (L=15' W= 9')	1	ea
98	Inlet, Curb (Type 1A) (L=10' W= 4')	2	ea
99	Inlet, Curb (Type 2) (L=6'-4"x W= 3'x4")	6	ea
100	Inlet, Curb (Type 2) Special (L=6'-4"x W=7')	1	ea
101	Inlet Hook-up	30	ea
102	Inlet, Drop (Single)	1	ea
103	Inlet, Drop (Double Double)	1	ea
104	Inlet, Grated Driveway, Double	1	ea
105	Manhole-Water Quality BMP DO NOT BID	0	ea
106	MH, Standard SWS (5')	1	ea
107	MH, Standard SWS (6')	3	ea
108	MH Stack (4')	2	ea
109	MH, Reinforced Concrete (L=4', W=4')	1	ea
110	MH, Reinforced Concrete (L=5', W=5')	3	ea
111	MH, Reinforced Concrete (L=8'-6", W=8'-6")	1	ea
112	Pipe Plug, Temporary	2	ea
113	Sidewalk Flume	1	ea
114	Concrete Flume	17	lf
115	Inlet Top	1	ea
116	Headwall RC 54"	1	ea
117	Rip-Rap, Light Stone	36	sy
<b>MEASURED QUANTITY BID ITEMS - Traffic (707048)</b>			
118	Streetlight Pole and Base, Remove and Reset	8	ea
119	AC Pavement 6", Temporary	1,000	sy
120	AC Pavement 6", Temporary (Phase Shifts)	1,630	sy
121	Crushed Rock Base 5", Temporary	1,158	sy
122	Signing, Elec. Portable Message (each per day)	300	days
<b>MEASURED QUANTITY BID ITEMS - Erosion Control BMP (707048)</b>			
123	BMP, Back of Curb Protection	7,214	lf
124	BMP, Curb Inlet Protection	32	ea
125	BMP, Drop Inlet Protection	1	ea
126	BMP, Silt Fence	154	lf
127	BMP, Ditch Check	1	ea
128	BMP, Construction Entrance	8	ea

<b>MEASURED QUANTITY BID ITEMS - Landscaping (707048)</b>		
129	Tree Removed, Large	8 ea
130	Tree Removed, Small	6 ea
<b>LUMP SUM BID ITEMS - Paving (Non-Participating) (707048)</b>		
131	Transport of Salvaged Materials	1 LS
<b>MEASURED QUANTITY BID ITEMS - Paving (Non-Participating) (707048)</b>		
132	Stairs	5 lf
133	Handrail	2 ea
134	Protection Curb (1601 E Pawnee)	29 lf
<b>LUMP SUM BID ITEMS - Traffic (Non-Participating) (707048)</b>		
135	Signing, Street Name Signs Only	1 LS
<b>LUMP SUM BID ITEMS - Sanitary Sewer (Non-Participating) (620713)</b>		
136	Pipe, Connect to Existing	1 LS
<b>MEASURED QUANTITY BID ITEMS - Sanitary Sewer (Non-Participating) (620713)</b>		
137	Pipe, SS 8"	98 lf
138	Fill, Flowable	28 lf
139	Pipe, Point Repair	1 ea
140	MH, Outside Drop Constructed (6')	1 ea
141	MH, Joint Wrap	50 lf
142	MH Removed	3 ea
143	Pipe Removed	99 lf
144	MH Reconstructed	1 ea
145	MH Frame and Cover, Replaced	1 ea
146	Air Testing, SS Pipe	98 lf
147	AC Pavement 6" Temporary (Utility Patch)	58 sy
<b>LUMP SUM BID ITEMS - MH Replacement Sta. 28+80.45 (Non-Participating) (620713)</b>		
148	Auger Cast Piling	4,040 lf
149	Concrete (Reinf)	22 cy
150	Structural Steel (Merchant Quality)	24,932 lbs.
151	Excavation, Class III	656 cy
152	Bypass Pumping (Excluding Fuel)	1 LS
153	MH Removed, Special	1 ea
154	Concrete	51 cy
155	Concrete Collar, Special	2 ea
156	Removal of Existing Structures	1 LS
157	Fill, Sand (Flushed and Vibrated)	700 cy
158	Traffic Control (including temp pavement markings)	1 LS
159	Concrete Safety Barrier, Temporary	413 lf
160	MH, Reinforced Concrete (10' x 8')	1 ea
<b>MEASURED QUANTITY BID ITEMS - MH Replacement Sta. 28+80.45 (Non-Participating) (620713)</b>		
161	MH, Joint Wrap	87 lf
162	AC Pavement 6" Temporary (Phase Shifts)	550 sy
163	Crushed Rock Base 5", Temporary	550 sy
164	Bypass Pumping (Fuel)	25,000 gal
<b>MEASURED QUANTITY BID ITEMS - Water (Non-Participating) (636345)</b>		
165	Water Meter Box Adjusted	12 ea
166	Water Meter Box-Relocated DO NOT BID	0 ea
167	Pipe, D1CL 4"	7 lf
168	Pipe, D1CL 6"	55 lf
169	Pipe, D1CL 8"	21 lf
170	Pipe, D1CL 16"	5 lf
171	Pipe, WL 8"	1,261 lf
172	Pipe, WL 16"	90 lf
173	Fire Hydrant Assembly	4 ea
174	Fire Hydrant Removal	3 ea
175	Valve Assembly, Anchored 8"	5 ea
176	Valve Assembly, Blowoff	1 ea
177	Service Line, Short 1"	18 ea
178	Service Line, Long 1"	11 ea
179	Water Meter Installed	5 ea
180	Water Meter-Removed DO NOT BID	0 ea
181	Pipe, Cut and Cap	5 ea
182	Pipe, Plug Existing	2 ea
183	AC Pavement 6", Temporary (Utility Patch)	1,054 lf
184	Fire Hydrant Adjustment DO NOT BID	0 ea
185	Fire Hydrant Relocation	1 ea
<b>Lump Sum Bid Items - Paving (707048)</b>		
186	Excavation	6,014 cy
187	Fill, Compacted (95% Density)	892 cy
<b>Measured Quantity Bid Items - Drainage (707048)</b>		
188	8" PVC Cross Connection	100 lf
189	Pipe Abandoned in Place (SWS)	234 lf
190	Abandon Structure (SWS)	1 ea
191	36" Steel Casing, Bored and Jacked	42 lf

**Measured Quantity Bid Items - Sanitary Sewer (Non-Participating) (620713)**

192	Pipe Abandoned in Place (SS)	227	lf
193	Abandon Structure (SS)	1	ea
194	Fill, Sand (Flushed and Vibrated)	326	lf
195	MH Lining	1	ea

**Measured Quantity Bid Items - Water (Non-Participating) (636345)**

196	Pipe, WL 2" (Minnesota)	43	lf
197	Pipe, WL 8" (Minnesota)	72	lf
198	Pipe, WL 8", Directional Drill	333	lf
199	Service Line, Short 2" (2323 S Hydraulic)	1	ea
200	Service Line, Short 2"	1	ea
201	Service Line, Short 6" (2323 S Hydraulic)	1	ea
202	Service Line, Short 1", Temporary	3	ea
203	Service Line, Long 1", Temporary	11	ea
204	Service Line, Short 2", Temporary	1	ea
205	Service Line, Long 2", Temporary	1	ea

**Construction Subtotal**

- RR (Panel)
- RR (Flagging) (707048)
- Soil Testing (707048)
- TIP Fee (707048)
- Design Supplemental #1 (707048)
- Design Supplemental #2 (707048)
- Design Supplemental #2 (620713)
- Design Supplemental #2 (Water - Other OCA)
- Engineering & Inspection (707048)
- Engineering & Inspection (636345)
- Engineering & Inspection (620713)
- Administration (707048)
- Publication (707048)
- Right-of-Way/Utilities/Demo (707048)

**Total Estimated Cost**

\$7,220,000.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.



Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_ (DATE)

\_\_\_\_\_  
City Clerk

211513/775071/664018 (707048/636345/620713) 87N-0597-01/472-85101

Page \_\_\_\_\_

EXHIBIT \_\_\_\_\_

To be Bid: August 19, 2016

**PRELIMINARY ESTIMATE of the cost of:**  
 29th Street North between Greenwich and 127th Water System Improvements  
 (29th St N, east of Greenwich)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Site Clearing	1	LS
2	Site Restoration	1	LS
3	Seeding	1	LS
4	Sodding	1	LS

**MEASURED QUANTITY BID ITEMS**

5	Pipe, WL 12" (C909 PVC)	4,540	lf
6	Pipe, WL 12" (C900 RJ by Directional Drill)	400	lf
7	Pipe, WL 16"	20	lf
8	Pipe, WL 16" (D1CL)	5	lf
9	Pipe, WL 8"	24	lf
10	Pipe, WL 8" (D1CL)	16	lf
11	Valve Assembly, 8"	1	ea
12	Valve Assembly, 12"	4	ea
13	Valve Assembly, Anchored 12"	1	ea
14	Valve Assembly, Anchored 16"	1	ea
15	Valve Assembly, Blowoff 2"	1	ea
16	Fire Hydrant Assembly	6	ea
17	Tree Removal, Large	3	ea
18	Tree Removal, Small	3	ea
19	Pipe, WL 12" (C900 RJ)	60	lf
20	BMP, Ditch Check	20	ea
21	BMP, Erosion Control Mat	4,500	sy
22	BMP, Silt Fence	2,000	lf
23	Valve Assembly, Anchored 8"	1	ea

**Construction Subtotal**

Design Fee  
 Engineering & Inspection  
 Administration  
 Publication  
 Water Dept

**Total Estimated Cost**

\$880,000.00

CITY OF WICHITA)  
 STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
 Gary Janzen, P.E. City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
 (DATE)

\_\_\_\_\_  
 City Clerk

To be Bid: August 19, 2016

**PRELIMINARY ESTIMATE of the cost of:**  
Water Distribution System to serve Harry's Landing Addition  
(north of Harry, east of Rock)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

<b>LUMP SUM BID ITEMS (735558) - Group 1</b>		
1	Seeding	1 LS
2	Site Clearing	1 LS
3	Site Restoration	1 LS
<b>MEASURED QUANTITY BID ITEMS (735558) - Group 1</b>		
4	Pipe, WDS 8"	657 lf
5	Pipe, WDS 8", Directional Drilled	56 lf
6	Fire Hydrant Assembly	1 ea
7	Valve Assembly, 2" Blowoff	1 ea
8	Fill, Protective	520 lf
9	Pavement &/or Curb Removed & Replaced	50 sf
<b>LUMP SUM BID ITEMS (735558) - Group 1</b>		
10	Traffic Control	1 LS

**Construction Subtotal**

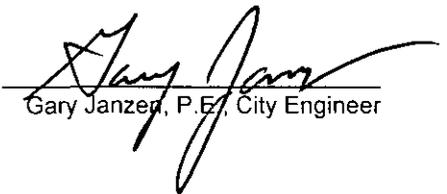
- Design Fee
- Engineering & Inspection
- Administration
- Publication
- Water Dept

**Total Estimated Cost**

\$52,000.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
 Gary Janzer, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

To be Bid: August 19, 2016

**PRELIMINARY ESTIMATE of the cost of:**

Lateral 14, Main 11, War Industries Sewer to serve Harry's Landing Addition  
(north of Harry, east of Rock)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

**LUMP SUM BID ITEMS (744423) - Group 2**

1	Traffic Control	1	LS
2	Seeding	1	LS
3	Site Clearing	1	LS
4	Site Restoration	1	LS

**MEASURED QUANTITY BID ITEMS (744423) - Group 2**

5	Pipe, SS 8"	433	lf
6	Air Testing, SS Pipe	433	lf
7	MH, Standard SS, 4'	3	ea
8	MH, Stub 4"	1	ea
9	Concrete Drive Approach Removed	60	sy
10	Concrete Sidewalk Removed & Replaced	5	lf
11	Concrete C & G, Type 4 (6-5/8" & 1-1/2")	50	lf
12	Grading, Ditch	543	lf
13	BMP, Construction Entrance	1	ea
14	BMP, Curb Inlet Protection	4	ea
15	BMP, Silt Fence	884	lf

**Construction Subtotal** \_\_\_\_\_

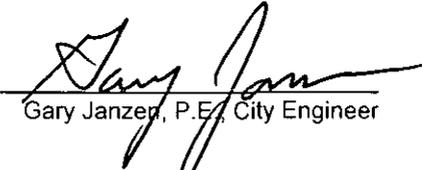
Design Fee  
Engineering & Inspection  
Administration  
Publication  
Contingency

**Total Estimated Cost** \_\_\_\_\_

**\$61,500.00**

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
\_\_\_\_\_  
Gary Janzer, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

**PRELIMINARY ESTIMATE of the cost of:**

Fontana from 119th Street West to the west end of existing Fontana; Pine Grove Circle from Fontana to and including the cul-de-sac; Judith from Fontana to Westlakes Circle; and Westlakes Circle east and west from Judith, to and including the cul-de-sacs; and a 6' wide sidewalk along the south side of Fontana from 119th Street West to the west end of existing sidewalk to serve Fontana 5th Addition (east of 119th Street West, north of 29th Street North)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Fill, Compacted (95% Density)	523	cy
2	Excavation	2,130	cy
3	Grading, Easement	1	LS
4	Maintain Existing BMPs	1	LS
5	Traffic Control	1	LS
6	Signing	1	LS
7	Seeding, Temporary	1	LS
8	Site Clearing	1	LS
9	Site Restoration	1	LS

**MEASURED QUANTITY BID ITEMS**

10	AC Pavement 5" (3" Bit Base)	8,562	sy
11	Crushed Rock Base 5", Reinforced	10,792	sy
12	Concrete Pavement (VG) 7" (Reinf)	110	sy
13	Concrete C & G, Type 2 (3-5/8" RL & 1-1/2")	3,781	lf
14	Concrete C & G, Type 3 (8" & 1-1/2")	273	lf
15	Concrete C & G, Type 4 (6-5/8" & 1-1/2")	1,248	lf
16	Concrete Curb, Mono Edge (6-5/8" & 1-1/2")	72	lf
17	Concrete Sidewalk 4"	3,313	sf
18	Wheelchair Ramp w/ Detectable Warnings	4	ea
19	Concrete Pavement 6"	58	sy
20	Fill, Sand (Flushed & Vibrated)	233	lf
21	Pipe, End Section 24"	4	ea
22	Pipe, End Section 30"	1	ea
23	Pipe, SWS 18"	718	lf
24	Pipe, SWS 24"	411	lf
25	Pipe, SWS 30"	202	lf
26	Inlet Hookup	7	ea
27	Inlet Underdrain	80	lf
28	Inlet, Curb (Type 1A) (L=5' W=3')	5	ea
29	Inlet, Drop, Special (Backyard)	3	ea
30	MH, Shallow SWS (5')	1	ea
31	Ditch Liner	233	sy
32	Slope Protection	810	sy
33	Rip-Rap, Light Stone	61	sy
34	Irrigation Sleeves (4")	58	lf
35	BMP, Back of Curb Protection	5,025	lf
36	BMP, Curb Inlet Protection	9	ea
37	BMP, Drop Inlet Protection	3	ea

**Construction Subtotal**

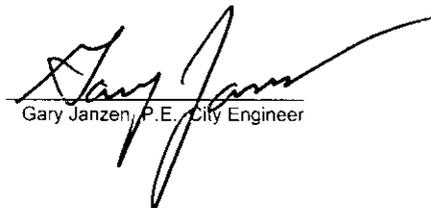
Design Fee  
 Engineering & Inspection  
 Administration  
 Publication  
 Contingency

**Total Estimated Cost**

**\$772,000.00**

CITY OF WICHITA)  
 STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
 Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_ (DATE)

\_\_\_\_\_  
 City Clerk

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** New and Revised Petitions for Paving Improvements to Serve Auburn Hills 16<sup>th</sup> Addition (District IV)  
**INITIATED BY:** Department of Public Works & Utilities  
**AGENDA:** Consent

---

**Recommendation:** Approve the new and revised petitions, and adopt the new and amending resolutions.

**Background:** On February 13, 2007, the City Council approved a petition for paving improvements to serve Auburn Hills 16<sup>th</sup> Addition. The developer has submitted a new and revised petition that splits the final phase into two phases. The revised petition, which replaces the original, represents Phase 1A and the new petition represents Phase 1C. The signatures on the petitions represents 100% of the improvement district. The petitions are valid per Kansas Statute 12-6a01.

**Analysis:** The project will provide paving improvements required for a new residential development located north of Kellogg and east of 151<sup>st</sup> Street West. The scope of work for the revised and new petitions has been modified and increased since submittal of the original petition.

**Financial Considerations:** The existing petition totals \$388,000. The revised Petition Phase 1A totals \$465,000 and the new petition Phase 1C totals \$441,000. The funding source for this project is 100% special assessments.

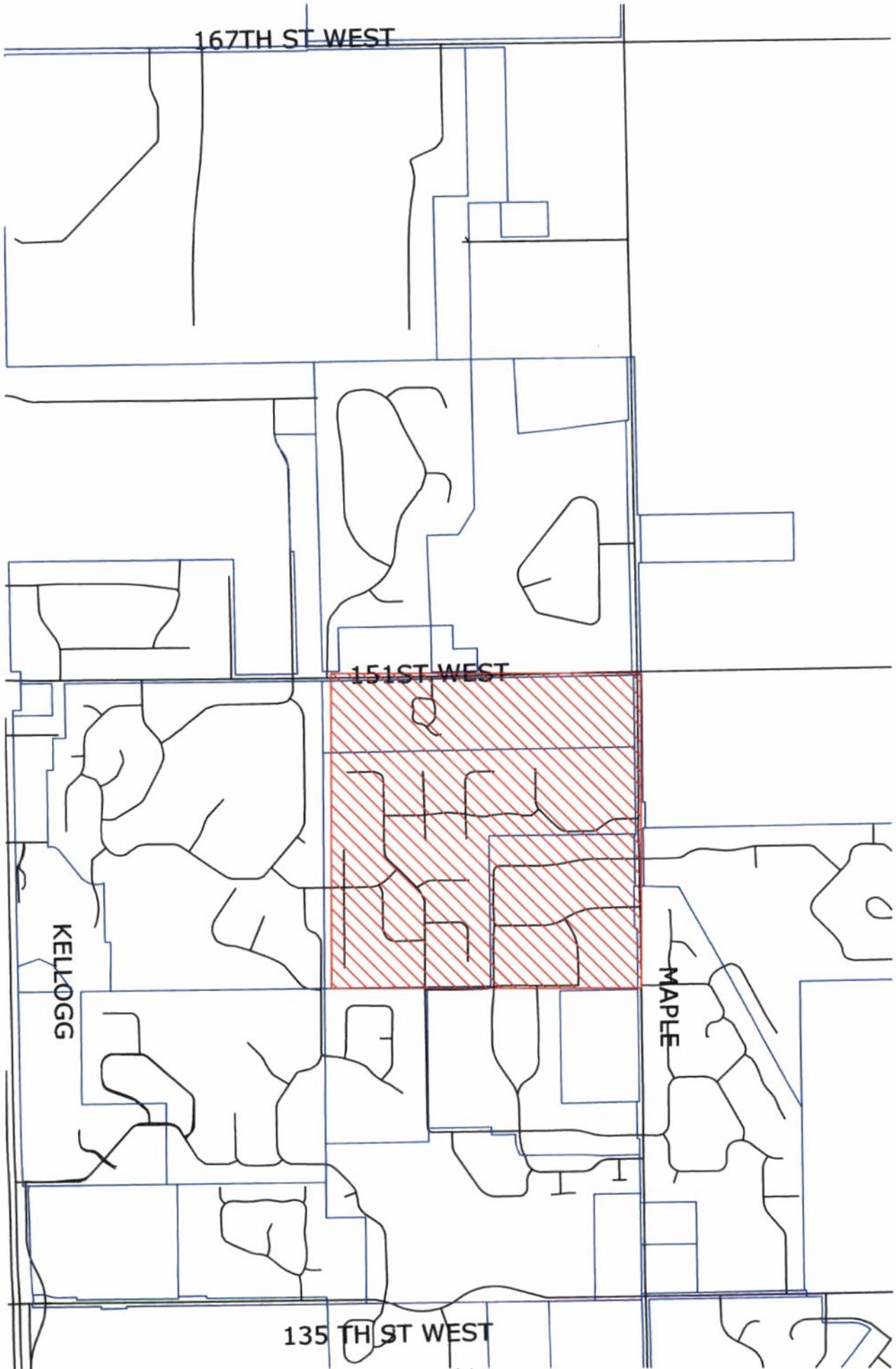
Petition	Cost
Revised Phase 1A	\$465,000
New Phase 1C	\$441,000
<b>Total Special Assessments</b>	<b>\$906,000</b>

**Legal Considerations:** The Law Department has reviewed and approved the new and revised petitions and the new and amending resolutions as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the new and revised petitions, adopt the new and revised resolutions, and authorize the necessary signatures.

**Attachments:** Map, budget sheets, new and revised petitions, and new and amending resolutions.

167TH ST WEST



151ST WEST

KELLOGG

MAPLE

135 TH ST WEST

# Project Request

CIP    Non-CIP

NEIGHBORHOOD IMPROVEMENT    ORDERED BY WCC    PETITION

DEPARTMENT: 13 Public Works & Utilities   DIVISION: Engineering   RESOLUTION/ORDINANCE #: \_\_\_\_\_

FUND: 400 Street Improvements   SUBFUND: 490 Paving N.I.   ENGINEERING REFERENCE #: \_\_\_\_\_

COUNCIL DISTRICT: 04 Council District 4   DATE COUNCIL APPROVED: 09-06-16   REQUEST DATE: \_\_\_\_\_

PROJECT #: \_\_\_\_\_   PROJECT TITLE: PHASE 1A AUBURN HILLS 16TH 472-84290

PROJECT DETAIL #: \_\_\_\_\_   PROJECT DETAIL DESCRIPTION: PHASE 1A AUBURN HILLS 16TH 472-84290

OCA #: \_\_\_\_\_   OCA TITLE: PHASE 1A AUBURN HILLS 16TH 472-84290

PERSON COMPLETING FORM: JANIS EDWARDS   PHONE #: 268-4548

PROJECT MANAGER: JULIANNE KALLMAN   PHONE #: 268-4236

NEW BUDGET    REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget	Object Level 3	Budget
<u>9730 S.A. Bonds</u>	<u>\$465,000.00</u>	<u>2999 Contractuals</u>	<u>\$465,000.00</u>
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00

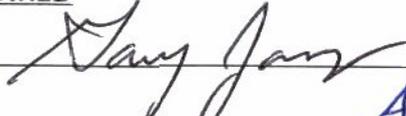
**REVENUE TOTAL:**   \$465,000.00

**EXPENSE TOTAL:**   \$465,000.00

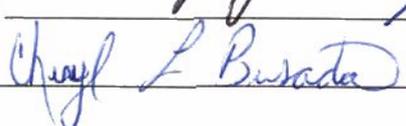
NOTES: HOLD FOR LOC, ORIGINAL PETITION FROM 2-13-07 WAS NEVER SET UP IN PERFORMANCE

### SIGNATURES REQUIRED

Print Form

DIVISION HEAD: 

DEPARTMENT HEAD: 

BUDGET OFFICER: 

CITY MANAGER: \_\_\_\_\_

DATE: 08/23/16

DATE: 8/23/16

DATE: 8/16/16

DATE: \_\_\_\_\_

132019

(Published in the *Wichita Eagle*, on \_\_\_\_\_)

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

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING PHASE 1A – AUBURN HILLS 16<sup>TH</sup> ADDITION/NORTHOF KELLOGG, EAST OF 151<sup>ST</sup> STREET WEST) (472-84290).**

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”) has heretofore by **Resolution No. 07-101** of the City (the “Prior Resolution”) authorized certain internal improvements; and

**WHEREAS**, the improvement district and estimated probable cost of the proposed improvement authorized by the Prior Resolution has increased;

**WHEREAS**, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

**WHEREAS**, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the “Act”); and

**WHEREAS**, the Governing Body hereby finds and determines that said Petition was signed by the owners of record of more than one-half of the area liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Repealer.** The Prior Resolution is hereby repealed.

**Section 2. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a pavement on Fawnwood from the south line of Lot 8, Block A to the north line of Lot 11, Block A, and On Onewood from the east line of Fawnwood east to the east line of Lot 26, Block D, including construction of a storm water drain pond liner and pond enhancements, and drainage to be installed where necessary (the "Improvements").**

**That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet.**

**Construction of sidewalk on one side of Fawnwood and Onewood.**

(b) The estimated or probable cost of the Improvements is **Four Hundred Sixty Five Thousand Dollars (\$465,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**Auburn Hills Addition**  
**Lots 1 through 11, Block A**  
**Lots 1 through 10, Block A**  
**Lots 19 through 26, Block D**  
**Lots 1 through 3, Block E**  
**Lots 14, 16, 31 and 25 through 29, Block E**

(d) The method of assessment is: **on a fractional basis as described below:**

Lot 8 through 11, Block A, Lots 20 through 23, Block D, and Lots 2 and 3, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 21/368 of the total cost of the improvements; Lot 24 through 26, Block D, and Lot 1, Block E, Auburn Hills 16<sup>th</sup> Addition, shall each pay 16/368 of the total cost of the improvements; Lots 1 through 7, Block A, Lots 1 through 10, Block B and Lot 19, Block D, Auburn Hills 16<sup>th</sup> Addition shall each pay 3/368 of the total cost of the improvements, and Lots 14, 16, 31, and 25 through 29, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 5/368 of the total cost of the improvements.

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 3. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 2* of this Resolution.

**Section 4. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 5. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

**Section 6. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
for Jennifer Magaña, City Attorney  
and Director of Law

4

**PETITION  
PAVING – PHASE 1A – AUBURN HILLS 16<sup>TH</sup> ADDITION**

TO: The Mayor and City Council (the “Governing Body”)  
City of Wichita, Kansas

**REVISED**  
**472-84290**

1. The undersigned, being the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the “City”), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.* (the “Act”).

(a) The improvements proposed to be made are as follows (the “Improvements”):

Construction of pavement on Fawnwood from the south line of Lot 8, Block A to the north line of Lot 11, Block A, and on Onewood from the east line of Fawnwood east to the east line of Lot 26, Block D, including construction of a storm water drain pond liner and pond enhancements, and drainage to be installed where necessary.

That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet.

Construction of sidewalk on one side of Fawnwood and Onewood.

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer.

(b) The estimated or probable cost of the proposed Improvements is: \$465,000.00, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of this Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the “Improvement District”) to be assessed for the costs of the proposed Improvements is:

**Auburn Hills 16<sup>th</sup> Addition**  
Lots 1 through 11, Block A  
Lots 1 through 10, Block B  
Lots 19 through 26, Block D  
Lots 1 through 3, Block E  
Lots 14, 16, 31, and 25 through 29, Block E

(d) The proposed method of assessment is on a fractional basis as described below:

Lots 8 through 11, Block A, Lots 20 through 23, Block D, and Lots 2 and 3, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 21/368 of the total cost of the improvements; Lots 24 through 26, Block D, and Lot 1, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 16/368 of the total

cost of improvements; Lots 1 through 7, Block A, Lots 1 through 10, Block B, and Lot 19, Block D, Auburn Hills 16<sup>th</sup> Addition shall each pay 3/368 of the total cost of the improvements, and Lots 14, 16, 31, and 25 through 29, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 5/368 of the total cost of the improvements.

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

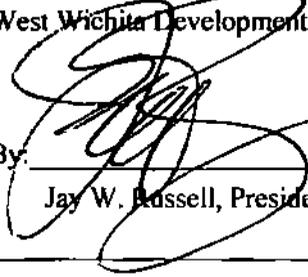
(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

Signature	Dated	Property Owned Within Proposed Improvement District
West Wichita Development, Inc.  By: _____ Jay W. Russell, President	7/20/16	<b>Auburn Hills 16<sup>th</sup> Addition</b> Lots 1 through 11, Block A Lots 1 through 10, Block B Lots 19 through 26, Block D Lots 1 through 3, Block E Lots 14, 16, 31, and 25 through 29, Block E

\*\*\*\*\*

THIS PETITION was filed in my office on 7-20-16.

*[Handwritten Signature]*  
Deputy City Clerk



# Project Request

CIP    Non-CIP

NEIGHBORHOOD IMPROVEMENT

ORDERED BY WCC

PETITION

PETITION PERCENTAGE: 100%

DEPARTMENT: 13 Public Works & Utilities

DIVISION: Engineering

RESOLUTION/ORDINANCE #: \_\_\_\_\_

FUND: 400 Street Improvements

SUBFUND: 490 Paving N.I.

ENGINEERING REFERENCE #: 472-85302

COUNCIL DISTRICT: 04 Council District 4

DATE COUNCIL APPROVED: 9-6-16

REQUEST DATE: \_\_\_\_\_

PROJECT #: \_\_\_\_\_

PROJECT TITLE: Paving Auburn Hills 16th Addition 472-85302

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: Paving Auburn Hills 16th Addition 472-85302

OCA #: \_\_\_\_\_

OCA TITLE: Paving Auburn Hills 16th Addition 472-85302

PERSON COMPLETING FORM: Kim Pelton

PHONE #: 268-4499

PROJECT MANAGER: Julianne Kallman

PHONE #: 268-4236

NEW BUDGET

REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget	Object Level 3	Budget
9730 S.A. Bonds	\$441,000.00	2999 Contractuals	\$441,000.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00

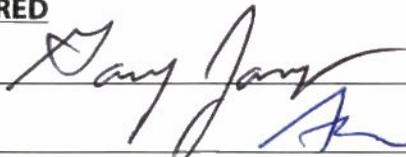
**REVENUE TOTAL:**     \$441,000.00

**EXPENSE TOTAL:**     \$441,000.00

NOTES: HOLD FOR LOC

### SIGNATURES REQUIRED

DIVISION HEAD: \_\_\_\_\_



DATE: \_\_\_\_\_

08/23/16

DEPARTMENT HEAD: \_\_\_\_\_



DATE: \_\_\_\_\_

8/23/16

BUDGET OFFICER: \_\_\_\_\_



DATE: \_\_\_\_\_

8/16/16

CITY MANAGER: \_\_\_\_\_

DATE: \_\_\_\_\_

Print Form

RECEIVED

JUL 19 '15

CITY CLERK OFFICE

472-85302

PETITION  
PAVING - PHASE 1C - AUBURN HILLS 16<sup>TH</sup> ADDITION

TO: The Mayor and City Council (the "Governing Body")  
City of Wichita, Kansas

1. The undersigned, being the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.* (the "Act").

(a) The improvements proposed to be made are as follows (the "Improvements"):

Construction of pavement on Moscelyn and Fawnwood from the west line of the plat, east and south to the south line of Lot 10, Block B, and on Moscelyn Ct. from Moscelyn to serve Lots 4 through 7, Block A, with drainage to be installed where necessary.

That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet.

Construction of sidewalk on one side of Fawnwood and Moscelyn.

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer.

(b) The estimated or probable cost of the proposed Improvements is: \$441,000.00, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of this Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

**Auburn Hills 16<sup>th</sup> Addition**  
Lots 1 through 7, Block A  
Lots 1 through 10, Block B  
Lot 19, Block D

(d) The proposed method of assessment is: equally per lot (18 lots).

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

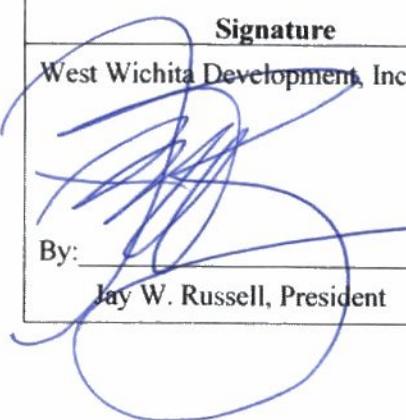
(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

Signature	Dated	Property Owned Within Proposed Improvement District
<p>West Wichita Development, Inc.</p>  <p>By: _____ Jay W. Russell, President</p>	<p>7/18/16</p>	<p>Auburn Hills 16<sup>th</sup> Addition Lots 1 through 7, Block A Lots 1 through 10, Block B Lot 19, Block D</p>

\*\*\*\*\*

THIS PETITION was filed in my office on July 19, 2016



  
Deputy City Clerk

132019

(Published in the *Wichita Eagle*, on \_\_\_\_\_)

**RESOLUTION NO. 16-**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING PHASE 1C-AUBURN HILLS 16<sup>TH</sup> ADDITION/NORTH OF KELLOGG, EAST OF 151<sup>ST</sup> STREET WEST) (472-85302).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of pavement on Moscelyn and Fawnwood from the west line of the plat, east and south to the south line of Lot 10, Block B, and on Moscelyn Court from Moscelyn to serve Lots 4 through 7, Block A, with drainage to be installed where necessary (the "Improvements").

**That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width making a total roadway width of thirty-four (34) feet.**

**Construction of sidewalk on one side of Fawnwood and Moscelyn.**

(b) The estimated or probable cost of the Improvements is **Four Hundred Forty-One Thousand Dollars (\$441,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the costs of the Improvements is:

**AUBURN HILLS 16<sup>TH</sup> ADDITION**

Lots 1 through 7, Block A  
Lots 1 through 10, Block B  
Lot 19, Block D

(d) The method of assessment is: **equally per lot (18 lots).**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 1* of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

*Jennifer Magaña*  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-335**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING PHASE 1A – AUBURN HILLS 16<sup>TH</sup> ADDITION/NORTH OF KELLOGG, EAST OF 151<sup>ST</sup> STREET WEST) (472-84290).**

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”) has heretofore by **Resolution No. 07-101** of the City (the “Prior Resolution”) authorized certain internal improvements; and

**WHEREAS, the improvement district and estimated probable cost of the proposed improvement authorized by the Prior Resolution has increased;**

**WHEREAS**, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

**WHEREAS**, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the “Act”); and

**WHEREAS**, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Repealer.** The Prior Resolution is hereby repealed.

**Section 2. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a pavement on Fawnwood from the south line of Lot 8, Block A to the north line of Lot 11, Block A, and on Onewood from the east line of Fawnwood east to the east line of Lot 26, Block D, including construction of a storm water drain pond liner and pond enhancements, and drainage to be installed where necessary (the "Improvements").**

**That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet.**

**Construction of sidewalk on one side of Fawnwood and Onewood.**

(b) The estimated or probable cost of the Improvements is **Four Hundred Sixty Five Thousand Dollars (\$465,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**Auburn Hills 16<sup>th</sup> Addition**  
**Lots 1 through 11, Block A**  
**Lots 1 through 10, Block B**  
**Lots 19 through 26, Block D**  
**Lots 1 through 3, Block E**  
**Lots 14, 16, 31 and 25 through 29, Block E**

(d) The method of assessment is: **on a fractional basis as described below:**

Lot 8 through 11, Block A, Lots 20 through 23, Block D, and Lots 2 and 3, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 21/368 of the total cost of the improvements; Lot 24 through 26, Block D, and Lot 1, Block E, Auburn Hills 16<sup>th</sup> Addition, shall each pay 16/368 of the total cost of the improvements; Lots 1 through 7, Block A, Lots 1 through 10, Block B and Lot 19, Block D, Auburn Hills 16<sup>th</sup> Addition shall each pay 3/368 of the total cost of the improvements, and Lots 14, 16, 31, and 25 through 29, Block E, Auburn Hills 16<sup>th</sup> Addition shall each pay 5/368 of the total cost of the improvements.

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 3. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 2* of this Resolution.

**Section 4. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 5. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

**Section 6. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney  
and Director of Law

132019

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-336**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING PHASE 1C-AUBURN HILLS 16<sup>TH</sup> ADDITION/NORTH OF KELLOGG, EAST OF 151<sup>ST</sup> STREET WEST) (472-85302).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of pavement on Moscelyn and Fawnwood from the west line of the plat, east and south to the south line of Lot 10, Block B, and on Moscelyn Court from Moscelyn to serve Lots 4 through 7, Block A, with drainage to be installed where necessary (the "Improvements").**

**That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from the gutter line to the gutter line, and each gutter to be two (2) feet in width making a total roadway width of thirty-four (34) feet.**

**Construction of sidewalk on one side of Fawnwood and Moscelyn.**

(b) The estimated or probable cost of the Improvements is **Four Hundred Forty-One Thousand Dollars (\$441,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the costs of the Improvements is:

**AUBURN HILLS 16<sup>TH</sup> ADDITION**

Lots 1 through 7, Block A

Lots 1 through 10, Block B

Lot 19, Block D

(d) The method of assessment is: **equally per lot (18 lots).**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 1* of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Blessed Sacrament Oktoberfest and Run for the Poor (District II)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Rachel Hittner, The Church of the Blessed Sacrament, is coordinating the Blessed Sacrament Oktoberfest and Run for the Poor with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Blessed Sacrament Oktoberfest October 1, 2016 6:00 am – 11:59 pm**

- Quentin Street, Douglas Avenue to First Street

**Blessed Sacrament Run for the Poor October 1, 2016 8:00 am – 12:00 pm**

- Circle Drive, Douglas Avenue to South Bluff Street
- South Bluff Street, East Waterman to East Lewis Street
- East Lewis Street, South Bluff Street to South Pershing Street
- South Pershing Street, East Lewis Street to East English Street
- East English Street, South Pershing Street to South Fountain Street
- South Fountain Street, East English Street to East Waterman Street
- East Waterman Street, South Fountain Street to South Terrace Drive
- South Terrace Drive, East Lewis Street to East English Street
- East Douglas Avenue, North Roosevelt Street to North Bluff Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – No Sweat Run (Districts I and II)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closure.

**Background:** In accordance with the Community Events procedure, event promoter Brian Adams, College Hill United Methodist Church, is coordinating the No Sweat Run with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**No Sweat Run September 24, 2016 9:00 am – 11:00 am**

- East First Street North, North Erie Avenue to South Clifton Avenue

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – Old Town 10K (Districts I, IV and VI)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter John Muir, Wichita Running Company, is coordinating the Old Town 10K with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Old Town 10K September 18, 2016 7:00 am – 11:00 am**

- North Mosley Street, East 1<sup>st</sup> Street North to East 3<sup>rd</sup> Street North
- East 3<sup>rd</sup> Street, North Mosley to Rock Island North
- Rock Island, East 3<sup>rd</sup> Street North to East 2<sup>nd</sup> Street North
- East 2<sup>nd</sup> Street North, North Mosley Street East to North Waco Avenue
- North Seneca Street, Museum Boulevard to North McLean Boulevard
- Museum Boulevard, North Seneca Street to West Sim Park Drive
- West Sim Park Drive, Museum Boulevard to West Murdock Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – Zero Prostate Cancer Walk/Run (District II)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Patrick Todd, Oz Endurance, is coordinating the Zero Prostate Cancer Walk/Run with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Zero Prostate Cancer Walk/Run September 17, 2016 7:00 am – 10:00 am**

- North Webb Road, 21<sup>st</sup> Street North to East Wilson Estate Parkway
- East Wilson Estate Parkway, North Webb Road to Red Bush
- Red Bush, East Wilson Estate Parkway to East 21<sup>st</sup> Street North

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – 2<sup>nd</sup> Saturday Artisan Market (District I)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closure.

**Background:** In accordance with the Community Events procedure the event promoter, Janelle King, The Workroom, is coordinating the 2<sup>nd</sup> Saturday Artisan Market with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**2<sup>nd</sup> Saturday Artisan Market October 8, 2016 9:00 am – 6:00 pm**

- North Cleveland, East 1<sup>st</sup> Street North to East Douglas Avenue

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – Autumn and Art at Bradley Fair (District II)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Mary Beth Jarvis, Wichita Festivals, Inc., is coordinating Autumn and Art at Bradley Fair with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Autumn and Art at Bradley Fair September 16, 2016 6:00 am – September 19, 2016 11:30 am**

- North Bradley Fair Parkway, Rock Road to East 21<sup>st</sup> Street North
- Wilson Estates Parkway, North Bradley Fair Parkway to Saddle Creek Road

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Historic Midtown Citizens Association Annual Historic Home Walking Tour (District VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Lucinda Karber, Historic Midtown Citizens Association, is coordinating the Historic Midtown Citizens Association Annual Historic Home Walking Tour with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Historic Midtown Citizens Association Annual Historic Home Walking Tour September 24-25, 2016 10:00 am – 5:00 pm**

- North Emporia Street, 13<sup>th</sup> Street North to 11<sup>th</sup> Street North

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Susan G. Komen Race for the Cure (Districts I, IV and VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Jeremy Mock, Susan G. Komen Kansas, is coordinating the Susan G. Komen Race for the Cure with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Susan G. Komen Race for the Cure September 23, 2016 12:00 pm through September 24, 2016 3:00 pm**

- Wichita Street, Dewey Street to Lewis/Waterman Streets
- Water Street, Dewey Street to Waterman Street
- Waterman/Lewis, Wichita Street to Water Street

**September 24, 2016 6:00 am – 1:00 pm**

- Dewey Street, Water Street to Wichita Street
- Water Walk Place Drive, Water Street to Wichita Street
- Lewis/Waterman Street, Wichita Street to McLean Boulevard
- McLean Boulevard, Maple/Lewis Street to 13<sup>th</sup> Street North
- First Street, McLean Boulevard to Waco Avenue
- Waco Avenue, First Street to Second Street
- Central Avenue, Seneca Street to Waco Avenue
- Douglas Avenue, Waco Avenue to McLean Boulevard

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** Community Events – Take Off to Health Walk and Run (Districts IV and V)  
**INITIATED BY:** Division of Arts & Cultural Services  
**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, event promoter Patrick Todd, Timer Guys, is coordinating the Take Off to Health Walk and Run with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Take Off to Health Walk and Run September 20, 2016 6:00 pm – 8:00 pm**

- South Midfield Road, West Crossfield Road to West Harry Street
- South Ridge Road, West Harry Street to West Pueblo Drive
- West Pueblo Drive, South Ridge Road to South Airport Road
- South Airport Road, West Pueblo Drive to West Harry Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Wagonmasters Chili Cookoff (District VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Aaron Snook, Wichita Wagonmasters, is coordinating the Wagonmasters Chili Cookoff with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Wagonmasters Chili Cookoff September 24, 2016 5:00 am – 6:00 pm**

- Douglas Avenue, Emporia Avenue to Mead Street
- Emporia Avenue, First Street to East William Street
- St. Francis Street, East William Street to First Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

**City of Wichita  
City Council Meeting  
September 6, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Renewal of the Contract – Kansas Department of Health and Environment Air Quality Program Grants (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

**Recommendation:** Approve the contract.

**Background:** Since 1972, the City has received grant funding to operate the local air quality program. Grant funds are provided by the Environmental Protection Agency (EPA) and the Kansas Department of Health and Environment (KDHE). All grant funds are provided to the City through a contract with KDHE. Program objectives include inspection of air pollution sources, air monitoring for specified pollutants and toxic compounds, complaint investigations, implementation of initiatives to reduce ozone, and educational activities. Under the terms of the KDHE contract, the City of Wichita provides regulatory services throughout Wichita and Sedgwick County. The one-year contract period will begin on October 1, 2016.

**Analysis:** The contract and funding allow the City to provide comprehensive air quality services that protect public health and safety and the environment by meeting local and state air quality objectives. City of Wichita staff maintain good working relationships with the EPA and KDHE and remain the local point of contact for air quality issues including regulations and enforcement, air monitoring, industrial pollution control, permitted burns and smoke management, ozone mitigation, and technical support on public safety and health issues related to air quality.

**Financial Considerations:** The total grant budget associated with this contract is \$306,738 (including local match) for state fiscal year (SFY) 2017. This grant requires a local match which is already included in the General Fund budget. This contract includes two sources of grant funding:

Source	Amount SFY 2017	City Match
1. EPA Section 105 grant	\$115,459	\$76,973 (40% of the total \$192,432)
2. KDHE grant	\$114,306	n/a

In addition to the EPA Section 105 and KDHE grant presented here, funding for the Air Quality program also comes from an EPA Section 103 grant in the amount of \$36,380. The EPA Section 103 grant contract has a funding period from April 1, 2016 to March 31, 2017 and was approved by the City Council on February 23, 2016.

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

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

**Attachment:** KDHE contract.

**CONTRACT**

**between**

**SECRETARY OF HEALTH AND ENVIRONMENT OF KANSAS**

**and**

**CITY OF WICHITA, PUBLIC WORKS & UTILITIES DEPARTMENT  
DIVISION OF ENVIRONMENTAL HEALTH**

**Section I – Purpose and Financial Summary**

This contract is entered into between the Kansas Department of Health and Environment (KDHE) and the City of Wichita, Public Works & Utilities Department, Division of Environmental Health (WDEH). The purpose of this contract is to establish a formal partnership between WDEH and the KDHE to implement the Kansas Air Quality Act in the City of Wichita and Sedgwick County. This contract authorizes WDEH to provide air quality protection services specified in this agreement and the Environmental Program Work Plan for FY2017 (**Attachment A**), and defines the funding arrangements for such services which are to be provided. The contract period is from October 1, 2016 to September 30, 2017.

**Source of Project Funds**

Federal 105 Grant up to:	\$115,459.00
WDEH 40% Match up to:	\$76,973.00
State of Kansas Air Quality Fee Fund up to:	\$114,306.00
Project Total not to exceed:	<hr style="width: 20%; margin-left: auto; margin-right: 0;"/> \$306,738.00
Total KDHE Reimbursement not to exceed:	\$229,765.00

**Section II – Requirements – WDEH Agrees:**

1. To perform the duties and tasks specified in the contract and FY2017 Work Plan, to implement the Kansas Air Quality Act and Kansas Air Quality Regulations, and to provide documentation of satisfactory completion of work.
2. To not use the KDHE - BOA funds to supplant other WDEH funds and to provide matching funds from non-federal sources towards the successful completion of Section 105 purposes in an amount equal to 40% of the total project costs expended for Section 105 purposes.
3. To provide documentation of satisfactory progress toward meeting the objectives in accordance with the FY2017 Work Plan. WDEH shall submit to the KDHE quarterly progress reports as specified in the FY2017 Work Plan, quarterly MBE/WBE verification on EPA Form 5700-52A – (5/96) for Federal 105 monies, quarterly Certified Expenditure Affidavit, and any other information that may be requested.
4. To obtain written approval in advance for the purchase of any item of equipment costing \$5,000.00 or more, and for any subcontract. All purchases with contract funds shall be the

- property of WDEH upon termination of this contract, except for monitoring equipment. The purchase shall not be segmented or otherwise structured to avoid the \$5,000.00 limit.
5. To retain financial aid and programmatic records, supporting documents and statistical records for five years from the date the final expenditure report is submitted. If litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five-year period, the records must be retained until completion of the action and resolution of all issues that arise from it. Upon written request from the KDHE (or authorized representative) or Kansas Legislative Post Audit, WDEH will allow access to any payroll records, supported by time and attendance records for employees, documents, and records necessary to certify compliance with the KDHE grant awards, Kansas Legislative Appropriations, Kansas Statutes, and Federal grants and regulations.
  6. If practical, to provide advanced notice to the KDHE of permit inspections and enforcement actions taken by WDEH that are based solely upon WDEH air quality regulations, and to coordinate such actions with the KDHE to make sure a regulated source is not unduly burdened by multiple permit inspections or enforcement actions for a single cause or set of causes.
  7. To include in all statements, press releases, websites, program activities, bid solicitations, and other documents, under the provisions of Section 83 of 2005 House Bill 2482 the phrase “paid for (in part) by the Kansas Department of Health and Environment.”
  8. WDEH agrees that all records are to be returned to KDHE within 60 days of termination of any Work Plan activity or the entire contract.
  9. To comply with the provisions of the Kansas Open Records Act (KORA) in performing work plan activities contained in this contract per K.S.A 42-216(a).
  10. WDEH agrees to attend the ETA (Eastern Technical Associates) Visible Emissions Lecture and Field training for Smoke School per agreement between KDHE and contractor.
  11. The following requirements apply to the federal, required matching and cost-share funds that are part of the contract. The federal laws and requirements applicable to the State of Kansas pursuant to the underlying grant from EPA to the State of Kansas are, by virtue of application for and receipt of grant funds, applicable to any sub-grantee and are enforceable against such sub-grantee. Failure to comply may result in the initiation of administrative, civil, or criminal action against the sub-grantee including but not limited to suspension or termination of the sub grant and loss of grant funds or a requirement to reimburse those funds. All sub-grantees are responsible for knowledge of these requirements as set forth in the underlying grant from EPA to the State included as Attachment B of this contract.

### **Section III – KDHE Agrees:**

1. To make payments, not to exceed \$114,306.00 from the Air Quality Fee Fund and not to exceed \$115,459.00 from the Federal 105 funds to WDEH for conducting the KDHE Air Quality Program as authorized in the FY2017 Work Plan (See Attachment A).
2. To the extent possible, the KDHE - BOA will seek input from WDEH on issues governed by this contract prior to making decisions or taking actions that will affect WDEH’ Air Quality Program.
3. To provide regular updates on enforcement actions pertaining to sources in the City of Wichita and Sedgwick County, including but not limited to written acknowledgements that WDEH enforcement action recommendations have been received by the KDHE.

4. To provide regular updates on past and future air program planning issues.
5. To work with WDEH and other local partners to: establish and annually update strategic goals, objectives and strategies for reducing emissions and improving air quality.
6. To provide WDEH with prior approval from the KDHE - BOA, an opportunity to shift workload and funds to other eligible air program activities if the targeted activities laid out in the FY2017 Work Plan cannot be completed because they are demand driven or the KDHE is unable to refer work to WDEH as specified in this agreement.

**Section IV – Other Terms and Conditions - It is mutually agreed:**

1. WDEH will request reimbursement within 30 days of the end of each quarter. The KDHE shall provide reimbursement in accordance with the “Kansas Prompt Payment Act” (K.S.A. 75-6401 through 75-6407), upon receipt of satisfactory progress reports, MBE/WBE verification, and quarterly Certified Expenditure Affidavit.
2. That this agreement may be canceled by either party upon 30 days written notice to the other party, except that the KDHE may cancel this agreement without such notice in the event of loss of funding. Funding of this agreement is contingent upon the availability of funds in the Air Quality Fee Fund, receipt of federal funds from the U.S. Environmental Protection Agency (EPA), and availability of funds in the State Treasury. This contract, including Work Plan, may be amended in writing when duly executed by both parties. The contract is subject to a pro-rata reduction contingent upon the amount of reduction of federal grant dollars allocated to the KDHE - BOA.
3. All indirect costs incurred implementing the WDEH component of this contract shall not exceed 21.3% of following: the total expenditures of the Air Quality Fee Fund and Federal 105 monies authorized under this contract for Compliance and Enforcement, Planning, Public Education and Outreach, Emission Reduction Strategies, Ambient Air Monitoring, Program Maintenance and Local Priorities, less local match. Indirect costs are to be reported each quarter on the reimbursement affidavit.
4. That the provisions found in Contractual Provisions **Attachment C** (Form DA-146a), which is attached hereto, are hereby incorporated in this contract and made a part hereof.

Contract Administrators:

Kansas Department of Health and Environment – Linda Vandevord, 785-296-6423, 1000 SW Jackson, Ste. 310, Topeka, KS 66612-1366

City of Wichita, Department of Public Works & Utilities, Division of Environmental Health – Shawn Maloney, 316-268-8651, 1900. 9<sup>th</sup>, Wichita, KS 67214



**ATTACHMENT A**  
**LOCAL AGENCY WORK PLAN**  
**For**  
**CITY OF WICHITA, PUBLIC WORKS & UTILITIES DEPARTMENT**  
**DIVISION OF ENVIRONMENTAL HEALTH**  
**FY2017**  
**Contract Period October 1, 2016 – September 30, 2017**

The Bureau of Air (BOA), on behalf of the Kansas Department of Health and Environment (KDHE), and the City of Wichita, Public Works & Utilities Department, Division of Environmental Health (WDEH) hereby agree to comply with the cooperative intent of the Clean Air Act within the City of Wichita and Sedgwick County as follows:

**I. Contacts**

<b>Issue/Activity</b>	<b>Primary State Contact</b>	<b>Phone #</b>	<b>Primary WDEH Contact</b>	<b>Phone #</b>
<b>General</b>				
General Administrative Duties	Rick Brunetti or Linda Vandevord	785-296-1551 785-296-6423	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>Compliance and Enforcement</b>				
Administrative Issues; QA/QC	Javier Ahumada	785-296-0243	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
Compliance and Enforcement	Javier Ahumada	785-296-0243	Randy Owen	316-268-8353
<b>Planning Activities</b>				
Air Planning Activities	Doug Watson	785-296-0910	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>Emission Reduction Strategies / Public Education</b>				
	Kathleen Waters	785-296-1575	Baylee Cunningham	316-268-8350
<b>Monitoring</b>				
	Kathleen Waters	785-296-1575	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>Network design/configuration</b>				
	Kathleen Waters	785-296-1575	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>General Operation and Maintenance</b>				
	Gary Ficklin	785-296-1554	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>Sample or data submission</b>				
	Mike Martin	785-296-1571	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318
<b>Data Issues</b>				
	Kathleen Waters	785-296-1575	Laura Quick or Shawn Maloney	316-268-8330 316-268-8318

**II. Compliance and Enforcement**

A. WDEH and BOA agree as follows:

1. The WDEH will co-inspect with EPA when applicable, conduct inspections and investigations and make weekly submittal of all supporting documents in accordance with procedures outlined in the following documents:
  - BOA, Air Quality Compliance and Enforcement Training Manual
  - Kansas Air Quality Regulations and Statutes
  - Applicable CFR

2. The WDEH will provide initial enforcement investigation and the retrieval of support information and documentation, and will participate in monthly BOA/WDEH enforcement coordination calls.
3. The WDEH inspection results will be documented on accepted and agreed upon inspection forms. A copy of the letter to the source discussing inspection results will be sent to BOA within fifteen business days of completion of inspection. Copies of inspection reports and letters will be mailed to BOA each Friday. Inspections/FCEs will be scheduled by WDEH with a goal of 25% of the inspections/FCEs completed per FY quarter. WDEH shall submit a list of sources recommended to be inspected to BOA by September 1<sup>st</sup> of each year.
4. WDEH agrees to maintain a minimum of 2 qualified visible emission observers at all times.
5. If noncompliance with regulations are observed and documented during an inspection, BOA will be notified in accordance with BOA enforcement policy. Notices of Noncompliance issued by WDEH will be tracked by both WDEH and BOA, with required follow up in accordance with BOA Enforcement Policy. BOA will review and determine if noncompliance documented is subject to EPAs High Priority Violator (HPV) policy. Departmental Orders and Consent Agreements will be determined and issued by BOA in accordance with BOA Enforcement Policy.
6. Evaluation inspections will be completed within 90 days of notification of start up for Class I, NSPS, and MACT sources, and within 180 days of notification of start up on Class II and non-NSPS sources. Evaluation inspections will be documented on accepted and agreed upon forms, and a letter will be sent to the source within seven days of the completed inspection, and a copy will also be sent to BOA. Upon review of submitted inspection reports, BOA will notify the WDEH of deficiencies or corrections for the reports. WDEH shall address deficiencies or corrections within one week of notification by BOA compliance staff.
7. WDEH is responsible for responding to complaints received from individuals, BOA, or other governmental agencies within 2 business days (depending on the urgency) of receipt of complaint during normal business hours. WDEH will contact the complainant by telephone or other appropriate methods. When necessary, on-site investigations will be conducted within two working days of receipt of complaint. Investigative reports will be submitted to BOA within seven days of completion of the investigation. Open Burning activities shall be pursuant to Kansas Open Burning Prohibition and Exception regulations.
8. WDEH will provide quarterly updates on the Compliance and Enforcement activities performed.
9. WDEH agrees to attend/participate in the monthly enforcement coordination calls.
10. WDEH agrees to attend/participate in the semi-annual meetings, of which one will be conducted in Topeka and one will be located outside of Topeka, with the possibility of overnight stays.
11. At the end of the 4<sup>th</sup> Quarter, final contract payment will be reduced by \$1,500.00 for every inspection not completed. If the number of complaints is not received, no penalties will be imposed.

B. Inspection list

<b>Class I sources:</b>		<b>Frequency</b>
1730012	Westar Energy, Inc.	1
1730014	Westar Energy, Inc.	1
1730019	Cessna Aircraft Company-Mid-Continent	1
1730022	BeechCraft Corporation	1
1730023	Air Products Manufacturing Corp	1
1730029	Cargill, Inc.	1
1730045	Phillips 66 Carrier LLC	1
1730052	Learjet, Inc.	1
1730059	CNH America, LLC	1
1730070	OxyChem – Wichita Plant	1
1730075	Cessna Aircraft Company – Pawnee Facility	1
1730152	3P Processing, Inc.	1
1730153	Worthington Cylinders Kansas, LLC	1
1730155	Chance Rides Mfg, Inc.	1
1730165	Globe Engineering Company, Inc.	1
1730173	Custom Cupboards	1
1730225	City of Wichita-Dept. of Natural Resources	1
1730309	Spirit Aerosystems, Inc.	1
7770745	Cornejo & Sons, LLC	1
7770760	Asplundh Tree Expert Co	1
7770771	Bob Bergkamp Construction Co., Inc.	1
7770809	Bob Bergkamp Construction Co., Inc.	1
7770843	Mies Construction Inc.	1
7770845	Unruh Excavating LLC	1
7770846	Pearson Excavating Inc.	1
		<hr/>
		25

<b>Class II sources:</b>		<b>Frequency</b>
1730001	Cereal Food Processors	1
1730005	McConnell Air Force Base	1
1730008	Ferroloy, Inc.	1
1730034	CCGP, Inc.	1
1730036	APAC-Kansas, Inc., Shears Division	1
1730044	Cornejo & Sons, LLC	1
1730053	Abengoa Bioenergy Corp.	1
1730062	Gavilon Grain, Inc.	1
1730069	Bartlett Grain Company, LP	1
1730089	RS Used Oil Services	1
1730097	Quikrete Companies, Inc.	1
1730105	St. Francis Regional Medical Center	1
1730106	St. Joseph Medical Center	1
1730107	Wesley Medical Center	1
1730108	Wichita State University	1
1730109	Wilko Paint, Inc.	1
1730110	Robert J. Dole Veterans Administration Medical Center	1
1730130	Phillips 66 Company	1
1730132	Valassis Manufacturing Company	1
1730135	Sedgwick County Public Works	1
1730139	SFB Plastics, Inc.	1
1730141	Magellan Pipeline, L.P.	1
1730146	ONEOK Field Services Company, LLC	1
1730147	Fiber Glass Systems, L.P.	1

1730154	Metal Finishing Company, Inc.	1
1730156	ONEOK Field Services Company, LLC	1
1730164	Apex Engineering International, L.L.C (W. 2 <sup>nd</sup> )	1
1730171	Universal Products, Inc.	1
1730184	Barton Solvents, Inc.	1
1730197	Hawker BeechCraft Services	1
1730199	Tramco, Inc.	1
1730232	Cessna Interiors Manufacturing	1
1730247	HOC Industries, Inc.	1
1730252	Figeac Aero Wichita	1
1730270	Mulvane Municipal Power Plant	1
1730283	Marble Products	1
1730284	Kice Industries – North Facility	1
1730326	Capps Manufacturing, Inc.	1
1730335	Diversified Services	1
1730345	Buzzi Unicem USA	1
1730346	Kansas Ready Mix	1
		41

<b>777 or B Sources:</b>		<b>Frequency</b>
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
777 or B	TBD	1
		10

Total Inspections = 76

C. Quarterly Report Requirements

<b>1<sup>st</sup> Quarter (10/01 – 12/31/16)</b>	<b>2<sup>nd</sup> Quarter (1/01 – 3/31/17)</b>	<b>3<sup>rd</sup> Quarter (4/01 – 6/30/17)</b>	<b>4<sup>th</sup> Quarter (7/01 – 9/30/17)</b>

### III. Complaint Inspections

A. WDEH & BOA agree as follows:

1. WDEH will respond to complaints they receive regarding demolition activities in the county and may charge costs to Program Maintenance.
2. WDEH will contact complainant by telephone within 2 business days (depending on urgency) of complaint to obtain additional information. If the complaint is not resolved by telephone, on-site investigations will be conducted as soon as practical and within two business days of responding by telephone of the complaint.
3. WDEH will document inspection results on appropriate inspection forms provided by BOA and delivered or mailed to BOA within seven days of the completion of the inspection.

B. Quarterly Reporting Requirements

<b>1<sup>st</sup> Quarter (10/01 – 12/31/16)</b>	<b>2<sup>nd</sup> Quarter (1/01 – 3/31/17)</b>	<b>3<sup>rd</sup> Quarter (4/01 – 6/30/17)</b>	<b>4<sup>th</sup> Quarter (7/01 – 9/30/17)</b>

### IV. Planning Activities

A. WDEH & BOA agrees as follows:

- WDEH will facilitate regular meetings of the Air Quality Improvement Task Force and through this regional advisory group create and implement Ozone Advance Path Forward action steps that reduce ozone precursors.
- WDEH will attend and participate in committees and other group meetings to develop, discuss, review and revise priorities, plans and strategies (both regulatory and voluntary) for improving air quality. Groups may include, but are not limited to, Wichita Area Metropolitan Planning Organization and National Association of Clean Air Agencies. WDEH will facilitate an annual Air Quality Improvement Task Force Workshop for the advisory group to meet and discuss objectives for the upcoming ozone season.

B. Quarterly Reporting Requirements

<b>1<sup>st</sup> Quarter (10/01 – 12/31/16)</b>	<b>2<sup>nd</sup> Quarter (1/01 – 3/31/17)</b>	<b>3<sup>rd</sup> Quarter (4/01 – 6/30/17)</b>	<b>4<sup>th</sup> Quarter (7/01 – 9/30/17)</b>

### V. Emission Reduction Strategies

A. WDEH & BOA agrees as follows:

- Provide support to the Kansas Small Business Environmental Assistance Program for air quality activities in Wichita as requested
- Encourage regional industry leaders to participate in ozone-forming emission reductions, including
  - Participation in the Air Quality Improvement Task Force
  - Adoption of an Ozone Action Plan
- Promotion of good commuter habits to public and private entity drivers, activities may include:
  - Continue to implement the idling reduction policy for the City of Wichita vehicle fleet
  - Expand the idling reduction awareness and education to schools, businesses, etc
  - Participate in emission/gas cap testing for general public efforts

- Continue implementation of a local distribution strategy for air quality related educational information and materials
  - Create and implement an Ozone Alert Education Program and Marketing Plan
  - Continue a series of air quality related materials that will be aired on City Cable Channel 7 and radio shows
  - Maintenance of AQ information on the City website
- Provide presentations on air quality issues at appropriate venues
- Communication of forecasted AQI during ozone season
  - Provide regular preseason ozone information via mailing lists and newsletters etc. as appropriate
  - Provide regular updates about AQI forecasts via mailing list and other venues as appropriate
- Promotion and support for the adoption of guidelines and policies that reduce ozone precursors
  - Model landscaping service guidelines
  - Model contracts for public projects
  - Wichita Bicycle Master Plan
  - Native plant landscaping guidelines

B. Quarterly Reporting Requirements

<b>1<sup>st</sup> Quarter (10/01– 12/31/16)</b>	<b>2<sup>nd</sup> Quarter (1/01 – 3/31/17)</b>	<b>3<sup>rd</sup> Quarter (4/01 – 6/30/17)</b>	<b>4<sup>th</sup> Quarter (7/01 – 9/30/17)</b>

**VI. Ambient Air Monitoring**

A. Requirements

1. WDEH will operate the National Air Monitoring Stations (NAMS), State/Local Air Monitoring Stations (SLAMS), and Special Purpose Monitors (SPM) and make timely submittal of all samples and data in accordance with procedures presented in the following documents:
  - 40 CFR Part 58,
  - State of Kansas Implementation Plan for Attainment and Maintenance of NAAQS, Sec. E – Monitoring Plan,
  - Kansas Ambient Air Monitoring Quality Assurance Program/Project Plans (QAPPs) and associated standard operating procedures (SOPs), and,
  - Instrument Operator’s Manuals.
2. Additions, deletions, and changes in activities will be negotiated and set out in addenda to this Work Plan.
3. WDEH agrees to provide monitoring field support to BOA in responding to natural disasters or other emergency situations. This field support can only be provided with the concurrence of the Wichita City Manager. BOA agrees that the request for assistance will include an explanation of the duties that BOA would like WDEH to assist with and an approximation of the length of time the assistance would be required. If WDEH is unable to meet other contractual obligations due to providing this field monitoring support, BOA agrees to renegotiate those provisions.

B. General

1. Operation: WDEH will make regularly scheduled site visits, and additional site visits as necessary for maintenance, repairs, and QA/QC activities. Document all site visits and activities, and maintain required records and logs.
2. Maintenance: WDEH will perform minor repairs or secure repair service from manufacturer as needed, and coordinate more difficult problems with BOA field staff. Notify BOA by the next working day that an ambient air monitor is down due to equipment failure and provide estimated down time for repairs. Document all maintenance and repair activities, and maintain required records and logs.
3. Quarterly Reporting Requirement

C. Particulate Matter/PM<sub>10</sub>

1. WDEH will retrieve/change PM<sub>10</sub> filter elements on schedule. Submit PM<sub>10</sub> filters to BOA within 10 working days of the end of the month.
2. WDEH will biannually inspect PM<sub>10</sub> motors and change brushes (change motors as needed). Perform PM<sub>10</sub> calibrations and maintenance.
3. WDEH will perform annual orifice calibrations and support equipment calibrations. Perform NPAP audit as necessary.
4. Quarterly Reporting Requirement

D. Continuous PM<sub>10</sub>

1. WDEH will perform monthly flow checks and perform diagnostic checks. Simultaneously replace filter element and clean inlet as necessary.
2. WDEH will perform leak check prior to hardware and software calibrations. Perform hardware and analog output calibration at least once every twelve months. Perform software calibration every six months. For samplers in small “doghouse” shelters, check air conditioning unit every six months.
3. Quarterly Reporting Requirements

E. Gaseous Monitors

1. WDEH will report any malfunctions of these monitors to BOA field staff as soon as possible.

F. Quarterly Reporting Requirements

1. WDEH will provide quarterly updates on the progress of the Ambient Air Monitoring activities. This contract addresses NO<sub>x</sub>, O<sub>3</sub>, SO<sub>2</sub> and cPM<sub>10</sub>. The five PM<sub>2.5</sub> monitors are addressed in the 103 contract. Reporting efforts may be consolidated for convenience.

Monitoring	Number
NO <sub>x</sub>	2
O <sub>3</sub> , SO <sub>2</sub>	4
cPM <sub>10</sub>	3
<b>Total</b>	<b>9</b>

<b>1<sup>st</sup> Quarter</b> <b>(10/01 – 12/31/16)</b>	<b>2<sup>nd</sup> Quarter</b> <b>(1/01 – 3/31/17)</b>	<b>3<sup>rd</sup> Quarter</b> <b>(4/01 – 6/30/17)</b>	<b>4<sup>th</sup> Quarter</b> <b>(7/01 – 9/30/17)</b>

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>	<b>GRANT NUMBER (FAIN):</b> 00796209 <b>MODIFICATION NUMBER:</b> 0 <b>PROGRAM CODE:</b> A	<b>DATE OF AWARD</b> 12/01/2015
		<b>TYPE OF ACTION</b> Continuation	<b>MAILING DATE</b> 12/08/2015
		<b>PAYMENT METHOD:</b> ACH	<b>ACH#</b> 70719
		<b>RECIPIENT TYPE:</b> State	
<b>RECIPIENT:</b> Kansas Department of Health and Environment 1000 S.W. Jackson, Suite 410 Topeka, KS 66612-1367 <b>EIN:</b> 48-6029925		<b>PAYEE:</b> Kansas Department of Health and Environment 1000 S.W. Jackson, Suite 410 Topeka, KS 66612-1367	
<b>PROJECT MANAGER</b> Tom Gross 1000 S.W. Jackson, Suite 410 Topeka, KS 66612-1367 <b>E-Mail:</b> tgross@kdheks.gov <b>Phone:</b> 785-296-1692	<b>EPA PROJECT OFFICER</b> Lachala Kemp 11201 Renner Boulevard Lenexa, KS 66219 <b>E-Mail:</b> <b>Phone:</b> 913-551-7214	<b>EPA GRANT SPECIALIST</b> Marc Kingston Grants Management Office, PLMG/RFMB/GRMS <b>E-Mail:</b> Kingston.Marc@epamail.epa.gov <b>Phone:</b> 913-551-7407	
<b>PROJECT TITLE AND DESCRIPTION</b>  Kansas Air Pollution Control Program 2016-2017  These funds will be used statewide to improve air quality. Activities include, but are not limited to, compliance and enforcement for industry, emission inventory (all sources including mobile sources, off-road, on-road and stationary sources), air planning activities for air toxics, regional haze, ozone and particulate matter. The term "planning activities" includes, but is not limited to, attending meetings to examine data and how data is related to air quality and health trends, working with other regions to initiate projects to protect air quality, implementing more stringent ozone, particulate matter and other National Ambient Air Quality Standards by providing assistance to write State Implementation Plans, or to provide technical assistance to write meteorological modeling. These funds are also used to train state personnel.  This award provides partial federal funding in the amount of \$202,081, full funding may be provided at a later date.			
<b>BUDGET PERIOD</b> 10/01/2015 - 09/30/2017	<b>PROJECT PERIOD</b> 10/01/2015 - 09/30/2017	<b>TOTAL BUDGET PERIOD COST</b> \$4,232,264.00	<b>TOTAL PROJECT PERIOD COST</b> \$4,232,264.00
<b>NOTICE OF AWARD</b>			
Based on your Application dated including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$202,081. EPA agrees to cost-share 60.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$202,081. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b> Grants Management Office 11201 Renner Boulevard Lenexa, KS 66219		<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 7 Air and Waste Management Division 11201 Renner Boulevard Lenexa, KS 66219	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>			
<b>Digital signature applied by EPA Award Official</b> Deboraha K. Titus - Grants Management Officer			<b>DATE</b> 12/01/2015

# EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 202,081	\$ 202,081
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 202,081	\$ 202,081

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.001 - Air Pollution Control Program Support	Clean Air Act: Sec. 105	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1607L46007	16	E1	07L2	102A04	4112			202,081
									202,081

Budget Summary Page

<b>Table A - Object Class Category (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Personnel</b>	\$1,490,637
<b>2. Fringe Benefits</b>	\$638,845
<b>3. Travel</b>	\$31,200
<b>4. Equipment</b>	\$83,492
<b>5. Supplies</b>	\$57,026
<b>6. Contractual</b>	\$139,584
<b>7. Construction</b>	\$0
<b>8. Other</b>	\$1,539,323
<b>9. Total Direct Charges</b>	\$3,980,108
<b>10. Indirect Costs: % Base</b> See NICA	\$252,156
<b>11. Total (Share: Recipient 40.00 % Federal 60.00 %.)</b>	\$4,232,264
<b>12. Total Approved Assistance Amount</b>	\$202,081
<b>13. Program Income</b>	\$0
<b>14. Total EPA Amount Awarded This Action</b>	\$202,081
<b>15. Total EPA Amount Awarded To Date</b>	\$202,081

## **Administrative Conditions**

### 1. **General Terms and Conditions**

The recipient agrees to comply with the current EPA general terms and conditions available at:

[http://www2.epa.gov/sites/production/files/2015-10/documents/general\\_tc\\_as\\_of\\_10-6-2015.pdf](http://www2.epa.gov/sites/production/files/2015-10/documents/general_tc_as_of_10-6-2015.pdf)

These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at:

<http://www2.epa.gov/grants/grant-terms-and-conditions>

### 2. **Indirect Costs**

Recipient agrees that if indirect costs are authorized in this award they will be charged at the approved indirect rate for the year in which the funds are actually expended and in accordance with the negotiated indirect cost agreement.

### 3. **DBE Reporting Requirement**

#### **GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

#### **UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

##### **MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E**

**MBE/WBE reporting is required in annual reports.** Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide **EPA R7 Grants Specialist listed on the award** with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

**When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due by October 30<sup>th</sup> or 90 days after the end of the project period, whichever comes first.**

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to [R7Grants@epa.gov](mailto:R7Grants@epa.gov). The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm)

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

**FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D**

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

**Current Fair Share Objective/Goal**

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The **Kansas Department of Health and Environment (KDHE)** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Kansas	MBE	WBE
Supplies	0.8%	4.1%
Equipment	1.2%	3.9%
Services	5.6%	35%
Construction	4.1%	6.9%

**Negotiating Fair Share Objectives/Goals**

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

**SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C**

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

**CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

**BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)**

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

**Programmatic Conditions**

1. **QAPP**

Recipient agrees to adhere to the approved QAPP for environmental data generation or use under this agreement in order for the environmental data activities to be eligible for reimbursement. Recipient agrees that any significant revisions to the QAPP must be reviewed and approved in accordance with the approved quality management plan before implementation.

2. **Reporting**

Recipient agrees to provide **Annual Performance Reports** , for all activities identified in the workplan, including those performed by the Recipient through Interagency Agreements and sub-agreements in accordance with 2 CFR 200.328;

Performance reports submitted under this agreement will contain at a minimum :

- i) a comparison of actual accomplishments to the outputs/outcomes established in the work plan for the performance period;
- ii) the reasons for slippage if established outputs/outcomes were not met; and,
- iii) additional pertinent information including , when appropriate, analysis and explanation of cost overruns or high unit costs .

These reports shall be due no later than ninety (90) days after the end of the grant year. The **final performance report** is due to the EPA Project Officer (PO) within ninety (90) days after the expiration of the project period.

Questions, concerns, notification of any problems or delays should be directed to the EPA PO listed on the first page of your assistance award or assistance amendment document .

3. **Substantial Involvement**

The EPA PO is substantially involved in this cooperative agreement . The PO negotiates reviews and approves all updates to the workplan , that are specific to this cooperative agreement .

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** 2017 Funding Contributions for the Cheney Lake Watershed Water Quality Project (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve the memorandum of understanding and working agreement, including funding contributions.

**Background:** Cheney Lake Reservoir provides 50 to 80 percent of the City's water supply. The reservoir has two significant pollution problems: sedimentation, which displaces stored water and reduces the life of the reservoir; and phosphates from runoff, which contributes to algae and increases taste and odor problems. In 1993, the City Council approved the concept of the City sharing the cost to protect and preserve the reservoir through the implementation of best management practices (BMP). Since 1995, the City has provided financial support to the Cheney Lake Watershed Water Quality Project for expenses and services related to the implementation of BMPs that benefit the reservoir. The City also supports educational outreach efforts and administrative support for approved programs related to the implementation of BMPs.

The original memorandum of understanding (MOU) between the City and Cheney Lake Watershed, Inc. was approved in 1995 and subsequently updated through supplemental agreements. Working agreements between the Reno County Conservation District, Cheney Lake Watershed, and the City of Wichita were updated annually to accompany the MOU. In fall 2012, the original MOU and all related supplemental agreements were updated and combined, with the final version being approved by the City Council on February 26, 2013. On that date, the City Council also approved a working agreement outlining the supported activities, funding amounts, and responsibilities of each party for the period of January 1, 2013, through December 31, 2013. The details of the working agreements have been consistent since 2013.

**Analysis:** The MOU and related working agreement have been updated for 2017. The attached documents establish the basis for reimbursement by the City and outline the supported activities and responsibilities of each party. Staff recommends the City continue to support the Cheney Lake Watershed Water Quality Project by contributing to this joint effort.

The BMPs supported by the project benefit the Cheney Lake Reservoir by reducing sedimentation and slowing the intake of phosphates from runoff. The BMPs related to sedimentation reduction were identified as part of a study completed in 2011 by a Kansas State University Agronomist. The study found that a 40 percent reduction in sedimentation loading could extend the life of the reservoir by 200 years and identified potential practices and adoption rates that would produce incremental reductions. The study suggested that cumulative incremental reductions totaling 58,972 cubic yards per year would result in the 40 percent reduction goal if maintained over a 20-year period. This incremental reduction through implementation of the BMPs plan was reviewed by the City and the United States Environmental Protection Agency and approved by the Kansas Department of Health & Environment in 2011.

The alternative method of sediment reduction is dredging operations. The Kansas Water Office estimates dredging costs to be \$8 per cubic yard. The cost of reducing the equivalent amount of sediment through

dredging operations (as an alternative to implementation of BMP plan) is estimated at nearly \$9,500,000, or just under \$500,000 annually. Some of the BMPs aimed at slowing the intake of phosphates through runoff include alternative watering systems, filterstrips for small livestock feeding operations, fencing, the enhancement or creation of wetlands, and upgraded wastewater treatment systems in small communities connected to the reservoir. The City spends an estimated average of \$1,000,000 annually to chemically treat the water supply for taste and odor problems caused by the intake of phosphates.

**Financial Considerations:** The cost of the proactive BMP plan is significantly less than the cost of reactionary treatments. From 1995 to 2013, the City allocated an average of \$222,519 annually for the BMPs. For 2014 and 2015, the City's actual annual contributions were \$152,477 and \$154,463. The actual annual contributions are traditionally less than the allocated amount. The variation in actual contributions is due to elective participation in the program, changes in cost sharing, and the availability of grants and other funding sources.

Staff proposes the City's total 2017 funding contributions be limited to \$189,700, with \$65,700 for education and administration and \$124,000 for BMP implementation. Funding of \$189,700 is allocated for the City's portion in the Wichita Public Works & Utilities 2017 Adopted Operations Budget.

**Legal Considerations:** The Law Department has reviewed and approved the MOU and working agreement as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the MOU and working agreement, including funding contributions, and other documents as required, and authorize the necessary signatures.

**Attachments:** MOU and Working Agreement.

# WORKING AGREEMENT FOR WATER QUALITY PROJECTS

between

**RENO COUNTY CONSERVATION DISTRICT**

and the

**CHENEY LAKE WATERSHED, INC.**

and the

**CITY OF WICHITA**

- I. **Purpose:** It is the intent of this agreement to provide cost share reimbursement and incentive payments to producers and communities within the Cheney Lake Watershed who install practices that benefit the water quality of Cheney Lake Reservoir. This agreement shall define the procedure by which payments to those producers will be processed.
- II. **Background:** The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. The Cheney Lake Watershed is governed by a board, the Citizen's Management Committee, hereafter referred to as CMC. The Citizens Management Committee serves as an advisory board to the Reno County Conservation District. The Cheney Lake Watershed, Inc. provides education and recruits producers and landowners in the watershed to implement management practices that benefit Cheney Lake Reservoir.
- III. **Cost Share:** This working agreement shall cover year 2017, January 1, 2017 through December 31, 2017. The CMC and the Reno County Conservation District will review applications for cost share assistance and make decisions for approval based on available funds and the impact of implementing specific practices. Total amount of cost share payments for FY 2017 shall not exceed funds budgeted by the City of Wichita Public Works and Utilities Department.

**Watershed Restoration and Protection Strategy (WRAPS) Implementation Projects:** In order to establish desirable practices that protect water quality, the Reno County Conservation District will provide up to 60% of the county average cost or up to 60% of the actual cost of installing the project, whichever is less, using WRAPS funding from KDHE. The City of Wichita will provide matching cost share payments for eligible practices not to exceed 100% of the actual or estimated cost, whichever is less.

Implementation projects may include but will not be limited to the following practices: range and pasture seeding, alternate livestock watering systems, terraces and waterways, no-till farming and cover crop implementation, nutrient management, the relocation of livestock feeding areas, the relocation of seasonal feeding areas, and the enhancement or creation of wetlands.

**Perimeter Fencing:** The conversion of cropland to pasture has positive water quality benefits if perennial grasses are established, maintained, and properly grazed. The expense of building perimeter fence is a major deterrent to conversion of cropland to permanent native grass. Conversion of cropland to grass includes land that has been established in native grass for enrollment in the Conservation Reserve Program (CRP). Upon expiration of a CRP contract, assistance with the installation of perimeter fence is an incentive to the landowner to develop a grazing system rather than returning the land to crop production. The CMC has established priority areas within the watershed for the use of cost share for perimeter fence.

A maximum of two (2) miles of fence is eligible for cost share. The cost share rate for Wichita funds will be 50% of county average cost or 50% of the actual cost, whichever is less. The county average cost for the Water Resources Cost Share (WRCS) program in the county where the practice is installed will be the basis for determining the funding level.

Producers must agree to maintain the fence and to abide by a grazing management plan developed with the NRCS Field Office for a 10 year period following the installation of the fence. Applications will be taken at the Cheney Lake Watershed office. Payment process will be handled by Cheney Lake Watershed with CMC/Reno County Conservation District approval of all payment applications before sending to Wichita.

**Water Resources Cost Share (WRCS) and Non-Point Source (NPS) Pollution Control Fund Projects:** WRCS and NPS are state cost share programs which are administered by each county Conservation District. Under these programs, the producer applies for cost share assistance for eligible improvements through the county Conservation District; projects are awarded cost share assistance through a ranking process. The producer is eligible to receive state reimbursement of 50 to 70% of county average cost. The City of Wichita will provide matching cost share payments for eligible practices not to exceed 100% of the actual or estimated cost, whichever is less.

**Project Implementation Using Other Funding Sources:** In order to implement a broad spectrum of desirable practices that protect water quality, the Cheney Lake Watershed and the Reno County Conservation District will seek additional cost share funds from all available sources. These sources may include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office, the Kansas Rural Center, USDA, the US EPA and other entities. When these sources provide 60 to 90% of the county average cost or 60-90% of the actual cost of the project, the City of Wichita will provide up to 40% of the cost, not to exceed a total of 100% of the actual cost. In cases where there is no established county average cost, payment will be based upon reasonable costs as determined by the CMC. These special projects may include, but will not be limited to, the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands for water quality protection.

- IV. **Incentive Payments:** This working agreement shall cover year 2017, January 1, 2017 through December 31, 2017. The Citizen's Management Committee and the Reno County Conservation District will review applications for incentive payments and make decisions for approval based on available funds and the impact of implementing specific practices.
- V. **Small Community Wastewater Treatment Systems:** There are at least 13 small communities within the Cheney Watershed. Eight of these communities have some type of existing community wastewater treatment system. Many of the community wastewater treatment systems operate near intermittent

or perennial streams. In an effort to protect surface water within the watershed, the Cheney Lake Watershed, Inc. will provide incentive payments to small communities that are upgrading a wastewater treatment system. The proposed treatment system must meet all current requirements of the Kansas Department of Health and Environment and must also be located within contributing portions of the watershed. Each eligible community may apply for a one-time payment of \$2,500 to match state or federal funds awarded to upgrade the treatment system. Individual communities may make application for assistance through the Cheney Lake Watershed office. Cheney Lake Watershed, Inc. will make direct payments to participating communities upon completion of the upgrades. A maximum of two applications per year may be approved and funded.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for the amount paid to participating communities and the City will reimburse CLW, Inc. in an amount not to exceed \$5,000 for FY2017.

**Continuous Sign-up Conservation Reserve Program (CRP):** The conversion of small, strategic parcels of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the area. As water is slowed, the infiltration rate into the soil is increased. By locating these small parcels of perennial grasses adjacent to perennial or intermittent streams, nearly the same benefits may be achieved regarding water quality as converting an entire field to grass.

Continuous Sign-up CRP is a program of the USDA, administered by the Farm Service Agency. In order to maximize utilization of this program in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The CMC has established priority areas and will determine CRP practices that will be eligible for Wichita payments. Cost share funds will be paid to the owner or operator, whichever incurred the cost of establishment:

An incentive payment of \$200 per acre will be paid to the landowner or farm operator upon approval of the contract with FSA. Incentive payments will be paid to the owner or operator or split between them in the same manner that the Continuous CRP payments are to be paid. Incentive payments will be paid to the owner and/or operator based upon the shares indicated in the CCRP contract for annual payments from USDA. Participants must provide a copy of their CCRP contract to the Cheney Lake Watershed office to receive signup incentive payments.

**Conversion of Cropland to Perennial Grass:** The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of \$100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

- VI. **Total amount of payments for conservation projects for FY 2017 shall not exceed \$124,000 as budgeted by the City of Wichita Public Works and Utilities Department.**

## **Reno County Conservation District Responsibilities**

### ***The RCCD will:***

- 1. Maintain official records relative to farms and other official records.**
- 2. Establish the sign-up period for Water Resources Cost Share (WRCS) and Non-Point Source Pollution Control Fund (NPS) cost share programs.**
- 3. Determine producer's eligibility to participate in WRCS and NPS.**
- 4. Maintain County Average Costs.**
- 5. Administer the state's cost share amount to the producer for WRCS and NPS funds.**

## **Cheney Lake Watershed, Inc. Responsibilities**

### ***CLW, Inc. will:***

- 1. Review, prioritize and approve/ disapprove applications for cost share and incentive payments. Notify producers or communities of approval status.**
- 2. Will provide an accounting of the practice to the City of Wichita.**
- 4. Prepare payment applications and review with RCCD before forwarding to the City of Wichita for payment.**
- 5. Provide the City of Wichita the name, address and Social Security number of the producer completing the demonstration, the type of practice implemented, and legal description of the practice or demonstration site.**
- 6. Provide a yearly accounting of the program to the City of Wichita.**
- 7. Make direct payments to small communities for upgrades in wastewater treatment systems and invoice the City of Wichita for reimbursement.**

## **City of Wichita Responsibilities**

### ***The City will:***

- 1. Maintain official records relative to the program.**
- 2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.**
- 3. Provide notification to the Cheney Lake Watershed Office of payments as soon as possible within workload requirements.**
- 4. Provide reimbursement to the Cheney Lake Watershed, Inc. for payments made to small communities for upgrades in wastewater treatment systems.**

### **All Parties:**

- 1. This agreement can be modified with written consent of both parties.**
- 2. This agreement can be terminated with 60 days written notice of either party.**

*Jeff Longwell*

6-30-16

Reno County Conservation District

Date

*Mike Gillett*

7-5-16

Citizen's Management Committee

Date

Jeff Longwell, Mayor, City of Wichita,

Date

APPROVED AS TO FORM:

*Brian K. M. Ford*

for Jennifer Magaña, Director of Law and City Attorney

ATTEST

Karen Sublett, City Clerk

(SEAL)

## MEMORANDUM OF UNDERSTANDING

between the

**CHENEY LAKE WATERSHED, INC.**

and the

**CITY OF WICHITA**

- I. **Purpose:** It is the intent of this agreement to provide funding from the City of Wichita to Cheney Lake Watershed, Inc. for contractual expenses needed to maintain and improve watershed management.
- II. **Background:** The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River which enters Cheney Reservoir. The Cheney Lake Watershed, Inc., is responsible for implementing the Watershed Management Plan accepted by the City of Wichita and the Kansas Department of Health and Environment.
- III. **Contractual Expenses:** The City of Wichita agrees to provide funds, not to exceed \$65,700, in the year 2017 for contractual expenses of Cheney Lake Watershed, Inc. Contractual expenses will include professional services. Services rendered may include, but are not limited to:
  - Coordinate Public Education and Outreach within the Cheney Lake Watershed
  - Make one-on-one contacts with landowners or producers to recruit and facilitate the implementation of Best Management Practices.
  - Coordinate with local news media, issue news releases and/or feature articles that highlight watershed projects, especially those that help accomplish watershed goals.
  - Prepare grant requests necessary to assist in funding of projects associated with the watershed improvement management plan.
  - General office management to support the activities listed above.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for contractual expenses incurred in 2017 on a regular basis and the City of Wichita will reimburse Cheney Lake Watershed, Inc for those expenses. The Cheney Lake Watershed, Inc. will be responsible for supervisory control of the professional services.

This agreement shall be governed by and construed in accordance with the laws of the State of Kansas. It is agreed by both parties that this agreement can be modified with the written consent of each party and this agreement can be terminated with 60 days written notice of either party.

*DWR Durbost*

Cheney Lake Watershed, Inc

*7-5-16*

Date

Jeff Longwell, Mayor, City of Wichita,

Date

APPROVED AS TO FORM:

*Brian K. Magaña*

for Jennifer Magaña, Director of Law and City Attorney

*08/18/16*

Date

ATTEST

Karen Sublett, City Clerk

(SEAL)

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Amended Bonding Resolution (Districts I and III)

**INITIATED BY:** Department of Park & Recreation

**AGENDA:** Consent

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**Recommendation:** Adopt the amended bonding resolution and authorize the necessary signatures.

**Background:** The Adopted 2016-2025 Capital Improvement Plan (CIP) budgeted \$400,000 per year for park facility improvements. The Department of Park & Recreation has used \$100,000 for swimming pool improvements and repairs. As the 2016 season has drawn to a close, the Department is requesting initiation of the remaining funds the remaining funds to other priorities within the park system.

**Analysis:** Staff has identified other enhancement projects and amenities, including the purchase of picnic tables, park benches, playground equipment for Chapin Park and also for floor replacement at the Edgemoor and Linwood Recreation Centers. An amended bonding resolution has been prepared to provide additional project funding in the amount of \$300,000 for the balance of the 2017 park facility improvements. An amended bonding resolution for the balance of the 2017 park facility improvements, \$300,000 is attached.

**Financial Considerations:** The Adopted 2016-2025 CIP includes funding of \$400,000 for 2017 park improvements. Of this amount, \$100,000 was initiated and approved by the City Council on February 16, 2016 and initiation of the remaining \$300,000 is requested at this time to begin construction related to the remaining 2017 park improvements. An amended bonding resolution has been prepared for initiation of the remaining \$300,000 for this project. The funding source for these improvements is general obligation bonds.

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

**Recommendations/Actions:** It is recommended that the City Council adopt the amended bonding resolution and authorize the necessary signatures.

**Attachment:** Bonding resolution.

**RESOLUTION NO. 16-337**

**A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 16-036 OF THE CITY OF WICHITA, KANSAS, WHICH AUTHORIZED THE ISSUANCE OF GENERAL OBLIGATION BONDS TO PAY THE COSTS OF PUBLIC PARK IMPROVEMENTS.**

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**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized, and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council (the “Governing Body”) of the City has heretofore, pursuant to K.S.A. 13-1346, created the Wichita Board of Park Commissioners (the “Board”); and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase, or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require, and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body has heretofore by Resolution No. 16-036 of the City (the “Prior Resolution”), authorized the following described public improvements:

Labor, material, equipment, and expenditures necessary for the removal and replacement of Harvest Pool slide; repair, caulk, and paint the pool basins at Boston, Linwood, and Orchard Pool. As funding allows, additional improvements include two rentable gazebos and replacement of the wading pool with splash pad elements at Harvest Pool; replacement of the sand filter at College Hill Pool; installation of Aquaclimbs at Orchard, Aley, and Boston pool; installation of spray cannons at Aley Pool; and installation of eight basketball goals at various pools (collectively, the “Project”) for the use of the Board and/or City, and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make additional public improvements described as follows:

Additional improvements, including, but not limited to, purchase of picnic tables, park benches, and playground equipment for Chapin Park and floor replacement at Edgemoor and Linwood Recreation Centers (together with the original Project, collectively, the “Amended Project”).

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

**Section 1. Amendment.** *Sections 1 and 2* of the Prior Resolution are hereby amended to read as follows:

**Section 1. Project Authorization.** It is hereby authorized, ordered and directed that the Amended Project be designed, acquired, and/or constructed at an estimated cost of \$400,000 in accordance with specifications prepared or approved by the City of Wichita.

**Section 2. Project Financing.** All or a portion of the costs of the Amended Project, interest on financing, and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures authorized by Resolution No. 16-036 made on or after the date which was 60 days before the date of adoption of Resolution No. 16-036 and to reimburse additional expenditures authorized by this Resolution, which were made on or after the date which was 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.

**Section 2. Repealed; Ratification.** Sections 1 and 2 of the Prior Resolution are hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed. Resolution No. 16-036 of the City of Wichita is hereby repealed.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell., Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magana, City Attorney and  
Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** 2017 Federal Edward Byrne Memorial Justice Assistance Grant (JAG)

**INITIATED BY:** Wichita Police Department

**AGENDA:** Consent

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**Recommendation:** Approve the submission of the grant application and authorize the Mayor to sign the grant upon approval.

**Background:** The 2017 Federal Edward Byrne Memorial JAG is administered by the Kansas Governor's Federal Grants Program. The Wichita Police Department officially submitted an application for Byrne JAG funds on August 8, 2016 for the purchase of the FARO Technologies 3-Dimensional (3-D) Laser Scanning System. The application included letters of support from Sedgwick County District Attorney Marc Bennett and Sedgwick County Sheriff Jeff Easter. The FARO Laser Scanning System will be available to use by local law enforcement jurisdictions within Sedgwick County.

The FARO Technologies 3-D Laser Scanning System is a high definition surveying (HDS) technology that digitizes a crime scene by using panoramic photography and 3-D laser scanning. The result is an ever-lasting, 3-D representation of a crime scene. The Scanning System can be used for post-event forensic analysis, involving: crime scene investigations, traffic crash investigations, and post-blast investigations; and pre-event planning, involving: homeland security issues, vulnerability, and threat assessments and structural data for use in tactical situations. The Scanning System will be utilized to assist specialized units throughout the Wichita Police Department, including: the Crime Scene Investigation Unit, the Critical Accident Team, the Explosive Ordinance Disposal Unit, the Special Weapons and Tactics Team, and the Emergency Planning Section.

The grant application has already been signed by the Mayor and submitted in order to meet the deadline, pursuant to authority under Administrative Regulation 2.4, where delay would invalidate the grant. The funding is for the state fiscal year 2017, beginning October 1, 2016 through September 30, 2017.

**Analysis:** The FARO Scanning System will greatly improve scene documentation, as well as efficiency and productivity of investigators. As a result, cases presented to the court will be visually accurate and assist with prosecution of cases. This equipment and technology provides state of the art scene documentation and will be utilized by officers, detectives, and prosecutors to investigate, charge, and present criminal cases to judges and jury members.

**Financial Considerations:** The total grant request is \$114,374, which will be used for the purchase of the FARO Technologies 3-D Laser Scanning System, software licenses, service agreements, and onsite training. No local match is required for this grant.

**Legal Considerations:** The Law Department will review and approve upon receipt of the grant funds.

**Recommendations/Actions:** It is recommended that the City Council approve the submission of the grant application and authorize the Mayor to sign the grant upon approval.

**City of Wichita  
City Council Meeting  
September 6, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Kansas Health Foundation Recognition Grant Application – Bicycle Parking

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Consent

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**Recommendation:** Approve the grant application and authorize the necessary signatures.

**Background:** On February 5, 2013, the Wichita City Council endorsed the Wichita Bicycle Master Plan. The plan is a guide for how the City can make it easier, safer, and more convenient to get around the City on a bicycle through the provision of bicycle related infrastructure, policies, and programs. The Plan Strategy 5 recommends that the City increase the availability of bicycle parking in Wichita.

In June 2016, the Kansas Health Foundation announced it is accepting applications for Recognition grants. The Recognition grants provide up to \$25,000 per organization for projects or initiatives that support health. The grant submission deadline is September 15, 2016.

**Analysis:** The proposed grant application would utilize the Kansas Health Foundation Recognition Grant funding to undertake a bicycle parking pilot project. The pilot project would purchase and install bicycle parking at locations identified through an application process. The application process would provide individuals and organizations an opportunity to request bicycle parking and to provide matching funds for the improvements.

**Financial Considerations:** The grant request is for \$25,000. The grant does not require a local match and no local match is proposed.

**Legal Considerations:** A grant agreement will be submitted for review and approval by the Law Department if the grant proposal is successful.

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

**Attachment:** Draft Kansas Health Foundation Recognition Grant Application

# Recognition Grant Application Fall 2016 Cycle

## Overview of Proposed Grant

**Application deadline: September 15, 2016**

Prior to completing your application, please visit the Kansas Health Foundation website [www.kansashealth.org](http://www.kansashealth.org) to read more about our Recognition Grant program, including guidelines, eligibility, application process, etc.

Your organization's application is very important to us, and we strive to make all of the information available in advance for you to complete the online process. To ensure we are able to provide the appropriate time and attention to answering questions, please complete and submit your application well in advance of the September 15th deadline, which is when we experience our highest volume of phone/email inquiries.

**Please provide a brief overview of your proposed grant (check all that apply)**

Lead Agency (How would you describe your organization?)

**Community Organization**

United Way, Scouts, YMCA, community foundation, childcare center, theater company, local non-profit, etc.

No

**School/University**

Elementary, middle, high, post-secondary, higher education, extension office, etc.

No

**Health Organization**

Clinic, hospital, health department, etc.

No

**Faith Organization**

Church, temple, mosque, etc.

No

**Government Agency**

City, county, police dept., parks, &amp; rec, etc.

Yes

**Other**

No

Target Group (Select any of the populations your grant will influence)**Children & Youth**

Individuals under 18 years old

Yes

**Older Adults**

Individuals over the age of 60

Yes

**Community**

Any population living in the same place or having a particular characteristic in common

Yes

**People Living in Poverty**

Individuals living at or below the federal poverty level

Yes

**Racial and Ethnic Minorities**

Individuals who identify as American Indian or Alaska Native, Asian American, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander

Yes

**LGBTQA Population**

Individuals who identify as Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Asexual or Ally  
Yes

**People with a Physical Disability**

Individuals with a physical impairment that substantially limits one or more major life activity  
No

**People with Mental Illness**

Individuals with a mental impairment that substantially limits one or more major life activity  
Yes

**People with Substance Dependence/Abuse**

Individuals who exhibit excessive use of a potentially addictive substance, especially one that may modify body functions, such as alcohol or drugs  
Yes

**Rural Populations**

Populations, housing and territory not included within an urban area of 20,000 or more people  
No

**Other**

No

Problem Area (What is the focus of your proposal? Check all that apply)

**Physical Activity, Nutrition and/or Tobacco Prevention**

A focus on ensuring proper nutrition, increasing physical activity and decreasing tobacco use  
Yes

**Chronic Disease and/or Disability Service**

A focus on a long-lasting condition that can be controlled but not cured, e.g., Alzheimer's, cancer, diabetes and obesity or on individuals with a physical or mental impairment that substantially limits one or more major life activity  
Yes

**Domestic Abuse/Neglect and/or Violence Prevention**

A focus on preventing patterns of abusive behavior in relationships, maltreatment or neglect of a child or violent behavior  
No

**Parenting and/or Child Development**

A focus on educating parents or ensuring that all children have the opportunity to grow up where their social, emotional and educational needs are met  
No

**Health Equity**

A focus on improving the health of those who have experienced social or economic disadvantage

Yes

**Public Health, Health Information and/or Health Service**

A focus on protecting and improving the health of communities through promoting healthy lifestyles, injury prevention, detection/control of infectious diseases, and/or activities aimed at providing conditions in which people have the opportunity to be healthy and focus on entire populations, not on individual patients or diseases

Yes

**Civic Leadership**

A focus on providing resources and nurturing skills necessary for Kansans to actively and effectively engage in improving the health of their communities

No

**Other**

No

Intervention (How grant dollars would be used?)**Operating Support and/or Structured Activities**

Supports the mission of the recipient organization and intended to address a specific, connected set of activities with explicit objectives, having a predetermined time frame. Supporting ongoing activities or operations of the organization, including regular personnel, administrative or office expenses

No

**Policy Adoption or Implementation**

Supports public, influencer or policymaker education, outreach or training, public polling, focus groups or surveys, advocacy capacity building, communications and messaging, media advocacy, coalition building, community organizing or community mobilization

Yes

**Equipment and/or Supplies**

Propose to spend majority of requested funds on equipment or supplies

No

**Other**

Yes

Primary Region Targeted (What county(ies) are you proposing to serve?)

**Kansas**

Full State Focus

No

**South Central Region**

Barber County, Comanche County, Edwards County, Harper County, Harvey County, Kingman County, Kiowa County, Pawnee County, Pratt County, Reno County, Sedgwick County, Stafford County or Sumner County

Yes

**East Central Region**

Anderson County, Chase County, Coffey County, Douglas County, Geary County, Franklin County, Johnson County, Linn County, Lyon County, Miami County, Morris County, Osage County, Shawnee County or Wabaunsee County

No

**Northeast**

Atchison County, Brown County, Doniphan County, Jackson County, Jefferson County, Leavenworth County, Marshall County, Nemaha County, Pottawatomie County, Riley County or Wyandotte County

No

**Central Region**

Barton County, Dickinson County, Ellis County, Ellsworth County, Lincoln County, McPherson County, Marion County, Rice County, Rush County, Russell County or Saline County

No

**Southwest Region**

Clark County, Finney County, Ford County, Grant County, Gray County, Hamilton County, Haskell County, Hodgeman County, Kearny County, Meade County, Morton County, Seward County, Stanton County, Stevens County

No

**Southeast Region**

Allen County, Bourbon County, Butler County, Chautauqua County, Cherokee County, Cowley County, Crawford County, Elk County, Greenwood County, Labette County, Montgomery County, Neosho County, Wilson County, Woodson County

No

**North Central Region**

Clay County, Cloud County, Jewell County, Mitchell County, Osborne County, Ottawa County, Phillips County, Republic County, Rooks County, Smith County, Washington County

No

**Northwest Region**

Cheyenne County, Decatur County, Graham County, Norton County, Rawlins County, Sheridan County, Sherman County or Thomas County

No

**West Central Region**

Gove County, Greeley County, Lane County, Logan County, Ness County, Scott County, Trego County, Wallace County or Wichita County

No

**Please proceed to the next page to begin the application.**

## Applicant Organization Information

Submission Deadline - Thursday, September 15th by 5 p.m.  
This application is removed promptly at the 5 p.m. deadline  
and will not be accessible.

### Important:

- **Be sure to complete the entire application. Your application has not been submitted until you receive an e-mail from the Kansas Health Foundation confirming its receipt.**
- **Save your application often, you will lose any unsaved data! Scroll through the application prior to filling out the data fields. It is a good idea to print out a blank application before you begin by selecting the above "Printer Friendly Version" link. Before completing this form, be sure to read and thoroughly understand the guidelines and other links provided on the previous page.**
- **Approved applications will be awarded funds via electronic funds transfer; therefore, all applicants are required to complete the Authorization Agreement for Direct Deposits located in the top right-hand corner of the application. The Authorization Agreement must be submitted to the Kansas Health Foundation**

via email or fax to Mary Poort, Kansas Health Foundation Finance Assistant, at [mpoort@khf.org](mailto:mpoort@khf.org) or (316) 491-8332, by the application deadline of September 15th.

### Application Information

How did you hear about the Recognition Grants program?  
email

### Organization

#### Organization Name

As shown on IRS Form 990, 990-EZ or 990-N (e-Postcard)

City of Wichita

#### What is your organization's Tax ID Number

If your organization is a 501(c)(3), please provide your organization's Tax ID # if you know it, also referred to as an "Employer Identification Number" (EIN), in the following format: xx-xxxxxxx

*Note: Churches, government entities, including subsidiaries and public educational institutions, **DO NOT** need to submit an EIN.*

4860000653

### Tax Status

Please place a check mark in the box below that best describes your organizations tax status:

501(c)(3) Organization

No

**Government Entity**

Yes

**Church**

(If you are a Church and are part of an IRS Group Ruling you will be required to attach a copy of your Group Ruling Letter at the end of the application)

No

Please supply the following information for the organization applying for the funds.

Address	City	County	State	Zip Code
455 N. Main Street.	Wichita	Sedgwick	KS	67202

Phone Number	Extension
(316)352-4855	

Fax

**Organization E-mail**

swadle@wichita.gov

**Organization Web site**

www.wichita.gov

**What is the Mission/Purpose of Applicant Organization**

This information is generally found on your organization's web site or in a company handbook.

*Note: This is the organization's mission, not the project's mission.***(Please limit to 100 words)**

The mission of the City of Wichita is to provide an environment to protect the health, safety, and well being of all who live and work in the community. In directing policies and programs toward that end, the City assumes a stewardship role to preserve the assets and natural resources entrusted to its growth, to assure equality of opportunity and to contribute to the quality of life for all citizens.

**Primary Contact for Organization/Authorized to Sign Agreements**

Executive Director/Primary Contact for Organization Authorized to Sign Agreements (*Examples: Superintendent of Schools, President, CEO, CFO, etc.*)

Prefix	First Name	Last Name	Suffix
Mr.	Robert	Layton	<None>

Title  
Manager

Phone  
(316)268-4351

E-mail  
rlayton@wichita.gov

## Project Information and Questionnaire

### Project Director

Project Director/Contact Person for the Request:

Prefix	First Name	Last Name	Suffix
Mr.	Scott	Wadle	<None>

Position/Title  
Senior Planner

Organization Name  
Wichita-Sedgwick County Metropolitan Area Planning Department

Address	City	State	Zip Code
455 N. Main Street, 10th Floor	wichita	KS	67208

Phone	Extension
3163524855	

Fax

E-mail  
swadle@wichita.gov

### Project Title and Description

#### Project Title

Wichita Bicycle Parking Pilot Project

#### Project Description

Please provide a brief description of the project (one to two sentences preferred)

This project would fund the installation of public bicycle parking within the public right of way and public properties. The bicycle parking options include bicycle lockers, racks, and corrals. The project will include the creation and use of an application process, with the scoring process allowing for matching contributions.

### Project Information

#### Project Start Date

09/16/2016

#### Project End Date

01/01/2018

#### County(ies) served by the project

Please list the county(ies). Funds may only be used within the state of Kansas.

Sedgwick County

### Project Questionnaire

**Please provide concise, complete answers to each question avoiding repetition.**

**The questions below allow a limited amount of space for text entry. Additional details may be provided in the "Project Description" on the next page.**

1.) What is the compelling reason this project, program or policy initiative should be funded?

**(Please limit to 50 words)**

This project should be funded because bicycling is a proven effective and efficient way to improve health, enhance economic opportunity, and increase community engagement/interaction. Providing bicycle parking is a relatively low-cost way to increase the number of bicycle trips. Lack of bicycle parking can be a barrier to bicycling.

2.) What is the project purpose or policy change you have targeted to impact practices and environments that promote health?

**(Please limit to 100 words)**

The purpose of this project is to improve health by increasing the number of bicycle trips through: 1) the provision of secure accessible public bicycle parking; and 2) the use of bicycling parking infrastructure (racks, corrals, lockers, etc.) as visible encouragement for people to bicycle. The project will pilot an application process, where individuals and organizations can apply to the City for bicycle parking in public spaces. If successful, the pilot could lead to additional investments in a bicycle parking program. It can also demonstrate how bicycle parking corrals can be used in the place of on-street motor vehicle parking.

3.) What is the anticipated target population of the project or policy impact?

**(Please limit to 50 words)**

The target population of the project are residents and visitors in the city of Wichita. It is anticipated that people from all walks of life, ages, and demographics will utilize the bicycle parking.

4.) If your proposal requires/involves adult volunteers or paid staff to interact with minors, will you perform background checks on those service positions?

**(Please select from the drop down)**

Yes

If so, are you requesting all or a portion of such costs be funded by the grant?  
**(Please select from the drop down)**

No

Policy Attachment - *If your proposal requires adult service providers to interact with minors, please provide your background check policy.*

5.) How many people will be served by the project or impacted by the policy change?

**(Please limit to 50 words)**

This project will serve the approximately 389,965 residents of Wichita and visitors to our community.

6.) What health problems or needs of the target population or policy change does this project address? Why should it be addressed?

**(Please limit to 100 words)**

This project addresses the health problems of obesity. Obesity should be addressed because it has been identified as a top priority, the Sedgwick County Community Health Priorities document identifies both obesity and diabetes as one of the five top priority community health priorities for Sedgwick County. According to the State of Obesity Report, Kansas has the 13th highest adult obesity rate in the Nation (based on 2014 data). Sedgwick County has an obesity rate of 31.8 percent, ranking 18th for the highest rate in Kansas (KBHRFSS 2013).

7.) What health improvements would be anticipated in the target population as a result of this project? Please be precise about the expected impact of this project or policy change.

**(Please limit to 100 words)**

Communities with the highest rate of active transportation (bicycling and walking) generally have the lowest obesity rates. Replacing short vehicular trips (1-3 miles) with bicycling requires minimal additional time but could have a profound effect on obesity, providing people the recommended 30 minutes of physical activity per day. It is anticipated that the obesity rates of Sedgwick County would decrease as a result of this project.

8.) What are the anticipated barriers to implementing the project or initiating the policy change, and how would they be addressed?

**(Please limit to 100 words)**

An anticipated barrier to implementing this project is coordination between multiple organizations. This barrier will be addressed through creation of a project work team to coordinate efforts.

## Project Budget and Narrative

Total cost of this project

Enter the overall project budget dollar amount.

25000
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How will the **KANSAS HEALTH FOUNDATION REQUESTED** funds be spent?

**Please complete the Project Budget Worksheet which can be accessed as a link provided in the upper right-hand corner of the application. Once the Excel worksheet is completed, save the document to a file on your computer and upload it as an attachment below.**

Project Budget Attachment - Located in the top right-hand corner of the application **(if the template provided is not attached, your proposal will not be reviewed)**

[KHF Budget Sheet - Bicycle Parking.xls](#)

**Kansas Health Foundation definition of Indirect and Direct Costs:**

- Indirect Costs Expenses indirectly related to the implementation of program services. They may also be referred to as overhead or administrative costs. Indirects calculation: maximum 10% of Direct Costs of project.
  - Direct Costs Costs identified specifically with a particular project and with a high degree of accuracy.
- 

**Kansas Health Foundation Budget**

**TOTAL AMOUNT REQUESTED FROM THE KANSAS HEALTH FOUNDATION**

This number is found at the very bottom of the Project Budget Worksheet and should be only the amount you are requesting from the Kansas Health Foundation.

*Note: The grant amount requested from the Kansas Health Foundation must not exceed \$25,000.00*  
25000

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### Project Budget Exceeds Amount Requested from Kansas Health Foundation

**If your total project budget amount given at the top of this page exceeds the amount requested from the Kansas Health Foundation, have commitments from other funding sources been secured to cover the remaining costs?**

No Yes      No No

**If no, what are your plans for securing the additional funds needed to complete the project? If you are not successful in securing the additional funds needed to complete the project, is there a portion of the project you could complete using only Kansas Health Foundation funds? Please explain: (Please limit to 100 words)**

The project budget is 25,000 and would be solely funded by the Kansas Health Foundation Recognition Grant. Additional funding may come from bicycle parking program applicants, in the form of matching funds. However, the project budget does not count on this occurring in order for the project to be successful.

**If yes, list which organizations are providing the additional funds to complete the project. (Please limit to 100 words)**

### Project Budget Narrative

#### Project Budget Narrative

In the space provided below, please explain budgeted items and how each contributes to the project. If new personnel are budgeted, please describe plans for financial sustainability. In addition, please address the following:

- If existing personnel are budgeted, please describe whether they are hourly or salaried, full or part time.
- If personnel is budgeted please describe why the additional funding is needed for personnel and how the position(s) would be sustained beyond the project term.
- Please explain how Kansas Health Foundation funding will impact the project.
- Please explain how the project would be impacted if only partial funding was awarded.

Please make sure to include a basis for calculation for each of the budgeted line items.

Example:

- **Equipment = \$2,100.00**  
2 computers at \$700.00 a piece, 2 printers at \$350.00 a piece
- **Travel = \$85.00**  
Gas for driving to meeting in Salina

**(Please limit to 700 words)**

- Personnel = \$3,000
  - o This funding will be used to fund a portion of the time for the City's project manager and the costs associated with the bicycle parking application process (setting up, review, etc.).
- Consultant \$5,118.13
  - o This funding will be utilized to solicit, hire, and pay a consultant to install the bicycle parking
- Supplies \$15,354
  - o This funding will be used to purchase the bicycle parking (racks, lockers, corrals, and related equipment, etc.).
- Printing \$0
- Indirect Costs \$1,527.50
  - o The City of Wichita charges a 2.35% administrative fee for planning grants.

## Project Description

### Project Description

In the space provided, describe the proposed activities that would be funded by this grant.

**(Please limit to 500 words)**

This project will fund a pilot project to improve the health of visitors and residents of Wichita by increasing the amount of bicycling through the provision of accessible and convened secure public bicycle parking. The project funding will be utilized to purchase the bicycle parking (racks, lockers, corrals, etc.) and related equipment (i.e. bolts, brackets, etc.); to hire a contractor to install the bicycle parking; and to fund the staff time necessary to administer the project -- including the application process.

The distribution of the bicycle parking will occur through a public application process. The City will solicit applications from people and organizations. The applications will provide an opportunity for applicants to provide matching funds. The applications will be reviewed and prioritized by a sub-committee of the Wichita Bicycle and Pedestrian Advisory Board, with the assistance of City staff.

This project will help to implement the Wichita Bicycle Master Plan, Strategy 5. It will also complement the installation of nearly 34 miles of bikeways by the City of Wichita in the past 1.5 years.

In the space provided, outline the anticipated results of your project, program or policy initiative.

**(Please limit to 300 words)**

It is anticipated that the results of the project will: 1) help to decrease the amount of obesity and related chronic diseases by increasing the amount of physical activity that people

incorporate into their daily lives; 2) increase the amount of bicycling in Wichita through the provision of secure accessible public bicycle parking; and 3) provide visible encouragement for people to bicycle through the presence of the bicycle parking.

In addition, it is anticipated that the pilot project will lead to consideration of future funding for on-going public bicycle parking improvement programs/projects. The project will also serve as an example of how bicycle parking corrals can be used in the place of on-street motor vehicle parking -- to improve economic activity and transportation efficiency.

In the space provided, please include evidence of your organization's capacity to implement the proposed activities and achieve the anticipated results within the proposed timeframe. In addition, include quantitative data demonstrating your organization's achievement of objectives for similar projects.

**(Please limit to 300 words)**

The City of Wichita has the capacity and resources to ensure timely start-up and implementation of the proposed project. The City has extensive experience conducting large-scale community planning initiatives and public improvements, including but not limited to the following: Wichita Bicycle Master Plan and the Delano bicycle parking improvements -- phases 1 and 2.

**By checking the following box I acknowledge I have read and understand the following statement:**

At the end of the application is a REVIEW & SUBMIT button. The first time you click the REVIEW & SUBMIT button, it is asking you to review your application one more time before submission. It also will let you know if you did not fill out the application completely or have any errors. After reviewing and making any necessary corrections, you must click on the SUBMIT button a second time for your application to be submitted. Your application has been submitted successfully only after you have received an automated acknowledgement e-mail .

No

**By checking the following box I acknowledge I have read and understand the following statement:**

Grant funds will be awarded via electronic funds transfer; therefore, I have completed and sent the Authorization Agreement for Direct Deposits to the Kansas Health Foundation via email or fax. I understand the Authorization Agreement must be submitted by September 15th; otherwise my application will not be reviewed. After emailing or faxing the Authorization Agreement please confirm its receipt with Mary Poort, Kansas Health Foundation Finance Assistant, at [mpoort@khf.org](mailto:mpoort@khf.org) .

No

## Attachments

Title	File Name
Board of Directors	<a href="#">City Council from Budget.pdf</a>
Balance Sheet (Applicable Applicants Only)	<a href="#">2015 Comprehensive Annual Financial Report (CAFR).pdf</a>

Files attached to this form may be deleted 120 days after submission.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** SAFER Grant Program (All Districts)  
**INITIATED BY:** Wichita Fire Department  
**AGENDA:** Consent

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**Recommendation:** Authorize acceptance of the 2015 Staffing for Adequate Fire and Emergency Response (SAFER) grant for six firefighter positions.

**Background:** The Fiscal Year 2015 SAFER grant is issued by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and Grant Programs Directorate. The SAFER grant is a competitive grant program comprised of two categories; hiring firefighters and recruitment of volunteer firefighters.

The City Council approved the Fire Department submission for the 2015 SAFER grant on March 22, 2016.

**Analysis:** The Fire Department was notified the SAFER grant submission was approved on August 12, 2016. The Federal share is \$855,060, with no costs to the City.

**Financial Considerations:** The 2015 SAFER grant does not have a grant match requirement. Grant applications approved for 2015 SAFER grant funding will receive full federal funding for salary and benefits during a two-year performance period. There is no retention requirement after the two-year performance period. Federal funding to maintain the six positions totals \$855,060 over the two-year performance period.

**Legal Considerations:** The Law Department has approved the 2015 SAFER Grant submission as to form.

**Recommendations/Actions:** It is recommended the City Council authorize acceptance for the 2015 Staffing for Adequate Fire and Emergency Response (SAFER) grant for six firefighter positions.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Over Estimate Bid for Improvements to Cheryl's Hollow 2<sup>nd</sup> Addition  
(District V)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

---

**Recommendation:** Approve the revised budgets and estimates, and approve acceptance of the lowest bid.

**Background:** On July 12, 2016, the City Council approved petitions for sanitary sewer improvements and a water distribution system to serve Cheryl's Hollow 2<sup>nd</sup> Addition. The tied project was bid for construction on August 5, 2016, with all bids exceeding the Engineer's Estimate. The petitions approved on July 12, 2016, allow for a limited increase of the budgets, if necessary, due to increases in design and construction costs.

**Analysis:** The project will provide water distribution and sanitary sewer improvements required for a new residential development located north of 13<sup>th</sup> Street North and west of 135<sup>th</sup> Street West.

The lowest bid received for the sewer portion of the project exceeded the Engineer's Estimate by less than \$3,200 and the water portion exceed the Engineer's Estimate by less than \$30. Accepting this bid will allow the project to proceed without requiring it to be re-bid, which prevents a potential increase in project costs and delays in construction of the improvements. In accordance with Charter Ordinance No. 222, staff recommends the City Council approve acceptance of the lowest bid based on the best interest of the City. A revised estimate has been prepared to reflect the increased cost of constructing the improvements.

**Financial Considerations:** The original budget for the sanitary sewer improvements was \$66,000 and the revised budget is \$67,980. The original budget for the water distribution system improvements was \$41,000 and the revised budget is \$42,230. The funding source for the project is 100% special assessments.

**Legal Considerations:** The Law Department has reviewed and approved this item.

**Recommendation/Actions:** It is recommended that the City Council approve the revised budgets and estimates, approve acceptance of the lowest bid, and authorize the necessary signatures.

**Attachments:** Map, amended preliminary estimates and bid summary.



**NOT TO BE ADVERTISED  
PRELIMINARY ESTIMATES  
FOR CITY COUNCIL SEPTEMBER 6, 2016**

**PRELIMINARY ESTIMATE** of the cost of water distribution system improvements to serve Cheryl's Hollow 2<sup>nd</sup> Addition, (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (District V) (448-90198/735555/470228) – Total Estimated Cost \$42,230.

To the City Council  
Wichita, Kansas

Date of CC 09/06/2016  
(OCA/PROJ) 735555/448-90198  
(PPN) 470228

**THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS**

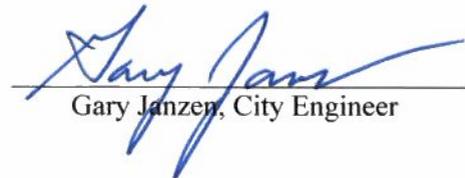
**PRELIMINARY ESTIMATE** of the cost of water distribution system improvements to serve Cheryl's Hollow 2<sup>nd</sup> Addition (District V).

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost \$42,230

CITY OF WICHITA  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
\_\_\_\_\_  
Gary Janzen, City Engineer

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk

**PRELIMINARY ESTIMATE** of the cost of water distribution system improvements to serve Cheryl's Hollow 2<sup>nd</sup> Addition, north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> West. (District V) (448-90198/735555/470228) – Total Estimated Cost \$42,230.

Page \_\_\_\_\_

Exhibit \_\_\_\_\_

**NOT TO BE ADVERTISED  
PRELIMINARY ESTIMATES  
FOR CITY COUNCIL SEPTEMBER 6, 2016**

**PRELIMINARY ESTIMATE** of the cost of sanitary sewer improvements to serve Cheryl's Hollow 2<sup>nd</sup> Addition, north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West. (District V) (468-84189/480108/744416) – Total Estimated Cost \$67,980.

To the City Council  
Wichita, Kansas

Date of CC 09/06/2016  
(OCA/PROJ) 744416/468-84189  
(PPN) 480108

**THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS**

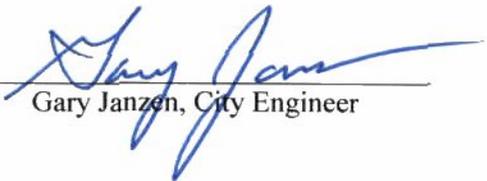
**PRELIMINARY ESTIMATE** of the cost of sanitary sewer improvements to serve Cheryl's Hollow Addition (District V).

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost \$67,980

CITY OF WICHITA  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
\_\_\_\_\_  
Gary Janzen, City Engineer

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk

**PRELIMINARY ESTIMATE** of the cost of sanitary sewer improvements to serve Cheryl's Hollow 2<sup>nd</sup> Addition, north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West. (District V) (468-84189/480108/744416) – Total Estimated Cost \$67,980.

Page \_\_\_\_\_

Exhibit \_\_\_\_\_

**WATER/SEWER BID TABULATION SUMMARY**

**RQ640870**

<b>FB640155</b>		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction Inc.
Water Distribution System 448-90198 (735555)	Group 1	\$29,205.00	\$41,040.00	\$33,476.00	\$32,750.00
Lateral 9, Main 4, NWI 468-84189 (744416)	Group 2	\$47,022.00	\$56,836.00	\$54,725.00	\$50,867.90
Cheryl's Hollow 2nd Addition	BID BOND				
	ADDENDA	2			
<b>BID TOTAL</b>		\$76,227.00	\$97,876.00	\$88,201.00	\$83,617.90
		Engineer's Construction Estimate	Nowak Construction	Wilks Underground LLC	Danco Enterprises Inc.
Water Distribution System 448-90198 (735555)	Group 1	\$29,205.00	\$29,899.32	\$32,205.00	\$34,300.00
Lateral 9, Main 4, NWI 468-84189 (744416)	Group 2	\$47,022.00	\$53,158.65	\$53,160.00	\$51,470.00
Cheryl's Hollow 2nd Addition	BID BOND				X
	ADDENDA	2			
<b>BID TOTAL</b>		\$76,227.00	\$83,057.97	\$85,365.00	\$85,770.00
		Engineer's Construction Estimate	Dutton Construction and Plumbing LLC	Wildcat Construction	
Water Distribution System 448-90198 (735555)	Group 1	\$29,205.00	\$29,230.00		
Lateral 9, Main 4, NWI 468-84189 (744416)	Group 2	\$47,022.00	\$50,130.00		
Cheryl's Hollow 2nd Addition	BID BOND		X		
	ADDENDA	2	X		
<b>BID TOTAL</b>		\$76,227.00	\$79,360.00		
		Engineer's Construction Estimate			
Water Distribution System 448-90198 (735555)	Group 1	\$29,205.00			
Lateral 9, Main 4, NWI 468-84189 (744416)	Group 2	\$47,022.00			
Cheryl's Hollow 2nd Addition	BID BOND				
	ADDENDA	2			
<b>BID TOTAL</b>		\$76,227.00			

Award 9-6-16 subject to City Council approval of new Engineer's Estimate and Budget Authorization. Revised Engineer's Estimate \$29,230.00 (Water) and \$50,130.00 (Sanitary Sewer).

CHECKED BY: \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** Water Line Improvement at Pawnee and 143rd Street East (District II)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

---

**Recommendation:** Approve the project and adopt the resolution.

**Background:** The Adopted 2016-2025 Capital Improvement Program (CIP) includes funding for projects to construct new water main extensions to provide service to currently unserved areas.

**Analysis:** The Water Mains for Future Development item will fund construction of a water main to serve a new townhome community located south of Pawnee, west of 143<sup>rd</sup> Street East; provide a secondary feed to Sierra Hills residential subdivision; and serve additional property on the south side of Pawnee to be developed at a later time.

**Financial Considerations:** The Adopted 2016-2025 CIP includes \$1,850,000 in 2016 for Water Main for Future Development projects, \$650,000 of which is still available for initiation. Staff recommends initiating \$400,000 at this time for the Pawnee and 143<sup>rd</sup> Street East water line project.

Collection of main benefit fees in the amount of \$0.026 per square foot of area developed will recapture approximately 50% of this total cost. The projects will be funded from future revenue bonds or Water Utility cash reserves. If revenue bonds are issued, an additional 8% will be added for financing and administrative costs.

**Legal Considerations:** The resolution and notice of intent have been reviewed and approved as to form by the Law Department.

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

**Attachments:** Resolution, notice of intent, budget sheet, and map.



# Project Request

CIP  Non-CIP

CIP YEAR: 2016

CIP #: Pg 106, line 27

NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 18 Public Works & Utilities

DIVISION: Distribution

RESOLUTION/ORDINANCE #: \_\_\_\_\_

FUND: 544 Water Construction

ENGINEERING REFERENCE #: \_\_\_\_\_

COUNCIL DISTRICT: 02 Council District 2

DATE COUNCIL APPROVED: \_\_\_\_\_

REQUEST DATE: \_\_\_\_\_

PROJECT #: 776075

PROJECT TITLE: Pawnee & 143rd Street East Water Line

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: Pawnee & 143rd Street East Water Line

OCA #: 636456

OCA TITLE: Pawnee & 143rd Street East Water Line

PERSON COMPLETING FORM: Joni Chamberlain

PHONE #: 268-4572

PROJECT MANAGER: Shawn Mellies

PHONE #: 268-4632

NEW BUDGET  REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget	Object Level 3	Budget
9813 Cash Transfer In	\$400,000.00	2999 Contractuals	\$400,000.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
_____	\$0.00	_____	\$0.00
<b>REVENUE TOTAL:</b>	<b>\$400,000.00</b>	<b>EXPENSE TOTAL:</b>	<b>\$400,000.00</b>

NOTES:

### SIGNATURES REQUIRED

DIVISION HEAD: \_\_\_\_\_

DEPARTMENT HEAD: \_\_\_\_\_

BUDGET OFFICER: \_\_\_\_\_

CITY MANAGER: \_\_\_\_\_

*[Handwritten signatures in blue ink]*

Print Form

DATE: 08/23/16

DATE: 8/23/16

DATE: 8/11/16

DATE: \_\_\_\_\_

**RESOLUTION NO. 16-\_\_\_\_\_**

**A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.**

---

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

**WHEREAS**, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

Pawnee & 143<sup>rd</sup> Street East Water Line

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

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

**Section 1. Project Authorization.** It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is \$400,000. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

**Section 2. Project Financing.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed \$432,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution,

pursuant to Treasury Regulation 1.150-2.

**Section 3. Notice.** Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

**Section 4. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on \_\_\_\_\_, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

*Brian K. Meyer*  
\_\_\_\_\_  
for Jennifer Magaña, Director of Law  
and City Attorney

636456

(Published in *The Wichita Eagle*, on \_\_\_\_\_, 2016.)

**NOTICE**

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), by Resolution No. 16-\_\_\_\_\_, duly adopted \_\_\_\_\_, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the "Utility"), in the following manner:

Pawnee & 143<sup>rd</sup> Street East Water Line

(the "Project") at an estimated cost, including related design and engineering expenses of \$400,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed \$432,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds"). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on \_\_\_\_\_, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

**RESOLUTION NO. 16-338**

**A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.**

---

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

**WHEREAS**, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the “Act”), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

**Pawnee & 143<sup>rd</sup> Street East Water Line**

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

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

**Section 1. Project Authorization.** It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is **\$400,000**. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

**Section 2. Project Financing.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed **\$432,000** in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the “Bonds”). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution,

pursuant to Treasury Regulation 1.150-2.

**Section 3. Notice.** Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the “Notice”); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

**Section 4. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on September 6, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Jennifer Magaña, Director of Law  
and City Attorney

636456

(Published in *The Wichita Eagle*, on September 9, 2016.)

### NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the “Governing Body”) of the City of Wichita, Kansas (the “City”), by Resolution No. 16-338, duly adopted September 6, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the “Utility”), in the following manner:

#### Pawnee & 143<sup>rd</sup> Street East Water Line

(the “Project”) at an estimated cost, including related design and engineering expenses of \$400,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed \$432,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the “Bonds”). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 6, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

**SECOND READING ORDINANCES FOR SEPTEMBER 6, 2016 (FIRST READ AUGUST 23, 2016)**

**A. MAPC/MAPD Interlocal Agreement and Joint Ordinance/Resolution.**

**Ordinance No. 50-313**

JOINT ORDINANCE AND RESOLUTION BETWEEN THE CITY OF WICHITA, KANSAS, AND THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, REGARDING JOINT PLANNING POWERS, DUTIES, AND FUNCTIONS, AND APPROVING AN INTERLOCAL AGREEMENT.

**B. \*SUB2015-00019 -- Plat of Sisters of St. Joseph 7th Addition Located North of East Harry Street, East of South Hillside Avenue. (District III)**

**Ordinance No. 50-309**

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.

**C. \*ZON2016-00025 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located on the Southeast Corner of West 2nd Street North and North Baehr Street. (District VI)**

**Ordinance No. 50-310**

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.

**D. \*ZON2016-00029 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located North of West 55th Street South and East of Seneca Street. (District IV)**

**Ordinance No. 50-311**

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.

- E. **\*ZON2016-00031 – Zone Change from SF-5 Single-Family Residential to MF-18 Multi-Family Residential, Generally Located at the Northwest Corner of West 2nd Street North and North Elizabeth Street. (District VI)**

**Ordinance No. 50-312**

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.

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** SUB2016-00016 -- Plat of Northgate 2<sup>nd</sup> Addition Located North of West 53<sup>rd</sup> Street North, on the West Side of North Meridian Avenue (District VI)

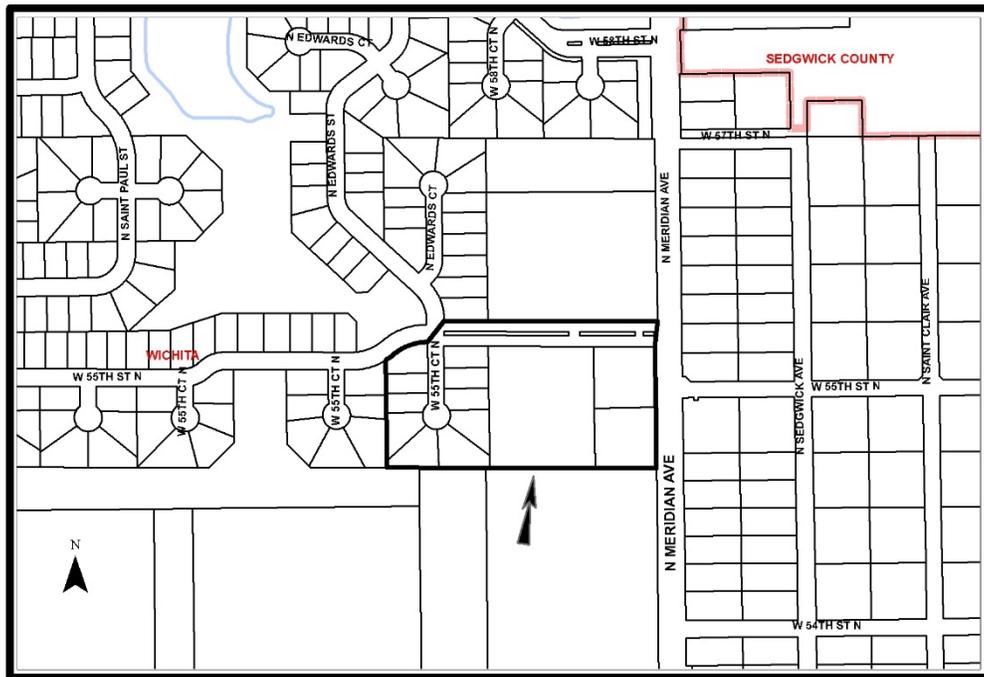
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (8-0)



**Background:** The site consists of 31 lots on 11.38 acres. A zone change (ZON2016-00019) has been approved from Single-Family Residential (SF-5) and Limited Commercial (LC) to Two-Family Residential (TF-3).

**Analysis:** The applicant has submitted a Petition and a Certificate of Petition for sewer, water, drainage and paving improvements. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserves being platted. The applicant has submitted an Access Easement for Emergency Ingress and Egress.

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

**Financial Considerations:** The total of the petitions is \$2,823,000, with \$224,000 for two water petitions, \$337,000 for two sanitary sewer petitions, \$1,167,000 for two paving petitions and \$1,095,000 for two drainage petitions. The funding source for all eight projects is special assessments.

**Legal Considerations:** The Law Department has reviewed and approved the Certificate of Petition, Restrictive Covenant, Access Easement for Emergency Ingress and Egress and Resolutions as to form and the documents will be recorded with the Register of Deeds.

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

**Attachments:** Certificate of Petition  
Restrictive Covenant  
Access Easement for Emergency Ingress and Egress  
Resolutions



**CERTIFICATE OF PETITION**

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )  SS:

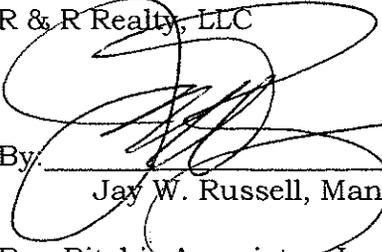
We, R & R Realty, LLC, a Kansas limited liability company, owners of NORTHGATE 2<sup>ND</sup> ADDITION, Wichita, Sedgwick County, Kansas, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

- 1. Sanitary Sewer Improvements
- 2. Water Improvements
- 3. Paving Improvements
- 4. Storm Water Sewer Improvements
- 5. Storm Water Drain Improvements

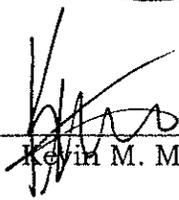
As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within Northgate 2<sup>nd</sup> Addition, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 8<sup>th</sup> day of August, 2016.

R & R Realty, LLC

By:   
Jay W. Russell, Manager

By: Ritchie Associates, Inc., Manager

By:   
Kevin M. Mullen, President

k

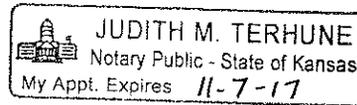
STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 2<sup>nd</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jay W. Russell, as Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-17)



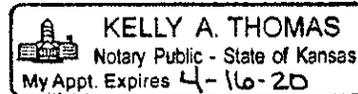
STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 8<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, as President of Ritchie Associates, Inc., a Kansas Corporation, a Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Kelly A. Thomas  
Notary Public

(My Appointment Expires: 4-16-20)



Approved as to form:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

**RESTRICTIVE COVENANT**

THIS DECLARATION made this 8<sup>th</sup> day of August, 2016, by R & R Realty, LLC, a Kansas limited liability company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

**NORTHGATE 2<sup>ND</sup> ADDITION**  
Lots 1 through 31, Block A

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", and "C", Northgate 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. Reserve "A" is reserved for open space, landscaping, drainage purposes, entry monuments, utilities, and streets.

Reserve "B" is hereby reserved for open space, landscaping, drainage purposes, entry monuments, a temporary cul-de-sac as confined to easement, and utilities as confined to easements.

Reserve "C" is hereby reserved for open space, pedestrian access purposes including sidewalks, utilities as confined to easement, and temporary access purposes until such time as 55<sup>th</sup> St N is paved to Edwards Cir. Upon completion of said paving, the temporary access purposes shall convert to emergency access purposes.

Reserves "A", "B", and "C", shall be owned and maintained by the homeowners association for the addition.

2. That a Homeowner's Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", and "C", as designated on the plat of Northgate 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, shall be deeded to the Homeowner's Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Homeowner's Association being formed shall provide specific pertinent language requiring that the Homeowner's Association shall include the first or any other subsequent phase or

phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", and "C", Northgate 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserves, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner.  
and,

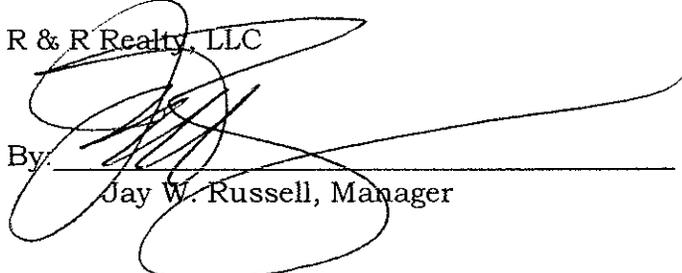
B. That the appropriate governing body has given written notice to the Declarant or the Homeowners Association and said entity has not responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Northgate 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in all lots in Northgate 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas.

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

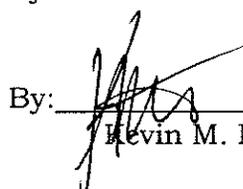
EXECUTED the day and year first written.

R & R Realty, LLC

By: 

Jay W. Russell, Manager

By: Ritchie Associates, Inc., Manager

By: 

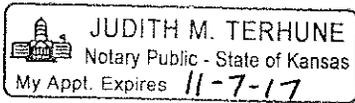
Kevin M. Mullen, President

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STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 2<sup>nd</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jay W. Russell, as Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-17)

STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 8<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, as President of Ritchie Associates, Inc., a Kansas Corporation, a Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Kecoy A. Thomas  
Notary Public

(My Appointment Expires: 4-16-20)



Approved as to form:

Jennifer Magana  
Jennifer Magana, City Attorney and Director of Law

**ACCESS EASEMENT FOR  
EMERGENCY INGRESS AND EGRESS**

THIS EASEMENT made this 8<sup>th</sup> day of August, 2016, by and between R & R Realty, LLC, a Kansas limited liability company, of the first part and the City of Wichita, Kansas, of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing emergency vehicle ingress and egress, over and along the following described real estate situated in Sedgwick County, Kansas; to wit:

Reserve "C",  
Northgate 2<sup>nd</sup> Addition,  
Wichita, Sedgwick County, Kansas

The paving surface for the emergency access shall meet the minimum standards required by the City of Wichita. Maintenance of said emergency access paving shall be the responsibility of the owner of said Reserve "C".

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, maintaining, and repairing such emergency ingress and egress easement.

This easement shall be binding on the owner(s), their heirs or successors, or assigns and is an easement running with the land and is binding on all successors in title for the above-described tracts located in Sedgwick County, Kansas.

R & R Realty, LLC

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

Jay W. Russell, Manager

By: Ritchie Associates, Inc., Manager

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

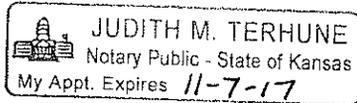
Kevin M. Mullen, President

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STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 2<sup>nd</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Jay W. Russell, as Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Judith M. Terhune  
Notary Public

(My Appointment Expires: 11-7-17)

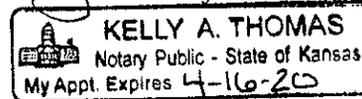
STATE OF KANSAS )  
COUNTY OF SEDGWICK ) SS:

BE IT REMEMBERED, that on this 8<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kevin M. Mullen, as President of Ritchie Associates, Inc., a Kansas Corporation, a Manager of R & R Realty, LLC, a Kansas limited liability company, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Kelly A Thomas  
Notary Public

(My Appointment Expires: 4-16-20)



Approved as to form:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-339**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 6, MAIN 15, SANITARY SEWER NO. 23 – PHASE 5 NORTHGATE ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (468-84252).**

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”) has heretofore by **Resolution No. 06-566** of the City (the “Prior Resolution”) authorized certain internal improvements; and

**WHEREAS**, the scope and the estimated or probable cost of the proposed improvements authorized by the Prior Resolution has changed;

**WHEREAS**, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

**WHEREAS**, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

**WHEREAS**, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Repealer.** The Prior Resolutions are hereby repealed.

**Section 2. Findings of Advisability.** The Governing Body hereby finds and determines that:

- (a) It is advisable to make the following improvements:

**Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").**

(b) The estimated or probable cost of the Improvements is **Forty-Two Thousand Dollars (\$42,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE ADDITION**  
**Lots 22 through 25, Block B**  
**Lots 28 through 31, Block B**

(d) The method of assessment is: **equally per lot (8 lots)**.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 3. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 2** of this Resolution.

**Section 4. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 5. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

**Section 6. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-340**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 21, MAIN 15 SANITARY SEWER NO. 23 – PHASE 1 NORTHGATE 2<sup>ND</sup> ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (468-85141).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").**

(b) The estimated or probable cost of the Improvements is **Two Hundred Ninety-Five Thousand Dollars (\$295,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 1 through 31, Block A

**NORTHGATE ADDITION**

Lots 11 through 21, Block B

Lots 26 and 27, Block B

Lot 32, Block B

- (d) The method of assessment is: **equally per lot (45 lots)**.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

- (e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

- (f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law  
Northgate 2<sup>nd</sup> –RESOLUTIONS

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-341**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING IMPROVEMENTS – PHASE 1 NORTHGATE 2ND ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (472-85307).**

**WHEREAS**, a petition (the “Petition”) was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the “Governing Body”) of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of pavement on Edwards Circle including a paved roadway surface for the emergency access easement within Reserve “C” and a temporary turnaround south of the intersection of 55<sup>th</sup> Street North and Edwards Circle (the "Improvements").**

**That said pavement between aforesaid limits be constructed for a width of twenty-four (24) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of twenty-eight (28) feet, with drainage to be installed where necessary.**

**Construction of sidewalk from the south line of the plat to the north line of Lot 18, Block A, including a pedestrian access within Reserve “C”.**

(b) The estimated or probable cost of the Improvements is **Two Hundred Thirty-Six Thousand Dollars (\$236,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**  
Lots 10 through 31, Block A

(d) The method of assessment is: **equally per lot (22 lots)**.

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-342**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING IMPROVEMENTS – PHASE 5 NORTHGATE ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (472-85308).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**That there be constructed pavement on St. Paul and 55<sup>th</sup> Street North from the south line of Lot 39, Block B, Northgate Addition, south and east to the west line of Meridian (the "Improvements").**

**That said pavement between aforesaid limits be constructed for a width of thirty (30) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty-four (34) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.**

**That there be constructed pavement on 55<sup>th</sup> Court North (Lots 11 through 17, Block B, Northgate Addition), from the south line of 55<sup>th</sup> Street North, south to and including the cul-de-sac; on 55<sup>th</sup> Court North (Lots 18 through 23, Block B, Northgate Addition), from the south line of 55<sup>th</sup> Street North, south to and including the cul-de-sac; on 55<sup>th</sup> Court North (Lots 24 through 29, Block B, Northgate Addition), from the south line of 55<sup>th</sup> Street North, south to and including the cul-de-sac; and on 55<sup>th</sup> Court North (Lots 30 through 36, Block B, Northgate Addition), from the south line of 55<sup>th</sup> Street North, south to and including the cul-de-sac.**

**That said pavement between aforesaid limits be constructed for a width of twenty-four (24) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of twenty-eight (28) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.**

**That sidewalk be constructed on St. Paul and 55<sup>th</sup> Street North, and on Meridian from the north line of Lot 18, Block A, Northgate 2<sup>nd</sup> Addition, north to the north line of the plat of Northgate 2<sup>nd</sup> Addition, according to plans and specifications to be furnished by the City Engineer.**

(b) The estimated or probable cost of the Improvements is **Nine Hundred Thirty-One Thousand Dollars (\$931,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 1 through 9, Block A

**NORTHGATE ADDITION**

Lots 11 through 38, Block B

Lots 38 through 43, Block C

(d) The method of assessment is: **equally per lot (53 lots).**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-343**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (STORM WATER DRAIN NO. 309 – PHASE 2 NORTHGATE ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (468-84255).**

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”) has heretofore by **Resolution No. 06-569** of the City (the “Prior Resolution”) authorizing certain internal improvements; and

**WHEREAS**, the scope and the estimated or probable cost of the proposed improvements authorized by the Prior Resolution has changed;

**WHEREAS**, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

**WHEREAS**, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Repealer.** The Prior Resolution is hereby repealed.

**Section 2. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of storm water drain improvements, including necessary appurtenances to serve the Improvement District described below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Eight Hundred Eighty-Three Thousand Dollars (\$883,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions thereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 1 through 9, Block A

**NORTHGATE ADDITION**

Lots 11 through 62, Block B

Lots 24 through 60, Block C

Lots 26 through 42, Block D

**NORTHGATE COMMERCIAL ADDITION**

Lots 1 through 9, Block A

(d) The method of assessment is: **on a fractional basis as described below.**

Lots 1 through 7, Block A, Northgate 2<sup>nd</sup> Addition shall each pay 15/10,000 of the total cost of the improvements; Lots 8 and 9, Block A, Northgate 2<sup>nd</sup> Addition shall each pay 1/10,000 of the cost of the improvements; Lots 11 through 21, Block B, and Lots 26, 27, and 32, Block B, Northgate Addition shall each pay 1/10,000 of the total cost of the improvements; Lots 22 through 25, Block B, Lots 28 through 31, Block B, and Lot 33, Block B, Northgate Addition shall each pay 6/10,000 of the total cost of the improvements; Lot 34, Block B, Northgate Addition shall pay 10/10,000 of the total cost of the improvements; Lots 35 through 38, Block B, Northgate Addition shall each pay 11/10,000 of the total cost of the improvements; Lots 38 through 53, Block C, Northgate Addition shall each pay 15/10,000 of the total cost of the improvements; Lots 54 through 60, Block C, Northgate Addition shall each pay 96/10,000 of the total cost of the improvements; Lots 24 through 37, Block C, Northgate Addition shall each pay 111/10,000 of the total cost of the improvements; Lots 46 and 47, Block B, Lots 59 through 62, Block B, and Lots 26 through 42, Block D, Northgate Addition shall each pay 115/10,000 of the total cost of the improvements; Lots 39 through 45, Block B, Lot 47, Block B, and Lots 49 through 58, Block B, Northgate Addition shall each pay 120/10,000 of the total cost of the improvements; Lot 1, Block A, Northgate Commercial Addition shall pay 2,010/10,000 of the total cost of the improvements; Lot 2, Block A, Northgate Commercial Addition shall pay 48/10,000 of the total cost of the improvements; Lots 3, 4, 5, 6, and 8, Block A, Northgate Commercial Addition shall each pay 63/10,000 of the total cost of the improvements; Lot 7, Block A, Northgate Commercial Addition shall pay 61/10,000 of the total cost of the improvements; and Lot 9, Block A, Northgate Commercial Addition shall pay 66/10,000 of the total cost of the improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 3. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 2* of this Resolution.

**Section 4. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 5. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

**Section 6. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-344**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (STORMWATER SEWER NO. 709 – NORTHGATE 2<sup>ND</sup> ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (468-85142).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a storm water sewer system, including necessary appurtenances to serve the Improvement District defined below (the "Improvements").**

(b) The estimated or probable cost of the Improvements is **Two Hundred Twelve Thousand Dollars (\$212,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 10 through 31, Block A

(d) The method of assessment is: **on a fractional basis described below:**

**Lots 10 and 11, Block A and Lots 26 through 31, Block A, Northgate 2<sup>nd</sup> Addition shall each pay 410/10,000 of the total cost of the improvements; and Lots 12 through 25, Block A, Northgate 2<sup>nd</sup> Addition shall each pay 480/10,000 of the cost of the improvements.**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-345**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DRISTRIUBTION SYSTEM – PHASE 5 NORTHGATE ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (448-90246).**

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City Council of the City (the “Governing Body”) has heretofore by **Resolution No. 06-561** of the City (the “Prior Resolution”) authorizing certain internal improvements; and

**WHEREAS**, the scope and the estimated or probable cost of the proposed improvements authorized by the Prior Resolution has changed;

**WHEREAS**, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

**WHEREAS**, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Repealer.** The Prior Resolution is hereby repealed.

**Section 2. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District described below (the "Improvements").**

(b) The estimated or probable cost of the Improvements is **One Hundred Sixty Thousand Dollars (\$160,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions thereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 1 through 9, Block A

**NORTHGATE ADDITION**

Lots 11 through 38, Block B

Lots 38 through 53, Block C

(d) The method of assessment is: **equally per lot (53 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 3. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 2** of this Resolution.

**Section 4. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 5. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

**Section 6. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-346**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DISTRIBUTION SYSTEM – PHASE 1 NORTHGATE 2<sup>ND</sup> ADDITION/NORTH OF 53<sup>RD</sup> STREET NORTH, WEST OF MERIDIAN) (448-90749).**

**WHEREAS**, a petition (the “Petition”) was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the “Governing Body”) of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a water distribution system including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below (the "Improvements").**

(b) The estimated or probable cost of the Improvements is **Sixty-Four Thousand Dollars (\$64,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**NORTHGATE 2<sup>ND</sup> ADDITION**

Lots 10 through 31, Block A

(d) The method of assessment is: **equally per lot (22 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** SUB2016-00018 -- Plat of Fossil Rim Commercial Addition Located on the Southeast Corner of West 29<sup>th</sup> Street North and North Tyler Road (District V)

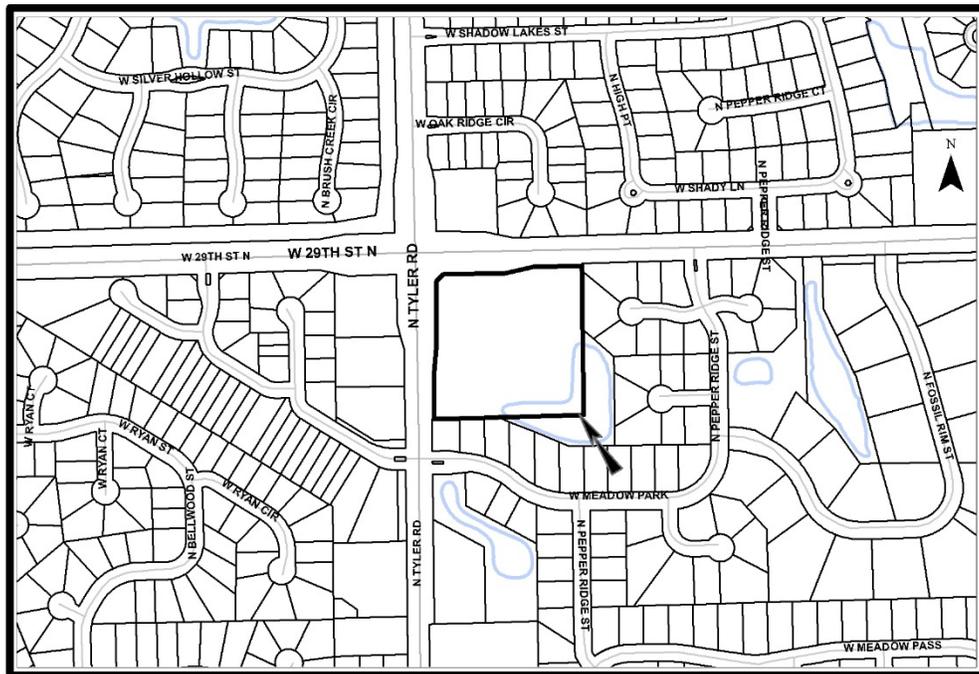
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

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



**Background:** The site consists of four lots on 6.48 acres zoned Limited Commercial (LC). The Fossil Rim Commercial Community Unit Plan (CUP2016-00015, DP-340) was approved for the site.

**Analysis:** The applicant has submitted a Petition and a Certificate of Petition for sewer, water and traffic improvements. The applicant has submitted a Notice of Community Unit Plan (CUP) identifying the approved CUP and special conditions for development. The applicant has submitted a Declaration of Cross Lot Access and Easement to assure internal vehicular movement between the lots. The applicant has submitted a Grant of Joint Access Easement to allow for shared driveways between the lots. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserves being platted.

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

**Financial Considerations:** The Petition totals are \$255,000 with \$28,000 for the sewer, \$30,000 for the water and \$197,000 for the traffic. The funding source for all three projects is special assessments.

**Legal Considerations:** The Law Department has reviewed and approved the Certificate of Petition, Notice of Community Plan, Declaration of Cross Lot Access and Easement, Grant of Joint Access Easement, Restrictive Covenant and Resolutions as to form and the documents will be recorded with the Register of Deeds.

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

**Attachments:** Certificate of Petition  
Notice of Community Plan  
Declaration of Cross Lot Access and Easement  
Grant of Joint Access Easement  
Restrictive Covenant  
Resolutions

**CERTIFICATE OF PETITION**

STATE OF KANSAS            )  
COUNTY OF SEDGWICK    )  SS:

We, Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Sanitary Sewer Improvements
2. Water Improvements
3. Right Turn/Decel Lane Improvements

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within Fossil Rim Commercial Addition, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 11<sup>th</sup> day of August, 2016.

Hawkins Marital Trust, Las Vegas, NV, under  
Trust Agreement dated July 14, 2008, as  
Amended

By:   
\_\_\_\_\_  
Craig A. Kreiser, Co-Trustee

STATE OF KANSAS )  
SEDGWICK COUNTY ) SS:

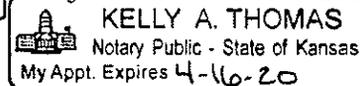
BE IT REMEMBERED, that on this 11<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Craig A. Kreiser, Co-Trustee of Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

Kelly A. Thomas

Notary Public

(My Appointment Expires: 4-16-20)



APPROVED AS TO FORM:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

**NOTICE OF COMMUNITY UNIT PLAN**

THIS NOTICE made this 11<sup>th</sup> day of August, 2016, by Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, hereinafter called Declarant.

WITNESSETH

WHEREAS, Declarants are the owners of the following described property:

**FOSSIL RIM COMMERCIAL ADDITION**

Lots 1 through 4, Block A

and

WHEREAS, Declarant is desirous to file notice that a community unit plan approved by the Wichita City Council is on file with the Metropolitan Area Planning Department, known as Fossil Rim Commercial Community Unit Plan (DP-340).

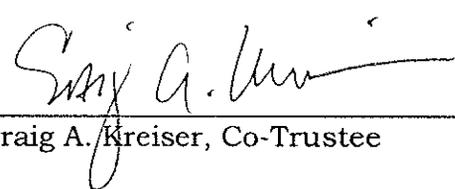
NOW, THEREFORE, the Declarant wants to make notice that the approved community unit plan has placed restrictions on the use and requirements on the development of the above described real property. The Metropolitan Area Planning Department is located on the 10<sup>th</sup> Floor, City Hall, Wichita, Kansas, (316) 268-4421.

The community unit plan shall be binding on the owners, their heirs, or successors or assigns and is a document running with the land and is binding on all successors in title to said Fossil Rim Commercial Addition.

EXECUTED the day and year first written above.

Hawkins Marital Trust, Las Vegas, NV, under  
Trust Agreement dated July 14, 2008, as  
Amended

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

  
Craig A. Kreiser, Co-Trustee

✱

STATE OF KANSAS            )  
SEDGWICK COUNTY         )        SS:

BE IT REMEMBERED, that on this 11<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Craig A. Kreiser, Co-Trustee of Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

Kelly A. Thomas  
Notary Public  
**KELLY A. THOMAS**  
Notary Public - State of Kansas  
My Appt. Expires 4-16-20

(My Appointment Expires: 4-16-20)

APPROVED AS TO FORM:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

2

**DECLARATION OF CROSS LOT ACCESS AND EASEMENT**

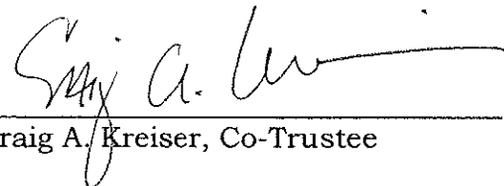
This Declaration is made as of this 11<sup>th</sup> day of August, 2016, by the undersigned.

- A. The undersigned are the owners of Lots 1 through 4, Block A, Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas.
- B. The undersigned desire to provide for cross lot access and easements for pedestrian and vehicular traffic over and across said Lots.

NOW, THEREFORE, the undersigned hereby declares, establishes and grants to and for the benefit of each of their respective lots, for the convenience of the owners and employees, customers, and invitees of the owners thereof, mutual non-exclusive easements and rights-of-way for the purpose of ingress and egress of vehicular and pedestrian traffic along and across those portions of the respective Lots to be established as driveways and sidewalks from time to time. Said easements are for the purpose of providing ingress and egress between and for the benefit of each of the lots, the owners thereof, their employees, customers and invitees. There shall be erected no fence or other barrier which would prevent or obstruct the passage of such vehicular and pedestrian traffic between said Lots; provided, however, that this Declaration shall not be construed to create any rights in the general public nor as a dedication to public use of any portion of said Lots. The easements herein granted are superior and paramount to the rights of the owner of the servient estates so created and shall be deemed covenants that run with the land and shall inure to the benefit of and be binding upon the owners of said Lots, their successors and assigns.

IN WITNESS WHEREOF, this Declaration has been executed as of the date first above written.

Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended

By:   
Craig A. Kreiser, Co-Trustee

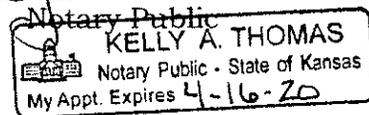
STATE OF KANSAS            )  
SEDGWICK COUNTY         )        SS:

BE IT REMEMBERED, that on this 11<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Craig A. Kreiser, Co-Trustee of Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

Kelly A. Thomas

(My Appointment Expires: 4-16-20)



APPROVED AS TO FORM:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

**GRANT OF JOINT ACCESS EASEMENT**

WHEREAS, Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended is the owner of the real property hereinafter described:

Lots 3 and 4, Block A,  
Fossil Rim Commercial Addition,  
Wichita, Sedgwick County, Kansas

and

WHEREAS it is determined that it is in the best interests of the parties and their successors and assigns that a certain common easement, as hereinafter described, be established and conveyed for the use and benefit of all the parties hereto, their successors, assigns, and licensees.

NOW, THEREFORE, be it known that the undersigned does hereby grant and convey for itself, its successors, grantees, licensees and assignees in interest, the right to use for ingress and egress the joint access easement as hereinafter setforth.

Joint access easement for ingress and egress to Lots 3 and 4, Block A, Fossil Rim Commercial Addition, from 29<sup>th</sup> Street North, over and across the following real estate:

That part of Lot 3, Block A, Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the northeast corner of said Lot 3; thence S89°03'18"W along the north line of said Lot 3, 10.00 feet for a point of beginning; thence continuing S89°03'18"W along the north line of said Lot 3, 30.00 feet to the most northerly northwest corner of said Lot 3; thence S00°00'26"E along the most northerly segment of the west line of said Lot 3, 65.00 feet; thence N89°03'18"E parallel with the north line of said Lot 3, 30.00 feet; thence N00°00'26"W parallel with the most northerly segment of the west line of said Lot 3, 65.00 feet to the point of beginning.

It is agreed that such easement shall be a perpetual easement 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 grantors herein, their grantees, their heirs, assigns, licensees, successors, and assignees in interest.

It is further contracted and covenanted that such easement shall be for driveway, ingress, and egress purposes and such easement shall not be used for parking purposes or utilized in any manner so as to impede or inconvenience the use of such easement for the purposes herein setforth. Maintenance of said easements shall be in the mutual interests and responsibilities to all party's interest and their successors, heirs, and/or assigns.

In testimony whereof the undersigned has set their hands this 11<sup>th</sup> day of August, 2016.

Hawkins Marital Trust, Las Vegas, NV,  
under Trust Agreement dated July 14,  
2008, as Amended

By: *Craig A. Kreiser*  
Craig A. Kreiser, Co-Trustee

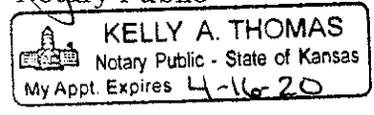
STATE OF KANSAS            )  
SEDGWICK COUNTY        )        SS:

BE IT REMEMBERED, that on this 11<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Craig A. Kreiser, Co-Trustee of Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

*Kelly A. Thomas*  
Notary Public

(My Appointment Expires: 4-16-20)



APPROVED AS TO FORM:

*Jennifer Magaña*  
Jennifer Magaña, City Attorney and Director of Law

**RESTRICTIVE COVENANT**

THIS DECLARATION made this 11<sup>th</sup> day of August, 2016, by Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

**FOSSIL RIM COMMERCIAL ADDITION**

Lots 1 through 4, Block A

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", and "C", Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. Reserve "A" is reserved for landscaping, lakes, open space, berms, sidewalks, drainage purposes and utilities as confined to easements.

Reserves "B" and "C" are reserved for landscaping, open space, berms, drainage purposes, and utilities.

Reserves "A", "B", and "C", shall be owned and maintained by the Lot Owners association for the addition.

2. That a Lot Owner's Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", and "C", as designated on the plat of Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas, shall be deeded to the Lot Owner's Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Lot Owner's Association being formed shall provide specific pertinent language requiring that the Lot Owner's Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", and "C", Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas, under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserves, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Lot Owners Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner.  
and,

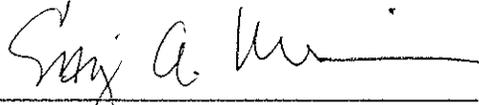
B. That the appropriate governing body has given written notice to the Declarant or the Lot Owners Association and said entity has not responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Lot Owners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in all lots in Fossil Rim Commercial Addition, Wichita, Sedgwick County, Kansas.

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

EXECUTED the day and year first written.

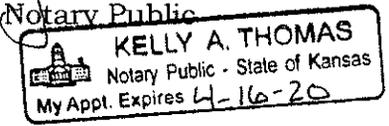
Hawkins Marital Trust, Las Vegas, NV, under  
Trust Agreement dated July 14, 2008, as  
Amended

By:   
\_\_\_\_\_  
Craig A. Kreiser, Co-Trustee

STATE OF KANSAS            )  
SEDGWICK COUNTY        )        SS:

BE IT REMEMBERED, that on this 11<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Craig A. Kreiser, Co-Trustee of Hawkins Marital Trust, Las Vegas, NV, under Trust Agreement dated July 14, 2008, as Amended, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

Kelly A. Thomas  
Notary Public  


(My Appointment Expires: 4-16-20)

APPROVED AS TO FORM:

Jennifer Magaña  
Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-347**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 554, SOUTHWEST INTERCEPTOR SEWER – FOSSIL RIM COMMERCIAL ADDITION/SOUTH OF 29<sup>TH</sup> STREET NORTH, EAST OF TYLER) (468-85145).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

**WHEREAS**, K.S.A. 12-6a19 provides that whenever the construction of any water, stormwater, sanitary sewer or arterial street improvement is initiated by petition pursuant to the Act, the City may require the imposition of a benefit fee on property which is benefitted by such improvements but was not included within the original improvement district established for the levy of special assessments for such improvements; and

**WHEREAS**, the Petition contains a request that the City create an area for which benefit fees will be imposed pursuant to K.S.A. 12-6a19; and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below** (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Twenty-Eight Thousand Dollars (\$28,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**FOSSIL RIM COMMERCIAL ADDITION**

Lots 1 through 4, Block A

(d) The method of assessment is: **on a fractional basis as described below.**

**Lot 1, Block A, Fossil Rim Commercial Addition shall pay 2/5 of the total cost of the improvements; and Lots 2, 3, and 4, Block A, Fossil Rim Commercial Addition shall each pay 1/5 of the total cost of the improvements.**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

(g) The undersigned acknowledge that property within the proposed Improvement District is subject to benefit fees to be imposed as a result of previously constructed **sewer main** improvements that benefit the property within the proposed Improvement District. Such benefit fee shall be imposed pursuant to K.S.A. 12-6a19, in the following manner: \$11,380 assessed equally among all property within the proposed Improvement District on a fractional basis as described below:

**Lot 1, Block A, Fossil Rim Commercial Addition shall pay 2/5 of the sewer main benefit fee; and Lots 2, 3, and 4, Block A, Fossil Rim Commercial Addition shall each pay 1/5 of the sewer main benefit fee.**

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in *Section 1* of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-348**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (RIGHT TURN/DECEL LANE IMPROVEMENTS – FOSSIL RIM COMMERCIAL ADDITION/SOUTH OF 29<sup>TH</sup> STREET NORTH, EAST OF TYLER) (472-85309).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of right turn/decel lane improvements on Tyler Road and 29<sup>th</sup> Street North pavement with drainage to be installed where necessary (the "Improvements").**

**Construction of sidewalk on Tyler Road and 29<sup>th</sup> Street North adjacent to the plat.**

(b) The estimated or probable cost of the Improvements is **One Hundred Ninety-Seven Thousand Dollars (\$197,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**FOSSIL RIM COMMERCIAL ADDITION**

Lots 1 through 4, Block A

- (d) The method of assessment is: **on a fractional basis as described below:**

**Lot 1, Block A, Fossil Rim Commercial Addition shall pay 2/5 of the total cost of the improvements; and Lots 2, 3, and 4, Block A, Fossil Rim Commercial Addition shall each pay 1/5 of the total cost of the improvements.**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

- (e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

- (f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

(Published in the *Wichita Eagle*, on September 9, 2016)

**RESOLUTION NO. 16-349**

**A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER IMPROVEMENTS – FOSSIL RIM COMMERCIAL ADDITION/SOUTH OF 29<sup>TH</sup> STREET NORTH, EAST OF TYLER) (448-90751).**

**WHEREAS**, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

**WHEREAS**, K.S.A. 12-6a19 provides that whenever the construction of any water, stormwater, sanitary sewer or arterial street improvement is initiated by petition pursuant to the Act, the City may require the imposition of a benefit fee on property which is benefitted by such improvements but was not included within the original improvement district established for the levy of special assessments for such improvements; and

**WHEREAS**, the Petition contains a request that the City create an area for which benefit fees will be imposed pursuant to K.S.A. 12-6a19; and

**WHEREAS**, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

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

**Section 1. Findings of Advisability.** The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

**Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below** (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Thirty Thousand Dollars (\$30,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to

date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

**FOSSIL RIM COMMERCIAL ADDITION**  
Lots 1 through 4, Block A

(d) The method of assessment is: **on a fractional basis as described below.**

**Lot 1, Block A, Fossil Rim Commercial Addition shall pay 2/5 of the total cost of the improvements; and Lots 2, 3, and 4, Block A, Fossil Rim Commercial Addition shall each pay 1/5 of the total cost of the improvements.**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

(g) The undersigned acknowledge that property within the proposed Improvement District is subject to benefit fees to be imposed as a result of previously constructed **water main** improvements that benefit the property within the proposed Improvement District. Such benefit fee shall be imposed pursuant to K.S.A. 12-6a19, in the following manner: **\$5,917 assessed equally among all property within the proposed Improvement District on a fractional basis as described below:**

**Lot 1, Block A, Fossil Rim Commercial Addition shall pay 2/5 of the water main benefit fee; and Lots 2, 3, and 4, Block A, Fossil Rim Commercial Addition shall each pay 1/5 of the water main benefit fee.**

**Section 2. Authorization of Improvements.** The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in **Section 1** of this Resolution.

**Section 3. Plans and Specifications.** The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

**Section 4. Bond Authority; Reimbursement.** The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 5. Effective Date.** This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on September 6, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council

**SUBJECT:** ZON2016-00001 – Zone Change from SF-5 Single-Family Residential and LC Limited Commercial to LI Limited Industrial with a Protective Overlay on Property Generally Located North of 21<sup>st</sup> Street North and West of Hoover Road (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Background:** On March 22, 2016, the City Council approved ZON2016-00001, a zone change from SF-5 Single-Family Residential and LC Limited Commercial to LI Limited Industrial with a Protective Overlay on property generally located north of 21<sup>st</sup> Street North and west of Hoover Road. The action of the City Council was to instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council. The City Council approved the plat of the property (SUB2016-00001 Lighthouse Addition) on July 12, 2016; however, the ordinance was not forwarded for first reading when the plat was considered.

**Analysis:** The City Council needs to place the attached ordinance on first reading in order for the action taken on March 22, 2016, to approve the zone change to become effective.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

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

**Recommendation/Actions:** It is recommended that the City Council place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

**Attachments:** Ordinance

**Published in the Wichita Eagle, September 16, 2016**  
**ORDINANCE NO. 167**

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

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

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

**Case No. ZON2016-00001**

Zone change from SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") to LI Limited Industrial ("LI") with Protective Overlay #304:

1. The following uses permitted in the LI Limited Industrial ("LI") zone district shall not be permitted on the subject property: funeral home, hotel or motel, kennel (boarding/breeding/training), marine facility (recreational), microbrewery, night club, parking area (commercial), pawnshop, recreation and entertainment (outdoor), tavern and drinking establishment, vehicle and equipment sales (outdoor), asphalt and concrete plant (general), gas and fuel storage and sales, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, vehicle storage yard, agricultural processing, rodeos and sexually oriented business.
2. The subject property shall have an increased front building setback of 35 feet.
3. All outdoor storage uses on the subject property shall be screened on all sides by a solid screening wall or fence constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete, or wood.

On property located east of South Seneca Avenue and one block north of West 31<sup>st</sup> Street South (3122 S. Seneca); described as:

The North 337 Feet of the South 677 Feet of the Southeast Quarter of Section 3, Township 27 South, Range 1 West of the Sixth Principal Meridian, lying East of the Missouri Pacific Railroad, Sedgwick County, Kansas, except the East 60 feet thereof.

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

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

ADOPTED this 13th day of September, 2016.

\_\_\_\_\_  
Jeff Longwell - Mayor

ATTEST:

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

(SEAL)

Approved as to form: \_\_\_\_\_  
Jennifer Magana, City Attorney and Director of Law

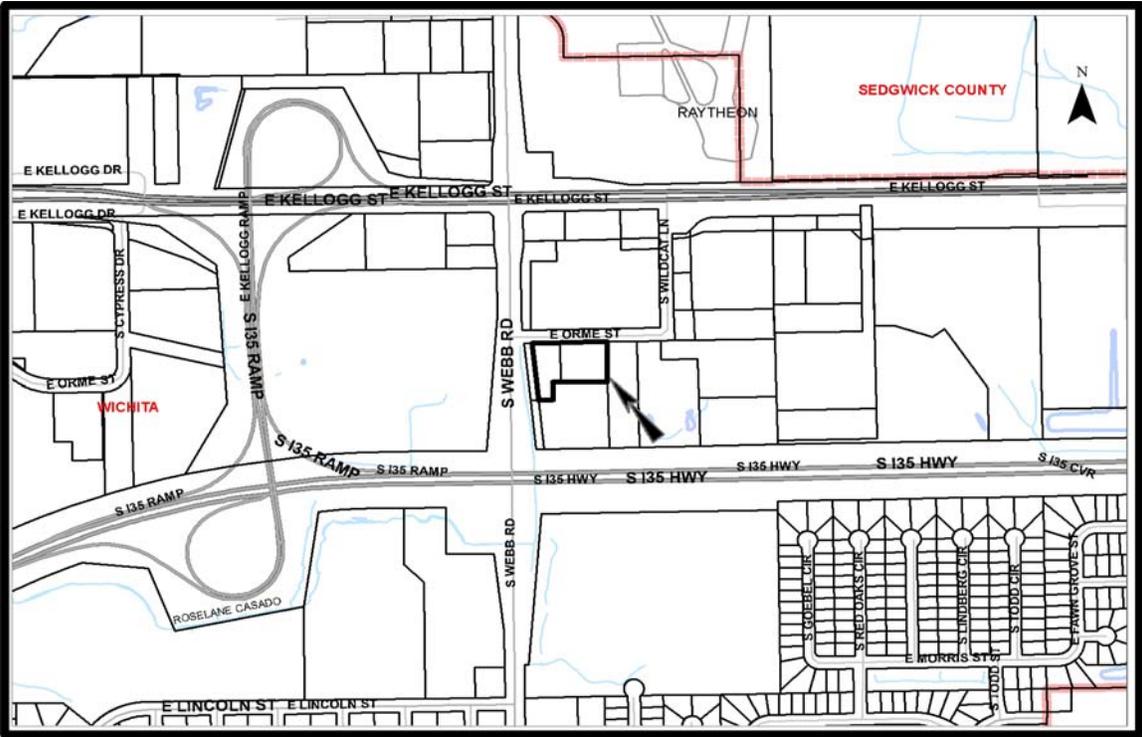
City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Mayor and City Council  
**SUBJECT:** ZON2016-00030 – City Request for a Zone Change from GC General Commercial to LI Limited Industrial on Property Generally Located South of East Kellogg Street on the Southeast Corner of South Webb Road and East Orme Street (District II)  
**INITIATED BY:** Metropolitan Area Planning Department  
**AGENDA:** Planning (Consent)

**MAPC Recommendation:** The MAPC recommended approval of the request (10-0).

**DAB Recommendation:** District Advisory Board II recommended approval of the request (6-0).

**MAPD Staff Recommendation:** The Metropolitan Area Planning Department staff recommended approval of the request.



**Background:** The applicant is requesting LI Limited Industrial (LI) zoning on the 1.91-acre, platted GC General Commercial (GC) and LI zoned site located south of East Kellogg Street/US-54 Highway on the southeast corner of South Webb Road and East Orme Street. There is a 5,800-square foot warehouse-office (built 1985) located on the site. The applicant is requesting LI zoning to allow auto sales on the site, which is permitted by right in the GC and LI zoning districts. However, the Unified Zoning Code (UZC) requires all parking, outdoor storage and display areas to be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material for car sales in the GC zoning district; UZC Sec.III-D.6.hh. There is no requirement for paving of outdoor storage and display areas in the LI zoning district. The 1.91-acre subject site's parking areas are paved except approximately the east 85 feet, thus the request.

The GC zoned subject site is currently an auto detail shop, Auto Boutique, which provides interior and exterior cleaning, minor dent repair, window repair and similar services. The applicant, Manheim Auto Auctions (per their web site), is an international wholesale vehicle auction business (on-line or on-site), that also provides chip repair, auto body repair, partial bumper repair, paintless dent repair, key replacement/locksmith services, pin striping, wet sand and buff, wheel repair, windshield repair and windshield replacement. All of the current and proposed activities are permitted by right in the GC zoning district. Some Manheim sites also hold salvage auctions of inoperable vehicles and parts. The applicant has indicated that the subject site would not hold salvage auctions, which would require a conditional use in the LI zoning district.

The site is located in an area bordered by Kellogg Street on the north, Interstate Highway I-35 on the south, Webb Road on the west and Greenwich Road on the east. The area is developed with large car sales lots, big box retail, commercial strips and stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility. The area is currently impacted by the construction of the Kellogg Street improvements, which is targeted for completion in 2019-2020.

GC zoning is the predominate zoning in the area except a small LI zoned portion of the subject site, approximately 11-acres of LI (ZON2015-00052/PO-307) zoned undeveloped land, six SF-5 zoned single-family residences (built 1954 and early 1970s) and some LC Limited Commercial sites located by Greenwich Road. The more immediate area has a GC zoned partially occupied (Groves Liquor Store) retail box (built 1992), Discount Auto Sales (built 1970) and a body shop (built 1999) all located north of the site, across Orme Street. The long established (1940) LI zoned Beechcraft Aircraft manufacturing facility is located further north of the site, across Kellogg Street, as is the LI zoned Costco Store (built 2015). Beechcraft is the largest single-development in the area. A GC zoned collision repair shop (built 1980) abuts the south side of the site. I-35 is located south of the collision repair shop and a SF-5 Single-Family Residential (SF-5) zoned church is located south of I-35. A GC zoned office (built 2002) abuts the east side of the site, with vacant GC zoned property and a Pittsburg Paints warehouse (built 2007) located further east of the site. Webb Road abuts the west side of the site. There is an LI zoned retail store located on the west side of Webb Road. A Kansas Turnpike Authority (KTA) service and repair yard and buildings is also located west of the site within the Kellogg Street – I-35 interchange right-of-way.

**Analysis:** On July 21, 2016, the Metropolitan Area Planning Commission (MAPC) considered and approved (10-0) the requested zone change. There were no protesters at the MAPC meeting.

On August 8, 2016 District Advisory Board (DAB) II considered and approved (6-0) the requested zone change. There were no protesters at the DAB II meeting. Planning staff has received no valid protests to the requested zone change.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

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

**Recommendation/Actions:** It is recommended that the City Council concur with the findings of the MAPC and approve the requested zone change (simple majority of four votes), place the ordinance on first reading and instruct the City Clerk publish the ordinance upon approval on second reading and authorize the required signatures.

**Attachments:**

- MAPC minutes
- DAB memo
- Ordinance

ORDINANCE NO. 50-322

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

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

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

**Case No. ZON2016-00030**

Zone change from GC General Commercial (“GC”) to Limited Industrial (“LI”), on an approximately 1.91-acre property described as:

Lot 1 except the East 40 feet and the South 90 feet and the point in Lot 1 described as a 40 foot wide strip of land lying Easterly and parallel with abutting and perpendicular to West line of Lot 1, Rosson Addition and the North 210 feet of Lot 2, Rosson Addition, generally located south of East Kellogg Street/US-54 Highway on the southeast corner of North Webb Road and East Orme Street, Wichita, Sedgwick County Kansas.

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

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

\_\_\_\_\_  
Jeff Longwell, Mayor

**ATTEST:**

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

(SEAL)

Approved as to form: \_\_\_\_\_  
Jennifer Magana, City Attorney and Director of Law



**EXCERPT MINUTES OF JULY 21, 2016 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION MEETING**

**Case No.: ZON2016-00030** - Nevets, Inc., and Manheim Auto Auctions (owner/applicant) and Ferris Consulting, c/o Greg Ferris (agent) request a City zone change from GC General Commercial to LI Limited Industrial for vehicle sales without paved parking/display on property described as:

Lot 1 except the East 40 feet and the South 90 feet and the point in Lot 1 described as 40 foot wide strip of land lying Easterly and parallel with abutting and perpendicular to West line of Lot 1, Rosson Addition; and the North 210 feet of Lot 2, Rosson Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting LI Limited Industrial (LI) zoning on the 1.91-acre, platted GC General Commercial (GC) zoned site located south of East Kellogg Street/US-54 Highway on the southeast corner of North Webb Road and East Orme Street. There is a 5,800-square foot ware-house office (built 1985) located on the site. The applicant is requesting LI zoning to allow auto sales on the site, which is permitted by right in the GC and LI zoning districts. However, the Unified Zoning Code (UZC) requires all parking, outdoor storage and display areas to be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material for car sales in the GC zoning district; UZC Sec.III-D.6.hh. There is no requirement for paving of outdoor storage and display areas in the LI zoning district. The 1.91-acre subject site's parking areas are paved except approximately the east 85 feet, thus the request.

The GC zoned subject site is currently an auto detail shop, Auto Boutique, which provides interior and exterior cleaning, minor dent repair, window repair, and similar services. The applicant, Manheim Auto Auctions (per their web site), is an international wholesale vehicle auction business (on-line or on-site), that also provides chip repair , auto body repair, partial bumper repair, paint-less dent repair, key replacement/locksmith services, pin striping, wet sand and buff, wheel repair, windshield repair, and windshield replacement. All of the current and proposed activities are permitted by right in the GC zoning district. Some Manheim sites also hold salvage auctions of inoperable vehicles and parts. The applicant has not indicated if the subject site would hold salvage auctions, which would require a conditional use in the LI zoning district.

The site is located in an area bordered by Kellogg Street on the north, I-35 on the south, Webb Road on the west and Greenwich Road on the east. The area is developed with large car sales lots, big box retail, commercial strips and stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility. The area is currently impacted by the construction of the Kellogg/US-54 improvements, which is targeted for completion in 2019-2020.

GC zoning is the predominate zoning in the area, except for approximately 11-acres of LI (ZON2015-00052/PO-307) undeveloped land, six SF-5 zoned single-family residences (built 1954 and early 1970s) and some LC Limited Commercial sites located by Greenwich Road. The more immediate area has a GC zoned partially occupied (Groves Liquor Store) retail box (built 1992), Discount Auto Sales (built 1970) and a body shop (built 1999) located north of the site, across Orme Street. The long established

(1940) LI zoned Beechcraft Aircraft manufacturing facility is located further north of the site, across Kellogg Street, as is the LI zoned Costco Store (built 2015). Beechcraft is the largest single-development in the area. A GC zoned collision repair shop (built 1980) abuts the south side of the site. I-35 is located south of the collision repair shop and a SF-5 Single-Family Residential (SF-5) zoned church is located south of I-35. A GC zoned office (built 2002) abuts the east side of the site, with vacant GC zoned property and a Pittsburg Paints warehouse (built 2007) located further east of the site. Webb Road abuts the west side of the site. There is an LI zoned retail store located on the west side of Webb Road. A Kansas Turnpike Authority (KTA) service and repair yard and buildings is also located west of the site within the Kellogg – I-35 interchange right of way

**CASE HISTORY:** The site is located on portions of Lots 1 and 2, Rosson Addition, which was recorded with the Register of Deeds May 16, 1978.

**ADJACENT ZONING AND LAND USE:**

NORTH: GC, LI Partially occupied big box retail with retail liquor store tenant, aircraft manufacturing facility, big box retail

SOUTH: GC, SF-5 Collision repair shop, I-35, church.

EAST: GC Office, vacant land, warehouse, car sales

WEST: LI Webb Road, retail building, KTA service and repair yard and buildings

**PUBLIC SERVICES:** All utilities are available to the site. Access to the site is provide by Orme Street, a paved two-lane, local street, which intersects with the paved four-lane arterial Webb Road.

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed. There are no existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials in this area. The area is developed with large car sales lots, big box retail, commercial strips, stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification. If approved the proposed LI zoning would meet for all practical purposes the locational criteria of industrial land having direct access to arterial roads, in this case the abutting four-lane arterial Webb Road via a short distance on the paved two-lane Orme Street. The requested LI zoning would allow the applicant to sale vehicles on an unpaved surface, a curious request considering that all of the 1.91-acre site is paved except for approximately the east 85 feet of the site. The requested LI zoning is partially in character with the area. The LI zoning does not allow wreacking and salvage nor the sale of wrecked vehicles or salvaged parts without conditional use approval.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the proposed LI zoning be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** GC zoning is the predominate zoning in the area, except for approximately 11-acres of LI (ZON2015-00052/PO-307) undeveloped land, six SF-5 zoned single-family residences (built 1954 and early 1970s) and some LC Limited Commercial sites located by Greenwich Road. The more immediate area has a GC zoned partially occupied (Groves Liquor Store) retail box (built 1992), Discount Auto Sales (built 1970) and a body shop (built 1999) located north of the site, across Orme Street. The long established (1940) LI zoned Beechcraft Aircraft manufacturing facility is located further north of the site, across Kellogg Street, as is the LI zoned Costco Store (built 2015). Beechcraft is the largest single-development in the area. A GC zoned collision repair shop (built 1980) abuts the south side of the site. I-35 is located south of the collision repair shop and a SF-5 Single-Family Residential (SF-5) zoned church is located south of I-35. A GC zoned office (built 2002) abuts the east side of the site, with vacant GC zoned property and a Pittsburg Paints warehouse (built 2007) located further east of the site. Webb Road abuts the west side of the site. There is an LI zoned retail store located on the west side of Webb Road. A Kansas Turnpike Authority (KTA) service and repair yard and buildings is also located west of the site within the Kellogg – I-35 interchange right of way.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site's current GC zoning allows car sales by right, but requires the paving of parking, outdoor storage and display areas. The proposed LI zoning allows car sale by right but does not require requires the paving of outdoor storage and display areas. The applicant does not want to pay for the paving of outdoor storage and display areas on the east 85 feet of the site. The proposed LI is partially in character with the area's existing LI and GC zoning, although GC zoning is the predominate zoning on lands located south of Kellogg Street, such as the subject site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The GC zoned Discount Auto Sales, located northeast of the site has vehicles, some in various stages of repair, some parked/stored on unpaved surfaces. Some Manheim sites also hold salvage auctions of inoperable vehicles and parts. The applicant has not indicated if the subject site would hold salvage auctions, which would require a conditional use in the LI zoning district.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed. There are no existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials in this area. The area is developed with large car sales lots, big box retail, commercial strips, stand-alone retail/commercial and the Beechcraft Aircraft manufacturing facility.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning would allow the applicant to sale vehicles on an unpaved surface, a curious request considering that all of the 1.91-acre site is paved except for approximately the east 85 feet of the site. The requested LI zoning is partially in character with the area. The LI zoning does not allow wreacking and salvage nor the sale of wrecked vehicles or salvaged parts without conditional use approval.

- (1) **Impact of the proposed development on community facilities:** The site may generate an additional amount of industrial truck traffic onto Orme Street, which allows access onto the four-lane arterial Webb Road.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**RICHARDSON** asked if there was another way to do this such as a variance as opposed to introducing a whole new zoning.

**LONGNECKER** said staff did not consider this as a variance. He said the applicant asked for LI zoning specifically not to have to pave the area. He said he might ask the applicant.

**RICHARDSON** asked about vehicle sales to the north and east of this site.

**LONGNECKER** said he was he was not sure how they are doing what they are doing and added that he understands there have been complaints on the sites.

**MILLER STEVENS** asked if there were any signage issues.

**LONGNECKER** replied no. He added that the current business which is a detail shop is permitted by right in GC zoning.

**JOHNSON** asked if the Commission could look at this as a transitional use with a time limit.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** indicated that the Commission couldn't put a time limit on a zone change. He said they could if it was a variance.

**GREG FERRIS, FERRIS CONSULTING, AGENT FOR THE APPLICANT** commented that they are not introducing anything new into the area. He said parts of the site are already zoned LI. He said the owner of this property owns a number of car lots in Wichita. He said they will sell vehicles in the paved area. He said they would like extra vehicle storage on the gravel lot. He said in his opinion this use was much easier to do as a zone change because a variance process usually addresses situations that are unusual; includes State Laws and five specific requirements need to be met. He said this area has a mix of GC and LI zoning. He said what they are asking for is completely in line with what is being done in the area. He concluded by saying that they agree with the Staff Report and feel this site meets the criteria for a rezone.

**MOTION:** To approve subject to staff recommendation.

**ELLISON** moved, **TODD** seconded the motion, and it carried (10-0).

-----



**INTEROFFICE  
MEMORANDUM**

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**TO:** City Council  
**FROM:** Laura Rainwater  
**SUBJECT:** ZON2016-00030  
**DATE:** August 9, 2016

On Monday, August 8, 2016, the District II Advisory Board considered a request by Nevets, Inc., and Manheim Auto Auctions (owner/applicant), Ferris Consulting, c/o Greg Ferris (agent), for LI Limited Industrial (LI) zoning on the 1.91-acre, platted GC General Commercial (GC) zoned site located south of East Kellogg Street/US-54 Highway on the southeast corner of North Webb Road and East Orme Street.

Neither the applicant nor agent were present at the meeting.

After staff presentation by **Bill Longnecker, Senior Planner, MAPD**, there were no questions or concerns from DAB II Board Members, adjacent property owners or citizens.

**Action Taken:** Motion made by **Nazir Jesri** to **APPROVE** the application based on staff recommendations set forth in the staff report. Seconded by **Chris Mullen**.

**MOTION PASSED 6-0**

Respectfully submitted,

Laura Rainwater, Community Services Representative – District II

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Wichita Airport Authority

**SUBJECT:** 2016-2017 Work Plan/Financial Plan Agreement – U.S. Department of Agriculture, Animal and Plant Health Inspection Service - Wildlife Services  
Wichita Dwight D. Eisenhower National Airport and Colonel James Jabara Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Agreement.

**Background:** In December 2000, the Wichita Airport Authority (WAA) entered into a service agreement with the U. S. Department of Agriculture-Wildlife Services (USDA) to provide wildlife management services at Colonel James Jabara Airport and what was then called Wichita Mid-Continent Airport. This Work Plan/Financial Plan Agreement has been renewed on an annual basis since the original agreement date. The Work Plan consists of the following services: assess/monitor biological conditions to track seasonal and yearly changes in wildlife populations, document and address wildlife hazards, provide direct control of nuisance and hazardous wildlife, and assist in maintaining appropriate state and federal permits.

**Analysis:** Through this Agreement, the WAA complies with its obligations to the Federal Aviation Administration (FAA) under Title 14 CFR Part 139.337-Wildlife Hazard Management, the Airport Certification Manual, and the Airport Wildlife Hazard Management Plan. All of these are mandatory federal compliance programs as a condition for maintaining the Airport Operating Certificate issued by the FAA.

**Financial Considerations:** The cost of the services provided is \$59,252 for the period October 1, 2016, through September 30, 2017. This represents a 2.5 percent salary increase over the 2015-2016 Work Plan year to compensate for cost of living and merit increases. The funds for this program are included in the approved Airport Operating Budget.

**Legal Considerations:** The Law Department has reviewed and approved the Agreement as to form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Agreement and authorize the necessary signatures.

**Attachment:** The Work Plan/Financial Plan Agreement.

Work Plan/Financial Plan

COOPERATOR: Wichita Airport Authority  
Victor D. White, Director of Airports, (316) 946-4700

COOPERATIVE AGREEMENT NO.: 17-73-20-5303RA

WBS CODE: AP.RA.RX20.73.0377

LOCATION: Wichita Dwight D. Eisenhower National Airport, Wichita, Kansas

DATES: October 1, 2016 to September 30, 2017

OBJECTIVES/GOALS:

To continue to collect biological assessment information, provide periodic wildlife damage management training to Wichita Airport Authority (WAA) personnel and assist Airport Operations and Maintenance by responding directly to known wildlife nuisances and hazards. Specific actions requested: a) ICT annual wildlife hazard management plan review, b) assess/monitor biological conditions on Eisenhower National Airport to track seasonal and yearly changes in wildlife population indices, c) provide periodic training to WAA personnel to meet FAA requirements (AC 150/5200-36) and identify, document, and address wildlife hazards, d) provide direct control of nuisance and hazardous wildlife using hazing (harassment), trapping, depredation, and other management tools as appropriate, e) assist the WAA in maintaining appropriate state and federal depredation permits, and f) incumbent will attend Birdstrike Committee USA or comparable training to remain trained and up to date on latest airport wildlife damage management techniques and research.

USDA – Wildlife Services (WS) completed a wildlife hazard assessment (WHA) in FY16. WS will continue to collect biological data and compile into a report to be submitted in early FY17. WS will continue to collect wildlife survey information and provide annual updates to the WHA, adhering to the FAA's continual monitoring program.

PLAN OF ACTION:

WS personnel will conduct all activities within the above delineated areas. WS will coordinate all activities with the appropriate WAA personnel. WAA will be responsible for designating WS points of contact, approving WS activities, and providing the appropriate clearances needed to complete the stated objectives and goals. The project will be supervised by the State Director for Kansas or his designated representative.

One biologist will be assigned to the project for approximately 32 hours per week. Work hours will vary and will be scheduled to most appropriately address wildlife damage management problems. WS may utilize all practical and legal wildlife management techniques.

Please see the attached financial plan for fiscal year 2017 cost estimates.

Billing will be done quarterly. Costs are estimated and may vary according to changing needs.

Salary/benefits, supplies, travel and administrative overhead are not to exceed \$59,251.67.  
APHIS administrative overhead is charged at a rate of 16.15% of sub-total.

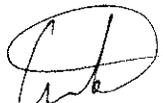
NOTE: In accordance with the Debt Collection Improvement Act (DCIA) of 1996, bills issued by APHIS/WS are due and payable within 30 days of receipt. The DCIA requires that all debts older than 120 days must be forwarded to debt collection centers or commercial collection agencies for more aggressive action.

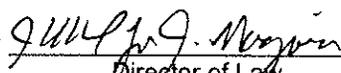
ATTEST:

WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS  
By direction of the Wichita Airport Authority

By: \_\_\_\_\_  
Karen Sublett, City Clerk

By: \_\_\_\_\_  
Jeff Longwell, President

By:   
Victor D. White, Director of Airports

APPROVED AS TO FORM:   
Director of Law Date: 8-11-16

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL & PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES

By: \_\_\_\_\_  
State Director, Kansas

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Director, Western Region

Date: \_\_\_\_\_

FINANCIAL PLAN

For the dispersment of funds from

Wichita Airport Authority - Wichita Dwight D. Eisenhower National Airport

to

USDA APHIS Wildlife Services

for

Wildlife Damage Management

from

10/1/2016

to

9/30/2017

Cost Element	Full Cost	
Personnel Compensation	\$	42,806.68
Travel	\$	1,311.00
Vehicles	\$	1,482.14
Other Services	\$	-
Supplies and Materials	\$	500.00
Equipment	\$	500.00
<b>Subtotal (Direct Charges)</b>	<b>\$</b>	<b>46,599.82</b>
Pooled Job Costs	11.00%	\$ 5,125.98
Indirect Costs	16.15%	\$ 7,525.87
Aviation Flat Rate Collection		\$ -
<b>Agreement Total</b>	<b>\$</b>	<b>59,251.67</b>

The distribution of the budget from this Financial Plan may vary as necessary to accomplish the purpose of this agreement, but may not exceed: \$59,251.67

City of Wichita  
City Council Meeting  
September 6, 2016

**TO:** Wichita Airport Authority

**SUBJECT:** Tanganyika Wildlife Park, LLC  
Sponsorship Agreement for Children's Play Area  
Wichita Dwight D. Eisenhower National Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Agreement.

**Background:** A Children's Play Area with a jungle theme was constructed across from Gate 1 of the new terminal last year. During the process of designing and contracting for advertising opportunities in the terminal with the Tanganyika Wildlife Park, LLC (Tanganyika), the concept of a sponsorship of the play area was discussed with the park's owners.

**Analysis:** Tanganyika will sponsor the play area for a ten year period, commencing on July 1, 2016. In addition to the sponsorship support, Tanganyika has entered into separate agreements with the Airport's in-terminal advertising agency, Clearchannel Airports, for a variety of electronic displays and static signage located throughout the terminal.

**Financial Considerations:** Tanganyika will pay the WAA a sponsorship fee of \$10,000. The first payment of \$3,500 will be due on July 1, 2016, the second payment of \$3,500 will be due on July 1, 2017, and the final payment of \$3,000 will be due on July 1, 2018. Tanganyika pays Clearchannel Airports \$18,500 annually for in-terminal advertising, of which approximately 40% is shared with the WAA.

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

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the agreement and authorize the necessary signatures.

**Attachment:** Sponsorship Agreement.



# **WICHITA AIRPORT AUTHORITY**

## SPONSORSHIP AGREEMENT

By and Between

WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

TANGANYIKA  
WILDLIFE PARK, LLC

Wichita Dwight D. Eisenhower National Airport  
Wichita, Kansas

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THIS LEASE AGREEMENT (“Agreement”) is entered into this September 6, 2016, between The Wichita Airport Authority, Wichita, Kansas (“OWNER”) and Tanganyika Wildlife Park, LLC (“SPONSOR”).

WHEREAS, OWNER is a quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, AUTHORITY owns and operates the commercial service airport with FAA designation of Wichita Dwight D. Eisenhower National Airport operated by the Wichita Airport Authority (hereinafter referred to as "Airport"); and

WHEREAS, as part of this Agreement, the SPONSOR has agreed to provide financial support to the OWNER subject to the terms and conditions set out in this Agreement; and

WHEREAS, OWNER will allow the SPONSOR to exclusively market and promote in connection with SPONSOR’s business located in a designated area in the Terminal.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, OWNER and SPONSOR do hereby covenant and agree as follows:

## **1. PREMISES**

“Premises” as used herein shall be the Children’s Play Area located in the Terminal, 2277 S. Eisenhower Airport Parkway, on the Airport, as reflected on Exhibit "A", attached hereto and made a part hereof.

## **2. TERM**

The term of this Agreement shall commence on July 1, 2016, and shall expire on March 31, 2025, unless otherwise terminated under provisions agreed to herein.

### **3. SPONSORSHIP FEE**

Subject to the provisions of this Agreement and to the SPONSOR performing its obligations hereunder and in consideration of the rights granted by the OWNER to the SPONSOR, the SPONSOR agrees to pay a sponsorship fee of ten thousand dollars (\$10,000.00). The first payment shall be in the amount of \$3,500 being due July 1, 2016. The second payment in the amount of \$3,500 being due July 1, 2017. The third and final payment in the amount of \$3,000 being due July 1, 2018.

### **4. PAYMENT PROCEDURE**

SPONSOR shall make all payments to the Wichita Airport Authority and in a form acceptable to OWNER. ACH direct deposit is preferred. Bank account and routing information is available upon request. Payments made by check shall be delivered or mailed to:

Wichita Airport Authority  
2173 Air Cargo Road  
Wichita, Kansas 67209

or such other address as designated in writing.

Bills, notices and invoices may be delivered to the SPONSOR by mail or personal delivery at:

1037 S.183<sup>rd</sup> St. West  
Goddard, KS 67052

or such other address as designated in writing.

In the event SPONSOR fails to make payment within ten (10) days of the dates due as set forth in this Agreement, and after OWNER has provided SPONSOR with written notice and SPONSOR does not make payment within seven (7) calendar days after the date said notice is received, then OWNER, may charge SPONSOR a monthly service charge of twelve percent (12%) on an annual basis for any such overdue amount, unless a lesser sum is set as the maximum allowable under state statutes on any such overdue amount, plus reasonable attorneys' and administrative fees incurred by OWNER in attempting to obtain payment. If OWNER does not receive payment within seven (7) days of the date of receipt of said written notice, then the monthly service charge shall retroactively commence on the date the payment was originally due.

## **5. COOPERATION WITH AIRPORT DEVELOPMENT**

SPONSOR understands and agrees that OWNER may pursue Airport development, improvements and maintenance activities from time-to-time that may affect the Premises and other areas of the Airport. SPONSOR agrees to work cooperatively and in good faith with the OWNER and other tenants and contractors in development, improvement and maintenance activities to minimize any disruptions. If requested by the OWNER, SPONSOR shall cooperate with and assist the OWNER to the greatest extent possible in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such Airport development, improvement, and maintenance activities. OWNER may temporarily or permanently close, re-route, or consent to the closing or re-routing of any method of ingress or egress on the Airport, so long as the means of ingress and egress to the Airport are maintained. Exercise by OWNER of any such Airport development, improvement, or maintenance shall be without expense to SPONSOR, but SPONSOR shall not be entitled to any compensation for loss of revenue, business interruption, relocation, temporary or storage rental.

## **6. CONSIDERATION**

In consideration of the SPONSOR's support, SPONSOR shall have the right to have appropriate promotional signs and displays related to SPONSOR's business in the Premises, provided, that the design, installation and maintenance of such signs shall be consistent with the graphic standards and policies of the AUTHORITY. All such signage shall be subject to the discretion of the Director of the Authority, evidenced by written approval prior to installation.

## **7. TAXES, LICENSES AND PERMITS**

SPONSOR agrees to pay all present and future taxes or, in lieu of taxes, special assessments now or hereafter levied or assessed (1) upon the Premises and facilities, (2) upon property owned or possessed by SPONSOR and situated on the Premises, and (3) upon SPONSOR's interest in or use of the Premises. SPONSOR shall defend, indemnify and save OWNER and the City of Wichita, Kansas harmless from any claims or liens in connection with such taxes, obligations in lieu of taxes or assessments.

SPONSOR shall promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operation on the Premises. SPONSOR may elect, however, at its own cost and expense, to contest any such tax, excise, levy, or assessment. SPONSOR shall keep current all Federal, State or local licenses, operating certificates or permits required for the conduct of its operations. SPONSOR represents and warrants to OWNER that it has obtained all license, franchise, operating certificates or other agreements or permits necessary to operate SPONSOR's operation in accordance with the terms of this Agreement, and SPONSOR covenants to keep all such licenses, franchises, permits, operating certificates and other agreements in full force and effect during the Term of this Agreement.

WAA acknowledges that Tanganyika will not be assessed or responsible for taxes or special assessments on the real property or the leased premises during the Term of this Agreement.

## **8. ASSIGNMENT**

With the exception of assignment to a parent or "holding" company or subsidiary, SPONSOR shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of OWNER. Any assignment or delegation so made and so permitted 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.

## **9. LOSS OF PERSONAL PROPERTY**

Any personal property of SPONSOR or others placed in or upon the Premises shall be at the sole risk of the SPONSOR, and OWNER shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the SPONSOR waives all rights of subrogation against recovery from the OWNER for such loss or damage unless such loss or damage is the result of the OWNER's negligence.

## 10. RULES AND REGULATIONS

SPONSOR, its agents and employees, shall be subject to any and all applicable rules, regulations, Airport Standard Operating Procedures, orders and restrictions which are now in force or which may hereafter be adopted by the Wichita Airport Authority or the City of Wichita, Kansas, in respect to the operation of the Airport; and shall also be subject to any and all applicable laws, statutes, rules, regulations or orders of any governmental authority, federal or state, lawfully exercising authority over the Wichita Dwight D. Eisenhower National Airport or SPONSOR's operations conducted hereunder.

OWNER shall not be liable to SPONSOR for any diminution or deprivation of its rights hereunder on account of the exercise of any such authority as in this Section provided, nor shall SPONSOR be entitled to terminate this Agreement nor be entitled to seek any damages from OWNER by reason thereof unless exercise of such authority shall so interfere with SPONSOR's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of Kansas.

## 11. NONDISCRIMINATION

The SPONSOR agrees that it shall not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The SPONSOR agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.

## 12. GENERAL PROVISIONS

**Airport Rules and Regulations, Policies, and Standard Operating Procedures.** OWNER shall have the right to adopt, amend and enforce reasonable airport rules and regulations, policies and standard operating procedures with respect to use of and the conduct and operation of the Airport, its buildings and facilities or any improvements within the present or future boundaries of the Airport, which SPONSOR agrees to observe and obey.

**Subordination to Agreements with the U.S. Government.** This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between OWNER and the United States Government relative to the operation or maintenance of Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to OWNER for Airport purposes, or the expenditure of federal funds for the improvement or development of Airport, including the expenditure of federal funds for the development of Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time. OWNER covenants that it has no existing agreements with the United States Government in conflict with the express provisions hereof.

**Non-Waiver of Rights.** No waiver or default by either party of any of the terms, warranties, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, warranties, covenants or conditions herein contained, to be performed, kept and observed by the other party.

**Captions.** The captions/headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Severability and Invalid Provisions.** In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the OWNER or the SPONSOR in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this agreement.

**Waiver of Claims.** SPONSOR hereby waives any claim against OWNER and its officers or employees for loss of anticipated profits, consequential or incidental damages, or claim for attorney fees caused by or resulting any suit or proceedings directly or indirectly attacking the validity of Agreement or any part thereof, or the manner in which it is executed or performed, or by any judgment or award in any legal proceeding declaring this Agreement null, void or voidable, or delaying the same of any part thereof, from being carried out. This waiver extends to all claims, whether the supporting legal theory lies in common law or has a statutory basis.

**Incorporation of Exhibits.** All exhibits referred to in this Agreement are intended to be and are hereby specifically made a part of this Agreement.

**Incorporation of Required Provisions.** The parties incorporate in this Agreement by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

**Non-Liability of Agents and Employees.** No manager, member, officer, agent or employee of either party to this Agreement shall be charged personally, or held contractually liable by or to the other party under the terms or provisions of this Agreement, or because of any breach thereof or because of its or their execution or attempted execution.

**Successors and Assigns Bound.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto where permitted by this Agreement.

**Time of Essence.** Time is of the essence in this Agreement.

**Relationship of the Parties.** It is understood SPONSOR is not in any way or for any purpose a partner or joint venturer with or an agent of OWNER. SPONSOR shall act as an independent contractor in the performance of its duties pursuant to this Agreement.

**Interpretation.** OWNER and SPONSOR hereby agree that this Agreement shall not be construed or interpreted in favor of either party on the basis of preparation.

**Kansas Laws to Govern.** This Agreement is created in the State of Kansas and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas, and venue for resolution of any issue pertaining to this Agreement shall be in Sedgwick County, Kansas.

### **13. FORCE MAJEURE**

Anything contained in this Agreement to the contrary notwithstanding, neither Party shall be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Agreement if non-performance shall be due to any "Act of God" or "Force Majeure" which terms are defined for purposes of this Agreement as strikes, lockouts, civil commotion, riots, material or labor restrictions by any governmental authority, explosions, earthquakes, fire, floods, catastrophic weather events, acts of the public enemy, wars, acts of terrorism, or insurrections. The occurrence of any Act of God or Force Majeure shall be excused for the period of the delay thus occasioned and the period for performance of any such acts shall be extended for a period equivalent to the period of such delay.

#### **14. THIRD PARTY RIGHTS**

It is agreed between the parties that it is not intended by any of the provisions of this Agreement to create for the public or any member thereof the status of a third-party beneficiary, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

#### **15. ENTIRE AGREEMENT**

The parties understand and agree that this instrument contains the entire Agreement between them. The parties hereto further understand and agree that the other party and its agents have made no representations or promises with respect to the Agreement or the making or entry into this Agreement, except as expressed in this Agreement, and that no claim or liability or cause for termination shall be asserted by either party against the other and such party shall not be liable by reason of, the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other being expressly waived.

The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for which they are acting herein.

The parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel deemed necessary for them to form a full and complete understanding of all rights and obligations herein.

#### **16. APPROVAL, CONSENT, DIRECTION OR DESIGNATION BY OWNER**

Wherever under this Agreement, approvals, consents, directions, or designations are required or permitted, such approvals, consents, directions, or designations required or permitted under this Agreement shall be performed by the Director of Airports, or his/her authorized representative. Approvals, consents, directions, or designations made at any time by the Director of Airports, and from time to time, may be withdrawn or modified by notice from OWNER to SPONSOR.

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

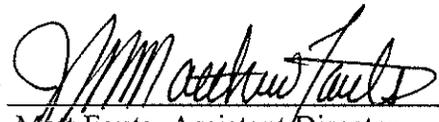
By \_\_\_\_\_  
Jeff Longwell, President  
"OWNER"

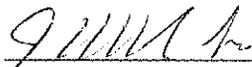
By  \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

TANGANYIKA WILDLIFE PARK, LLC

By \_\_\_\_\_  
Title \_\_\_\_\_

By  \_\_\_\_\_  
Matt Fouts, Assistant/Director  
"SPONSOR"

APPROVED AS TO FORM:  \_\_\_\_\_ Date: 5-8-16  
Jennifer Magaña,  
City Attorney and Director of Law

GATE 8

PLAY AREA

533 sq.ft.

GATE 9

GATE 10



**CHILDREN'S INDOOR PLAY AREA**

**2ND FLOOR**

WICHITA DWIGHT D. EISENHOWER  
NATIONAL AIRPORT  
THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

DATE	DR. BY	SCALE	SHEET
6/12/15	H.G.O.	1" = 20'	3 of 3

D:\Drawings\214-Terminal New\Other Leases\Children's Indoor Play Area.dwg, 3 of 3, 6/21/2016 4:06:52 PM

Wichita, Kansas  
August 29, 2016  
10:00 a.m., Monday  
Conference Room, 12<sup>th</sup> Floor

MINUTES - BOARD OF BIDS AND CONTRACTS\*

The Board of Bids and Contracts met with Marty Strayer, Administrative Assistant, Public Works and Utilities, Amy Belcher, Accountant, Finance, representing the Director of Finance, John Page, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Logan Bradshaw, Fellow, representing the City Manager's Office and Karen Sublett, City Clerk, present.

Minutes of the regular meeting date August 22, 2016, were read and on motion approved.

Bids were opened August 12, 2016, pursuant to advertisements published on:

**WICHITA AIRPORT AUTHORITY/ENGINEERING DIVISION: TSA Build Out and Remodel Two Offices.**

Defer two weeks.

The Purchasing Division recommended that the contracts be deferred as outlined above.

On motion the Board of Bids recommended that the contracts be deferred as outlined above.

On motion the Board of Bids adjourned.

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Marty Strayer, Administrative Assistant  
Department of Public Works

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Karen Sublett, MMC  
City Clerk

FORMAL BID REPORT

TO: Robert Layton, City Manager

DATE: August 29, 2016

**WICHITA AIRPORT AUTHORITY BIDS – VICTOR WHITE, DIRECTOR OF AIRPORTS**

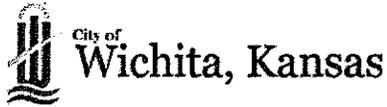
**August 12, 2016**

TSA Office Build Out & Remodel 2 Airline Offices Terminal Building - Wichita Airport Authority/Engineering Div.  
(Defer to September 12, 2016)

**ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.**



Melinda A. Walker  
Purchasing Manager



**BID RESULTS**

[Registration](#)

[Solicitations](#)

[Document Inquiry](#)

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This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor Group Line**

**Solicitation:** FB640136 **TSA Build Out & Remodel 2 Offices** **Close Date/Time:** 8/12/2016 10:00 AM CST

**Solicitation Type:** Formal Bid

[Return to the Bid List](#)

**Award Method:** Aggregate Cost

**Department:** Airport Engineering

**Responses:** 4

Vendors	Complete	Bid Total	City Comments
COMPTON CONSTRUCTION CORP	Complete	\$1,112,432.00	Defer to 9-12-16 Wichita Airport Authority/Engineering Division
VOGTS CONSTRUCTION COMPANY	Complete	\$1,118,048.00	
COMMERCE CONSTRUCTION SERVICES INC	Complete	\$1,120,100.00	
VAN ASDALE CONSTRUCTION LLC	Complete	\$1,212,900.00	

NO BIDS WITHIN ENGINEERS ESTIMATE

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