

APRIL 17, 2007 AGENDA REPORTS

Agenda Item No. 6.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0342

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Storm Water Drain in Meadowlake Beach Addition (west of Clifton, north of 63rd St. North) (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On March 13, 2007, the City Council approved a Petition to construct a Storm Water Drain in Meadowlake Beach Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

Analysis: This project will serve a new residential development located west of Clifton, north of 63rd St. North.

Financial Considerations: The existing Petition totals \$664,000 with the total assessed to the improvement district. The new Petition totals \$828,000 with the total assessed to the improvement district.

Goal Impact: This project will address the Efficient Infrastructure goal by providing drainage improvements for a new residential development.

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

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, CIP Sheet, Petition and Resolution.

132019-BID#37484

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER DRAIN NO. 315 (WEST OF CLIFTON, NORTH OF 63RD ST. SOUTH) 468-84302 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER DRAIN NO. 315 (WEST OF CLIFTON, NORTH OF 63RD ST. SOUTH) 468-84302 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 07-144 adopted on February 27, 2007 and Resolution No. 07-183 adopted on March 13, 2007 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve Storm Water Drain No. 315 (west of Clifton, north of 63rd St. South) 468-84302.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Eight Hundred Twenty-Eight Thousand Dollars (\$828,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after March 1, 2007, exclusive of the costs of temporary financing.

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

MEADOWLAKE BEACH ADDITION

Lots 1 through 93, Block A

Lots 1 through 38, Block B

Lots 1 through 40, Block C

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 75 through 80, Block A, and Lot 13, Block B, MEADOWLAKE BEACH ADDITION, shall each pay 120/13,326 of the total cost of the improvements; Lots 44 through 74, Block A, Lots 1

through 12, Block B, and Lots 34 through 38, Block B, MEADOWLAKE BEACH ADDITION, shall each pay 103/13,326 of the total cost of the improvements; Lots 1 through 43, Block A, and Lots 22 through 33, Block B, MEADOWLAKE BEACH ADDITION, shall each pay 85/13,326 of the total cost of the improvements; and Lots 81 through 93, Block A, Lots 14 through 21, Block B, and Lots 1 through 40, Block C, MEADOWLAKE BEACH ADDITION, shall each pay 47/13,326 of the total cost of the improvements.

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

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

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

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

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

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

ADOPTED at Wichita, Kansas, .

MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

Agenda Item No. 8a.

City of Wichita
City Council Meeting
April 17, 2007
Agenda Report No. 07-0343

TO: Mayor and City Council
SUBJECT: Community Events
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events Procedure, the event promoter Les Eck with Rusty Eck Ford is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:
2007 Wichita Wakefest, June 9, 2007 8:00 am through June 10, 2007 11:59 pm
McLean Boulevard, Douglas Avenue to Lewis Street
Lewis Street, McLean Boulevard to Wichita Street including the Lewis Street Bridge.
Douglas Avenue, McLean Boulevard to Waco Street including the Douglas Street

Bridge.
See attached map.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. 8b.

City of Wichita
City Council Meeting
April 17, 2007
Agenda Report No.

TO: Mayor and City Council
SUBJECT: Community Events
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for street closures.

Background: In accordance with the Community Events Procedure, the event promoter Mike Aaron is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Run Wichita Memorial Day Run 2007, May 28, 2007 6:00 am – 12:00 pm
McLean Boulevard, Seneca Street to Lewis Street
Lewis Street Bridge, McLean Boulevard to Wichita Street
Please see attached map.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.
Agenda Item No. 8b.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. 10a.

CITY OF WICHITA
City Council Meeting
April 17, 2007

Agenda Report No. 07-0345

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 934 East 13th Street North for the 13th Street and Mosley Intersection Improvement Project (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the acquisition.

Background: On October 18, 2005, City Council approved a project to improve the intersection of Mosley and 13th Street North. The project will provide left turn lanes on 13th Street at Mosley. The traffic signals will be upgraded to provide left turn signal phases at all four approaches to the intersection. To accommodate the project, right-of-way must be acquired from ten tracts of land. On April 3, 2007, City Council approved to proceed acquisition on the remaining three parcels through eminent domain while continuing negotiations.

Analysis: The 934 East 13th Street North acquisition requires a corner taking, consisting of 113 square feet, from a vacant portion of the parcel. A temporary easement is also required along the south boundary line. The property is improved with an office building. The improvements will not be impacted as a result of the project. The proposed acquisition was appraised at \$350. The land itself was appraised at \$255, or \$2.25 per square foot. The owner rejected the offer and has agreed to sell the take for \$1,000, or \$8.85 per square foot. Though this is a high value on a per square foot basis, it is considered amicable when considering the cost of eminent domain.

Financial Considerations: A budget of \$1,500.00 is requested. This includes \$1,000.00 for the acquisition, \$500.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure in this area.

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

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

Attachments: Real estate purchase agreement, tract map and aerial.

Agenda Item No. 11.

CITY OF WICHITA
City Council Meeting
April 17, 2007

Agenda Report No. 07-0346

TO: Mayor and City Council Members

SUBJECT: Outdoor Advertising Lease – 8006 East Kellogg (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the lease.

Background: In 2002, the City acquired land and improvements at 8006 and 8018 East Kellogg for the Kellogg/Rock Road Improvement project. Four separate parties owned the site and the improvements - a fast food restaurant, a car wash and an outdoor advertising structure. As part of the global settlement, the owner of the outdoor advertising structure was to be allowed to relocate their facility onto land not utilized by the highway project in lieu of payment for the loss of their leasehold. The right of way needs have been determined, allowing the relocation of the advertising structure.

Analysis: A 25-foot by 30.3-foot site for the advertising structure has been delineated at the north edge of the parcel 20 feet east of Rock Road right of way. Permits have been granted for a 24-foot wide by 12-foot tall sign face at this location. The structure will be orientated towards Rock Road. The outdoor advertising company will enter into a lease for this site with the City. The lease has a term of 30 years and calls for rent of \$3,200 per year or 10% of gross advertising sales revenue whichever is greater.

Financial Considerations: The lease will provide income to the City through rental revenue.

Goal Impact: This transaction promotes efficient infrastructure by providing efficient acquisition of needed right of way.

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

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

Attachments: Aerial map and lease agreement.

Agenda item No. 13.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0347

TO: Mayor and City Council
SUBJECT: Office Supply Contract
INITIATED BY: Department of Finance
AGENDA: Consent Agenda

Recommendation: Approve the selection and award of contract to Office Depot for Office Supply and Forms Management utilizing the US Communities contract pricing.

Background: The Stationary Stores Division of the Finance Department coordinates the office supply purchase and distribution to all City departments. The City last bid the contract for office supplies and forms management three years ago. Staff prepared a request for proposal and four vendors responded. Office Depot has offered the best and lowest cost proposal, offering nation wide contract US Communities pricing. The contract includes approximately five hundred core items discounted up to 85% off of the manufacturer's list price.

Analysis: A selection committee reviewed and evaluated the proposals on criteria including price and experience. The committee recommended Office Depot as the firm to provide these services at the lowest cost to the City. Office Depot will provide guaranteed next day delivery (except special orders) to every department and outlying facilities, provide a computerized monthly billing to interface with Performance (the City's financial system) and offers on-line internet ordering customized for the City.

Finance Considerations: The contract will not obligate the City to any specific purchase or volume of purchases; it only provides departments the ability to purchase supplies at the lowest net cost. Funding for office supplies is included within departmental operating budgets.

Goal Impact : The contract aligns to the Internal Perspective. Centralizing the purchase of supplies through a single vendor helps to reduce/avoid costs, but providing a lower overall price for supplies and facilitating delivery of supplies to various City facilities.

Legal Considerations: All purchases over \$25,000.00 requires City Council approval.

Recommendations/Actions: It is recommended that the City Council approve the selection of Office Depot offering the US Communities contract and authorize the Mayor to sign any necessary documents.

Agenda Item No. 14.

CITY OF WICHITA
City Council Meeting
April 17, 2007

Agenda Report No. 07-0348

TO: Mayor and City Council Members

SUBJECT: Acquisition by Eminent Domain of Land Required for the MacArthur;
Meridian to Seneca Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

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Recommendation: Approve the acquisition.

Background: On February 7, 2006, City Council approved the reconstruction of MacArthur to provide four lanes, with left turn lanes and landscaped medians. The intersection of MacArthur and Meridian will be signaled and storm water sewer will be built. There are sixteen parcels that are affected by the project. All of the acquisitions involve partial, strip takings along the existing roadway. No improvements are impacted by the proposed project.

Analysis: The City requires a 10 foot strip of land as road right-of-way from the properties located at 4001 S. Seneca and 1525 W. MacArthur. These properties are adjacent to one another and are in one ownership. Both properties combined consist of 110 acres and are mostly vacant. 4001 S. Seneca is improved with a fuel and convenience store. 1525 W. MacArthur is improved with a bar/club. They are zoned Single Family-5 and that part designated as the fuel and convenience store site, is zoned Limited Commercial. All improvements are removed from the proposed acquisition area and are not impacted by the project. The proposed right-of-way consists of 29,437 square feet. The owner has declined the appraised offer of 16,155, \$.55 per square foot. A counter offer has never been provided. Staff will continue to negotiate with the owner, but due to the lack of a counter offer, it is necessary to initiate eminent domain.

Financial Considerations: The cost of this acquisition will be paid for by the City at large.

Goal Impact: The acquisition of these parcels is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the resolution and ordinance as to form.

Recommendation/Action: Adopt the resolution and approve and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisition.

Attachments: Aerial map, tract map, resolution and ordinance. PUBLISHED IN THE WICHITA EAGLE ON

RESOLUTION NO.

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE PLANNED MACARTHUR ROAD IMPROVEMENT PROJECT BETWEEN SENECA AND MERIDIAN.

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements to MacArthur Road between Seneca and Meridian; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

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

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with improvement of .

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

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

PASSED by the governing body of the City of Wichita, Kansas, this day of, _
__ 2007.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

PUBLISHED IN THE WICHITA EAGLE ON

ORDINANCE NO.

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION AND IMPROVEMENT OF THE PLANNED MACARTHUR ROAD IMPROVEMENT PROJECT BETWEEN SENECA AND MERIDIAN IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LAND REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LAND THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

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

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for improvement of MacArthur Road between Seneca and Meridian in the City of Wichita, Sedgwick County, Kansas, the land hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

A tract lying within the NEQ of Sec. 18, Twp.28S, R1E, of the 6th P.M., described as beginning at a point 40 ft South of the NW corner of said NEQ; thence east parallel to the north line of said NEQ 1657.9 ft to a point on the curvature; thence on a curve to the left having a delta angle of 1°44 minutes and a radius of 7679.44 ft for a distance of 58.9 ft to a point 30 ft South of the north line of said NEQ; thence east parallel to the north line of said NEQ, 871.17 ft to a point 60 ft west of the east line of said NEQ; said point being a point of curvature; thence on a curve to the right having a delta angle of 19°27'25" and a radius of 30 ft, an arc length of 10.19 ft, to a point 50 ft west of the east line of said east line of the NEQ, and 31.67 ft south of the north line of said NEQ; thence south parallel with the east line of said NEQ, 8.33 ft to a point 40 ft south of the north line of said NEQ; thence west parallel with the north line of said NEQ, 564.2 ft; thence south parallel with the east line of said NEQ, 10 ft; thence west parallel with the north line of said NEQ, 2033.83 ft to a point on the west line of said NEQ; thence north along the west line of said NEQ, 10 ft to the POB.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this _____ day of, _____ 2007.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

Agenda Item No. 15.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0349

TO: Mayor and City Council

SUBJECT: Kansas Foodbank Warehouse EDI – Signatory Authority, District I

INITIATED BY: Housing and Community Services

AGENDA: Consent

Recommendation: Authorize signatures for the Kansas Food Bank EDI Grant Agreement and Sub-Agreement.

Background: On February 13, 2007 the City Council approved the application for the Economic Development Initiative (EDI) special project grant that will provide funds to the Kansas Foodbank Warehouse located in Wichita, Kansas. The project is administered by the U.S. Department of Housing and Urban Development (HUD).

Analysis: The EDI funds will assist the Kansas Foodbank Warehouse with construction costs incurred from building a new central distribution facility located at 1919 E. Douglas.

Financial Considerations: The EDI grant will provide \$297,000 to the Kansas Foodbank Warehouse.

Goal Impact: The Kansas Foodbank Warehouse provides emergency food assistance to a network of organizations that serve thousands of needy families. This service impacts the City’s Core Area and Vibrant Neighborhoods goal, by increasing the sense of community, neighborhood involvement, and satisfaction.

Legal Considerations: The Congressional Record lists the City of Wichita as the recipient for the grant, which requires signatures by the City’s authorized representative on the grant agreement. The EDI Grant Agreement requires a Sub-Grant Agreement between the City and the sub-grantee, Kansas Foodbank Warehouse, Inc.

Recommendations/Actions: It is recommended that the City Council authorize signatures for the Kansas Food Bank EDI Grant Agreement and the Sub-Grant Agreement.

Attachments: Grant Agreement; Assistance Award/Amendment forms and Sub-Grant Agreement Agenda Item No. 15.

City of Wichita
City Council Meeting

SUB-GRANT AGREEMENT

THIS CONTRACT entered into this 1st day of May 2007 by and between the City of Wichita, Kansas (hereinafter called the City) and Kansas Foodbank Warehouse, Inc. (hereinafter called the Sub-Grantee).

WITNESSETH THAT:

WHEREAS, the City has entered into a Grant Agreement between the Department of Housing and Urban Development (HUD) and made pursuant to the authority of Public Law 109-115 (Department of Housing and Urban Development Appropriation Act of 2006) and a listing of certain specific Economic Development Initiative Special Projects specified in the Congressional Record of November 8, 2005; and

WHEREAS, the cooperation of the City and the Sub-Grantee is essential for the successful implementation of a new warehouse and distribution center;

NOW, THEREFORE, the grant funds must be made available in accordance with the following, and the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Sub-Grantee, assuming responsibility for the implementation of actual operation of a certain project herein specified in Exhibit B, shall perform services in a satisfactory and proper manner as determined by the FY 2006 EDI-Special Project NO. B-06-SP-KS-0362 Grant Agreement between HUD and City that states the following requirements outlined in this Sub-Grant Agreement.

SECTION 2. TIME OF PERFORMANCE. The services of the Sub-Grantee are to commence as soon as practicable on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Sub-Grant Agreement through a period of twelve months (12) months ending no later than April 30, 2008, unless otherwise extended by the parties.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. **Establishment and Maintenance of Records.** The Sub-Grantee shall establish and maintain records as prescribed by the Department of Housing and Urban Development, hereinafter referred to as HUD, and/or the City, with respect to all matters covered by this Sub-Grant Agreement. Except as otherwise authorized by HUD and/or the City, the Sub-Grantee shall retain such records for a period of five years after receipt of the final payment under this Sub-Grant Agreement or termination of this Sub-Grant Agreement.

B. **Documentation of Costs.** All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper

detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Sub-Grant Agreement shall be clearly identified and readily accessible.

C. Reports and information. The Sub-Grantee, at such times and in such forms as HUD and/or the City may require, shall furnish to HUD and/or the City such statements, records, reports, data and information as HUD and/or City may request pertaining to matters covered by this Sub-Grant Agreement.

D. Audits and Inspections. The Sub-Grantee shall at any time and as often as HUD, City and or Comptroller General of the United States may deem necessary make available to the City for examination all its records and data for the purpose of making audits, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No member, officer or employee of the Sub-Grantee or its designees or agent or public official exercising any functions or responsibilities with respect to the program outlined in this Sub-Grant Agreement shall have any personal financial interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. The Sub-Grantee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purposes of this section.

SECTION 5. EQUAL OPPORTUNITY REQUIREMENTS.

The grant funds must be made available in accordance with the following:

A. For projects involving housing, the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107.

B. The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d)(Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.

C. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against individuals with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.

D. The requirements of 24 CFR 5.105(a) regarding equal opportunity as well as the requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.

E. For those grants funding construction covered by 24 CFR 135, the requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) and stated in the section 3 clause in this Sub-Grant Agreement, which requires that economic opportunities

generated by certain HUD financial assistance shall, to the greatest extent feasible, be given to low-and very low-income persons and to businesses that provide economic opportunities for these persons.

F. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women’s Business Enterprise). Consistent with HUD’s responsibilities under these Orders, the Sub-Grantee must make efforts to encourage the use of minority and women’s businesses enterprises in connection with the grant funded activities. See 24 CFR Part 85.36(e), which describes actions to be taken by the Sub-Grantee to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.

G. Where applicable, Sub-Grantee shall maintain records of its efforts to comply with the requirements cited in Paragraphs E and F above.

SECTION 6. ENVIRONMENTAL REVIEW REQUIREMENTS. The City of Wichita is a unit of general local government, and agrees to assume all of the responsibilities for environmental review and decision-making and actions, as specified and required in regulations issued by the Secretary pursuant to the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR Part 58.

SECTION 7. ADMINISTRATIVE REQUIREMENTS.

Sub-Grantee will comply with the following administrative requirements:

A. Administrative requirements of OMB circular A-1-33 “Audits of states, local governments and non-profit organizations.”

B. For state and local governments, the administrative requirements of 24 CFR Part 85, including the procurement requirements of 24 CFR Part 85.36, and the requirements of OMB Circular A-87 regarding cost principles for state and local governments. For non-profits, the administrative requirements of 24 CFR Part 84, including the procurement requirements of 24 CFR Part 84.40, and OMB Circular A-122 regarding cost principles and non-profit institutions. For institutions of higher education the applicable OMB Circular regarding cost principles is A-21. Cost charges to the grant must be allowable and allowable as specified in the applicable OMB Circular.

C. The regulations at 24 CFR Part 87, related to lobbying, including the requirement that the Sub-Grantee obtain certifications and disclosures from all covered persons.

D. The regulations at 24 CFR Part 21, regarding requirements for Drug-Free Workplace.

E. The Uniform Relocation Act as implemented by regulations at 49 CFR Part 24.

F. The Sub-Grantee will comply with all accessibility requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, where applicable.

G. The regulations at 24 CFR Part 35, where applicable, regarding Lead-Based Paint Poisoning Prevention in Certain Residential Structures.

H. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

I. The Sub-Grantee shall not assign any interest in this Sub-Grant Agreement without prior written consent of the City.

J. The administrative requirements of 24 CFR Part 84 or Part 85 as appropriate and Treasury Circular 1075.

K. Sub-Grantee will provide all necessary certifications and observe all restrictions relating to participation by ineligible, debarred or suspended persons or entities as described in Executive Order 12549 and at 24 CFR Part 5.105(c).

SECTION 8. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Sub-Grantee relative to conducting the operations of the project activities and services as herein described will be carried out and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total payments on behalf of the Sub-Grantee will not exceed \$297,000 as referenced in Exhibit C, Budget Detail, attached.

C. Restriction on disbursements. No Economic Development Initiative funds shall be disbursed to the Sub-Grantee or contractor except pursuant to a written contract which incorporates by reference the general conditions of this contract.

SECTION 9. TERMINATION CLAUSE. Upon breach of the contract by the Sub-Grantee, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within this Sub-Grant Agreement, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this Sub-Grant Agreement.

SECTION 10. AMENDMENTS. The Congressional Record of November 18, 2005 authorizes the specific activities that may be financed with the Economic Development Initiative-Special Project grant. The authorizing language is the following:

“To the City of Wichita, Kansas for construction of food bank central distribution facility”

Therefore, no amendments for the use of funds can be made that go beyond the language of the Congressional Record of November 18, 2005.

SECTION 11. APPENDICES. All exhibits referenced in this contract and all amendments of mutually agreed upon modification made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B Performance Criteria

Exhibit C Budget Detail

Exhibit D Section 3 Clause

Exhibit E HUD Form 60002

Kansas Foodbank Warehouse May 1, 2007
(Date)

SUB-GRANTEE

Don Meiergerd
Board of Directors
Kansas Foodbank Warehouse (Date)

CITY OF WICHITA, KANSAS

Carl Brewer,
Mayor (Date)

ATTEST:

Karen Sublett,
City Clerk (Date)

APPROVED AS TO FORM:

Gary E. Rebenstorf,
City Attorney and Director of Law of the City of Wichita (Date)

Exhibit A
REVISED NON DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex,

disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non Discrimination Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she

or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA

SECTION 1. CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Kansas Foodbank Warehouse, Inc. (a corporation organized in the State of Kansas as NOT FOR PROFIT), hereinafter referred to as the "City" and "Sub-Grantee" respectively, that this Sub-Grant Agreement provides a total of \$297,000 in Economic Development Initiative funds for special projects. The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Act, 2006 (PL 109-115) (the Act), signed into law by President Bush on November 30, 2006, provided the Department of Housing and Urban Development with Economic Development Initiative (EDI) funds for certain special projects specified in the Congressional Record of November 18, 2005. The special project description for this Sub-Grant

Agreement is, “to the City of Wichita for construction of food bank central distribution facility.” The purpose of the project is for construction of a new food bank distribution center to serve the Kansas Foodbank Warehouse network of agencies that help supply hunger relief to Kansans.

SECTION 2. LOCATION AND SITE DESCRIPTION FOR PROJECT

Location and Legal Description

The Economic Development Initiative funds shall be used for construction of a new distribution center to serve the Kansas Foodbank Warehouse located on property owned by the Kansas Foodbank Warehouse, Inc. described as: site is located within the city limits of Wichita, Kansas, just south of Douglas Avenue between Minneapolis and Minnesota Streets. The zip codes for the site and surrounding properties with a 1-mile radius are 67211 and 67213. General description is as follows: the assessment site is located within N1/2, NW1/4, SW1/4 of Section 22, Township 27 South, Range 1 East, Sedgwick County, Kansas.

The real property as described on the warranty deed is as follows: Odd Lots 49, 51, 53, 55, 57, 59, 61 and 63 inclusive and ½ vacated alley on South and adjacent to that part of Lot 59 lying West of the North-South Alley, Douglas Avenue, and Even Lots 2, 4, 6, 8, 10, and 12 and ½ vacated alley adjacent to Lot 2 on the North, Grace now Minneapolis Avenue, all is Black’s Addition, Wichita, Sedgwick County, Kansas, more commonly known as 1925 East Douglas.

Site and Vicinity Characteristics

The property is located at 1925 E. Douglas Avenue and consists of approximately 2.7 acres of property. It is zoned as limited industrial. Surrounding properties to the west are also zoned limited industrial. Properties to the south are zoned multi-family dwellings. According to the Flood Insurance Rate Maps (Firm) published by the Federal Emergency Management Agency (FEMA), the assessment site is located within Flood Zone B (500-year flood plain).

SECTION 3. PROJECT FINANCING

The Executive Director of Kansas Foodbank Warehouse, Inc., under the supervision of the Kansas Foodbank Warehouse, Inc., Board of Directors, will supervise operations and administration on a day-to-day basis.

A. Funding

It is mutual agreed by and between the City and Sub-Grantee that the total EDI funds available for this project will be a \$297,000 grant to be used as set forth in the sections entitled budget and Method of Payment.

B. Budget

The contracted costs for the Kansas Foodbank Warehouse construction project, procured by a bidding process are \$2,692,180. All expenditures incurred by Sub-Grantee that are not within the scope of the HUD definition for “construction of a food bank central distribution facility” and exceed the \$297,000 EDI grant will be the responsibility of the Sub-Grantee. The City shall pay, on behalf of the Sub-Grantee as hereinafter set out, the maximum of \$297,000 for the program described in this contract. Said funds shall be used as follows.

Contractual Services	\$297,000
TOTAL	\$297,000

SECTION 4. METHOD OF PAYMENT

1. The Sub-Grantee agrees payment under this Sub-Grant Agreement shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita.

2. The City and Sub-Grantee understand and agree vendor invoices and contractor application/certificate of payment shall be in the name of Kansas Foodbank Warehouse, Inc. as owner.

3. Billings from the Sub-Grantee for demolition and clearance shall be submitted on standard American Institute of Architects Forms: G702 – Application and Certified of Payment and G703 - Continuation Sheet for Form G702 for contractors. Architect Standard AIA Forms as specified shall be used. For construction change orders, AIA Form 701 will be used. For the purpose of constructing and purchasing furnishings and equipment, AIA Form A175 ID will be used. The Sub-Grantee shall ensure that all change orders have attached to the G701 a break down of material, labor, overhead and profit. After approval by the project architect or engineer and the Sub-Grantee, the AIA forms will be forwarded to the City for approval, and payment. The AIA form must also be approved and signed by the signatory of this contract. Payments will be made directly to the Sub-Grantee.

SECTION 5 DESIGN AND CONSTRUCTION ADMINISTRATION

A. The Sub-Grantee will provide building specifications and solicit competitive bids or proposals from contractors for construction of the warehouse distribution facility. The Sub-Grantee will require in the building specifications that the contractor(s) must be licensed to do business with the City of Wichita and be responsible for all licenses/permits, labor and material necessary to complete the project.

B. The Sub-Grantee will designate a project manager to act as liaison to the City.

C. Conditions Precedent to Construction:

The following matters must be completed before construction begins on the project and related improvements:

1. The Sub-Grantee shall deliver to the City the documents listed below, and any other documents reasonably required prior to the commencement of construction. When necessary, the Sub-Grantee shall also make the requisite filings of such documents with appropriate officials:

a. Construction permit and all other necessary permits for the construction of the project;

b. Copies of any loan agreements;

c. Certificates of insurance evidencing that the Sub-Grantee and all other parties have procured all insurance required by this agreement;

d. A Certificate by the Sub-Grantee that it has examined the land on which the project will be built and made all investigations reasonably necessary for the performance of its duties under this agreement including obtaining the required zoning and environmental, historic preservation reviews and all work must comply with the Secretary of Interior standards of rehabilitation as interpreted by the Kansas State Historic Preservation Office;

e. If the project involves displacement of persons or businesses, the Sub-Grantee shall submit a Relocation Plan in conformance with the Uniform Relocation Assistance Act and obtain prior HUD and City approvals. For demolition of housing units, the Sub-Grantee shall secure approval of a one-for-one replacement-housing plan from HUD and the Metropolitan Area Planning Department prior to the commencement of demolition.

f. The construction budget shall be approved by the City.

g. The development plan (if required) shall be approved by the City.

h. Performance and labor and material bonds as required by local and federal law;

i. Opinions of counsel relative to each of the parties, other than the City, in form and substance acceptable to the City which opine as to each that: it is duly organized and validly existing under the laws of the State of Kansas; it has the requisite power to execute the agreement and the documents under the agreement and to consummate the transactions contemplated thereby; identifies who has the legal authority to sign legal documents on behalf of the Sub-Grantee; the persons executing the agreements are authorized to do so; the execution and delivery of the agreement and related documents contemplated by it will not conflict with the terms, covenants and the provisions of any judgment, order, decree, injunction or ruling of any governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it has party or is bound, or constitutes a material breach thereunder; and is duly authorized and registered to carry on business under the laws of Kansas;

j. Executed copies of the construction contract between the Sub-Grantee and the contractor, and a licensed architect (if any) for the project. Cost plus a percentage of cost contracting shall not be used.

k. Submitted such other documentation including schematic drawings, plans and specifications and renderings of the project as may be reasonably be requested by the City to insure the orderly development of the project;

l. The Sub-Grantee shall take any necessary action to take title to the site and obtain exclusive possession of same (unless City owned property).

m. The Sub-Grantee shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials. If necessary, the Sub-Grantee shall undertake a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Sub-Grantee shall consult with Environmental Health regarding the necessity and scope of the environmental assessment. Depending on the results of such assessment, either party may choose to terminate this agreement because of the anticipated costs of remediation. The Sub-Grantee shall remediate or cause to be remediated all contaminants and hazardous materials shown by such assessment report, or test shown to exist or be present in or under the site or either party may choose to terminate this agreement. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment or the federal Environmental Protection Agency.

o. The Sub-Grantee agrees to forever to indemnify, release, and hold the City harmless from and against all liabilities, claims, judgments, costs, penalties, fines, causes of action, and expenses suffered by, incurred by, or assessed against the City whether incurred by actions of any governmental agency or entity, by any private claimant or by the Sub-Grantee's own actions necessary to remediate the site or as the result of the presence, disturbance, discharge, release, removal, or clean up of any hazardous materials upon the site or under the site.

p. The Sub-Grantee shall provide a proposed schedule of construction, reconstruction or rehabilitation acceptable to the City. Such schedule shall form the basis for the monthly progress reports and such schedule may be amended from time to time by the consent of the City.

q. The City shall give the Sub-Grantee a Notice to Proceed after the preconditions cited in this section have been satisfied.

2. Upon issuance of a Notice to Proceed, the Sub-Grantee will commence construction promptly and will expeditiously pursue completion of the construction, reconstruction and/or rehabilitation with a completion date not later than April 1, 2008.

3. During construction, the Sub-Grantee shall cause demolition, construction, reconstruction or rehabilitation in a workman-like manner, free of any defects, in accordance with the plans and

specifications approved by the City and in accordance with all applicable building codes, laws, regulations, including the Americans With Disabilities Act, the Kansas Act Against Discrimination and all environmental laws, particularly those related to HUD and OSHA standards which require testing and/or abatement of asbestos and/or lead based paint.

4. The Sub-Grantee shall ensure throughout construction that all applicable building permits and contractors and subcontractors licenses are obtained in advance, that such permits and licenses shall not be permitted to expire during the project except when that portion is complete, and shall maintain a current inspection record with the Office of Central Inspection at all times. Failure to comply with this provision shall be grounds for suspending or withholding payment or cancellation of the agreement.

5. To be fully responsible for causing construction and furnishing of the project in a finished condition and under no circumstances require the City to pay directly for any labor, materials ordered by the Sub-Grantee, any specialists, contractors or anyone else supplying labor or material to the project, unless specified in this agreement.

6. To use reasonable efforts to cause, with the City's cooperation, all electric, telephone, and other utility and equipment for the project to be placed underground within public rights of way or utility easements located within the property lines.

7. To obtain all utility permits, certificates of occupancy and all other licenses and permits and easements required for the operation of the project.

8. Provide the City with a monthly written progress report appropriate to keep the City fully apprised of the progress of the project and that reflect all costs paid under the budget for the project during the proceeding month and which also reflect a comparison of the aggregate costs paid for budgeted items through the end of the proceeding month with total budgeted costs for such items.

9. Notify the City of all regular and special project meetings and other similar meetings and permit the City to attend those meetings.

10. Prepare and submit to the City supplements and refinements to the budget for the City's prior approval as the development of the project moves through various phases to final completion.

11. Notify the City promptly of any actual or anticipated change or delay in the project of which the Sub-Grantee becomes aware.

12. Supervise the timely and efficient performance of all specialists and contractors under their respective contracts with the Sub-Grantee to insure that all work is performed timely, safely, and in a professional and workman-like manner.

13. All change orders and costs not in the City approved construction budget require prior City approval. Failure to obtain such prior approval by the Sub-Grantee from the City may cause

such expenses to be denied. All change orders require written justification for the change order, the dollar amount of labor, materials, overhead and profit for the general contractor and any subcontractors and be submitted on AIA Form G701.

14. The City and its agents designated by the City shall, at all times have the right at all reasonable times during the development of the project and construction, reconstruction or rehabilitation of the project, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

15. The Sub-Grantee agrees to provide a project sign throughout the project listing the use of federal Community Development Block Grant funds and the participation of the City of Wichita in the project. The sign shall be professionally constructed and be no smaller than 4 feet by 4 feet, printed on one side, and contain language similar to the following:

“Your Tax Dollars At Work, This Kansas Foodbank Warehouse, Inc. construction project is financed in part by the City of Wichita using Community Development Block Grant (CDBG) funds in partnership with the Kansas Foodbank Warehouse, Inc”.

The language to be used on the sign shall be submitted to the City for prior review and approval before the sign is constructed. The Sub-Grantee or its agent is responsible to obtain all necessary permits to erect the sign.

16. Upon completion of the project, the Sub-Grantee shall maintain the interior and exterior of the building(s) and grounds and secure and continuously maintain fire, hazard and extended insurance covering such building.

17. For the purchase of real property, the Sub-Grantee shall obtain an appraisal and a review appraisal from a certified appraiser prior to the purchase offer being made to the owner. The offer of just compensation shall include notice of rights to relocation benefits in accordance with the Uniform Relocation and Real Properties Acquisition Act. No purchase offer to purchase real property shall exceed the review appraisal amount unless prior written approval of the City is obtained.

SECTION 6. OTHER REQUIREMENTS

A. Administrative

1. Sub-Grantee agrees it is the principal administrative and coordinating agency for this project, contracting and/or subcontracting outside services, as may be necessary, subject to compliance with all applicable local, state and federal laws.

2. The Sub-Grantee agrees it is the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of the contract entered into.

3. The Sub-Grantee will maintain, during the term of this agreement, a filing with the Secretary of the State of Kansas as a not for profit corporation, or shall be designated a 501 (c)(3) tax exempt organization by the Internal Revenue Service. Evidence of such status will be provided to the City upon request.

4. The Sub-Grantee also agrees to pay all taxes and special assessments due and keep said property insured so as to protect the public interest.

B. Procurement

1. The Sub-Grantee shall use its own procurement practices, which comply with applicable state and local laws, rules and regulations so long as those practices do not unduly limit bidding competition. Additionally, procurement made with federal grant funds shall adhere to the standards set forth in OMB Circular A-102 or A-110, including:

a. Maintaining a code or standard of conduct governing the performance of the Sub-Grantee's officers, employees or agents engaged in awarding and administering contracts supported with Federal funds.

b. Advertising of procurement transactions as appropriate without regard to a dollar value in a manner allowing maximum free and open competition. No sole source procurement (obtaining only one bid) is permitted without prior approval for all purchases except small purchase procedures defined in A-102/A-110.

c. Procurement of contractor services (which includes labor and/or materials) costing less than \$10,000, requires securing a minimum of three (3) written bids.

d. Procurements under \$10,000 are expressly prohibited if such purchases are made with the intent of avoiding sealed bids and, as a consequence, restrict maximum free and open procurement competition. Purchases under \$10,000 determined to have been made to avoid written quotes shall not be paid or reimbursed by the City and shall be grounds for termination of this contract.

e. Bids/proposals for equipment, or services (which include labor and materials), expected to cost more than \$10,000 shall be based on specifications prepared by the Sub-Grantee and the architect or engineer. Said specifications shall be detailed to the extent necessary to solicit comparable bids without unduly limiting competitive bidding.

f. The Sub-Grantee may bid equipment separately from installation, with installation to be accomplished by the successful bidder/proposer, or may include provision of equipment within the bid/proposal of bidders/proposers.

g. Bids/proposals expected to cost more than \$10,000 will require formal advertising in the official City newspaper and sealed bids or formal Requests for Proposals.

i) In addition to formal advertising, invitations to bid or requests for proposal shall be mailed to as many licensed contractors as felt necessary to get representative bids/proposals.

ii) If competitive proposals are used, the criteria to be used to evaluate proposals must be clearly defined in the proposal advertisement and instruction to bidders.

2. The following procedural requirements shall apply:

a. Applicable federal and local requirements to be included in bid/proposal specifications will be provided by City staff to the Sub-Grantee.

b. A Pre-bid/proposal conference will be held to explain the Minority Business Participation (MBE), Federal Labor Standards provisions and other requirements.

c. The Sub-Grantee shall advise potential bidders/proposers of Minority Business Participation (MBE) requirements and City requirements regarding Equal Employment Opportunity/Affirmative Action Program (EEO/AAP). The City will provide the appropriate documents and additional information.

i) It is national policy to award a fair share of contracts to small and minority owned businesses. Accordingly, affirmative steps must be taken to assure that small and minority owned businesses are utilized when possible as sources of supplies, services, equipment and construction. Affirmative steps shall include the following:

ii) Include pre-certified small and minority businesses on solicitation lists.

iii) Assure that small and minority owned businesses are solicited when they are potential sources.

iv) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

v) Where requirements permits, establishing delivery schedules, which will encourage small and minority owned businesses.

vi) Use the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

vii) If any subcontracts are to be let, the prime contractor is required to take affirmative steps i through v.

d. The Sub-Grantee will award a contract or contracts on the basis of the lowest and best bid/proposal, price and other factors (evaluative criteria in particular) considered.

e. Procurement files must be maintained for each separate construction element and shall contain at least the following pertinent information: clippings of each advertisement showing name of periodical, dates of publication and opening of bids/proposals; tabulation of all bids/proposals listing names and addresses of all bidders/proposers and the prices submitted by each; efforts made to notify minority contractors and subcontractors of invitation to bid/propose on the project; justification of contractor selection, copy of letter of award to successful bidder(s)/proposer(s), copies of letters of non-award to unsuccessful bidders/proposers, and any other pertinent information.

f. A Pre-construction conference will be held with the successful bidder(s)/proposers to provide and explain more detailed information about Federal and local requirements.

C. Section 3

1. Per City of Wichita Administrative Regulation No. 1.5, Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that, to the greatest extent feasible, employment and other economic opportunities shall be directed to low and very low income persons, and to business concerns which provide economic opportunities to such persons.

2. The Sub-Grantee shall maintain information as indicated on HUD form 60002, attached as Exhibit E, and submit annually to the City by July 30, such information as of June 30.

D. Agreements with Contractors

1. The Sub-Grantee shall execute a fixed fee contract with the contractors. The contractor(s) shall provide specific cost data relative to construction to the Sub-Grantee. Cost plus a percentage of cost contracts are not permitted.

2. Five percent bid bonds, and 100% performance bonds and 100% labor and material bonds are required for any project exceeding \$10,000.

3. The Sub-Grantee agrees to include, in addition to provisions to define a sound and complete agreement, the following provisions and requirements in the bid specifications and the contract(s) with the contractor(s). These provisions shall also apply to subcontractors.

a. Contractual provisions or conditions allowing administrative, contractual or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

b. Provision for termination by Sub-Grantee, including the manner by which it will be effected and the basis for settlement. Such contract shall also describe conditions under which the contract may be terminated because of circumstances beyond the control of the contractor.

c. Provisions requiring compliance with Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

d. Provision for compliance with Section 3 of the Housing and Urban Development Act of 1968, as amended, USC 1701u and set forth in 24 CFR 135.

e. Requirement for the contractor(s) to:

i) be licensed by the City of Wichita

ii) comply with state worker's compensation laws

iii) carry public liability insurance and comprehensive automobile liability insurance in amounts not less than \$500,000.

SECTION 7. RECORDS AND REPORTS

Sub-Grantee records are subject to review by the City to ensure the accuracy and validity of the information submitted to the City and required to be retained by Sub-Grantee.

Exhibit C

BUDGET DETAIL

Fund

Economic Development Initiative Grant (EDI) DEPT./DIVISION
Housing & Community Services PROJECT
Kansas Foodbank Warehouse, Inc. EDI PROJECT NO.
B-06-SP-KS-0362

Account Classification Budget
PERSONAL SERVICES

01 110 Salaries
1100 Bi-Weekly Wages
1101 Longevity
120 Special Salaries
1205 Auto Allowance
TOTAL

CONTRACTUAL SERVICES

02 250 Professional Services
2505 Contractors \$0

\$297,000

TOTAL

COMMODITIES

CAPITAL OUTLAY

04 410 Land
4100 General Land \$297,000

TOTAL \$297,000

GRAND TOTAL \$297.000

Exhibit D

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER I--OFFICE OF ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY,
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 135--ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME
PERSONS--Table of Contents

Subpart B--Economic Opportunities for Section 3 Residents and Section 3
Business Concerns

Sec. 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding

that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Section 3 Summary Report
Economic Opportunities for
Low- and Very Low-Income Persons
U.S. Department of Housing
And Urban Development
Office of Fair Housing
And Equal Opportunity EXIHIBIT E

OMB Approval No. 2529-0043 (exp. 4/30/2001)
HUD Field Office:
KANSAS CITY, KS

Seeback of page for Public Reporting Burden Statement
1. Recipient Name & Address: (street, city, state, zip)

City of Wichita
332 N. Riverview

Wichita, Kansas 67203

2. Federal Identification: (contract/award no.)

B-06-SP-KS-0362 3. Dollar Amount of Award:

\$279,000

4. Contact Person:

Mary K. Vaughn, Director 5. Phone: (include area code)

316-462-3700

6. Reporting Period:

Fiscal Year 2006 7. Date Report Submitted:

9/15/2007

8. Program Code: * 777

(Use a separate sheet for each program code)

9. Program Name: Economic Development Initiative Grant Special Project
Part I: Employment and Training (**Include New Hires in columns E & F.)

A

Job Category B

Number of New Hires

C

Number of New Hires that are

Sec. 3 Residents D

% of Aggregate Number

of Staff Hours of New Hires that are Sec. 3 Residents E**

% of Total Staff Hours for Section 3 Employees and Trainees F**

Number of Section 3 Employees
and Trainees

Professionals

Technicians

Office/Clerical

Construction by Trade (List) Trade Laborers 33 33 100 0 33

Trade Concrete Finishers

Trade

Trade

Trade

Other (List)

Total

*Program Codes

- 1 = Flexible Subsidy
- 2 = Section 202/811 3 = Public/Indian Housing
 - A = Development
 - B = Operation
 - C = Modernization
- 4 = Homeless Assistance
- 5 = HOME
- 6 = HOME-State Administered
- 7 = CDBG-Entitlement 8 = CDBG-State Administered
- 9 = Other CD Programs
- 10 = Other Housing Programs

Page 1 of 2 Form HUD-60002 (4/98)

Ref 24 CFR 135

Part II: Contracts Awarded

1. Construction Contracts:

- A. Total dollar amount of all contracts awarded on the project \$ 2,692,180
- B. Total dollar amount of contracts awarded to Section 3 businesses \$ 967,842
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses

64.1%

- D. Total number of Section 3 businesses receiving contracts 7

2. Non-Construction Contracts:

- A. Total dollar amount of all non-construction contracts awarded on the project/activity
\$
- B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
\$
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses %
- D. Total number of Section 3 businesses receiving non-construction contracts

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

X Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.

X Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.

X Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.

Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.

Other; describe below.

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a data base and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Page 2 of 2 Form HUD-60002 (4/98)

Ref 24 CFR 135

Form HUD-60002, Section 3 Summary Report, Economic Opportunities for Low-and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low-and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any public and Indian Housing programs that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of \$200,000 expended for: (1) housing rehabilitation (including reduction and abatement

of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to contracts and subcontracts in excess of \$100,000 awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts which are to be completed for all programs covered by Section 3. Part I relates to employment and training, The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F) or the number of new hires utilized on the Section 3 covered project (columns B, C, and F). Part II of the form relates to contracting, and Part III summarizes recipients' efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low-and very low-income persons.* A recipient of Section 3 covered assistance shall submit two copies of this report to the local HUD Field Office. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. Only Prime Recipients are required to report to HUD. The Report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.

HUD Field Office: Enter the Field Office name forwarding the Section 3 report.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
6. Date Report Submitted: Enter the appropriate date.
8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name; Enter the name of the HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: Enter the number of new hires for each category of workers identified in Column A in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of the Section 3 covered assistance.

Column C: Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: Enter the number of Section 3 residents that were employed and trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/ program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts – Self-explanatory

Submit two (2) copies of this report to the to the HUD Field Office of Fair Housing and Equal Opportunity, Program Operations and Compliance Center Director, at the same time the performance report is submitted to the program office. For those programs where such a report is not required, the Section 3 report is submitted by January 10. Include only contracts executed during the reporting period specified in item 8. PHAs/Has are to report all contracts/subcontracts.

* The terms “low-income persons” and “very low-income persons” have the same meanings given the terms in section 3 (b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower that 80 per centum of the median for the area on the basis of the Secretary’s findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower that 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

Page i Form HUD-60002 (4/98)
Ref 24 CFR 135

Agenda Item No. 16.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0350

TO: Mayor and City Council

SUBJECT: Beverage Service Contract Amendment & Extension

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve Beverage Service Contract Amendment and Extension Agreement.

Background: The City of Wichita's Department of Park and Recreation has enjoyed the benefits of the marketing and sponsorship partnership with Pepsi-Cola over the several years. In addition to providing a wide range of beverage services at various parks, recreation locations and special events, the company has provided additional funding to sponsor other activities as well.

The current beverage service contract includes vending machine sales and fountain drink sales at Parks and Recreation municipal swimming pools, neighborhood recreation centers, Ralph Wulz Riverside Tennis Center, Watson Park, and various other athletic fields, and special events sponsored by the City of Wichita Department of Park and Recreation. Additionally, Pepsi's value-added partnership agreement included equipment support, marketing programs, youth sports sponsorship and staff development training.

The Park and Recreation Department and Pepsi-Cola desire to extend the term of the Beverage Service Contract Agreement for (90) ninety days. The basic terms of the service contract will remain the same for the ninety-day extension period as agreed in the attached amended agreement.

Analysis: The City of Wichita's Department of Park and Recreation staff is conducting research on expanding the drink selection choices for our customers by adding fruit and health drink choices that vendors can provide and address the on-going concerns of healthier drink choices. In addition to the research being performed, staff has recognized the decrease in revenues being generated from this service and is looking for alternative products that could increase funding that continues to supplement resources for recreation services, sporting and special events, special equipment needs and staff conferences/training. The 90-day extension requested will be ample time to complete the Request For Proposal (RFP) and award a service agreement that would better benefit the beverage contractor and the City of Wichita.

Financial Considerations: Revenue sale compensation will be in the agreed terms as that provided in the revised terms of the Beverage Service Agreement.

Goal Impact: This Extension will enhance Quality of Life by ensuring that citizens receive a positive return on all their Quality of Life Investments.

Legal Considerations: The City Attorney has approved the amendment and extension of the Beverage Service Agreement as to form.

Recommendations/Actions: It is recommended that the City Council approve the amendment and extension of the Beverage Service Agreement and authorize the necessary signatures.

Attachment: Extended Beverage Service Agreement

Agenda Item No. 18.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0351

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
814 West Clark – District III
1021 North Spruce – District I

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action.

Background: These properties were before the Board of Code Standards and Appeals (BCSA) on February 5, 2007. No-one appeared to represent the properties, repairs had not been made to the properties, and the BCSA recommended ten (10) days to start and an additional ten (10) days to complete demolition .

These cases were before the City Council on April 10, 2007. Council voted to defer the hearing on these two (2) properties until April 17, 2007.

Analysis: Staff has had contact with owners of both properties, and both agreed to the one week deferral.

Taxes: As of April 11, 2007, the 2006 taxes were delinquent for 814 West Clark in the amount of \$427.11, there are no special assessments. The 2006 taxes are due for 1021 North Spruce in the amount of 717.83 which does not include special assessments for weed mowing and lot cleanup in the amount of \$1,302.70.

Legal Considerations: The owners of both properties have been informed of the date and time of the hearing.

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

including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) any delinquent taxes and/or specials are paid within fourteen (14) days; (2) the structures are maintained secure as of April 17, 2007 and are kept secured during renovation; and (3) the premises are kept clean and free of debris as of April 17, 2007, and will be so maintained during renovation.

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

Agenda Item No. 19.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0352

TO: Mayor and City Council

SUBJECT: Neighborhood Revitalization Areas and Local Investment Areas (Districts I, III, IV, VI).

INITIATED BY: Housing & Community Services Department

AGENDA: New Business

Recommendation: Close the public hearing, and receive any written comments, approve the Neighborhood Revitalization Plan as a substantial amendment to the 2004-2008 City of Wichita Consolidated Plan, and place on first reading the ordinance adopting the Plan, designating the Neighborhood Revitalization Area, approving the Interlocal Agreement and authorizing necessary signatures.

Background: On November 14, 2006 the City council approved the recommended boundaries for the Neighborhood Revitalization Areas and the Local Investment Areas and authorized staff to develop the required Neighborhood Revitalization Plan.

Analysis: The Neighborhood Revitalization Plan addresses the legal requirements for implementation of the State Neighborhood Revitalization Act and the HUD Neighborhood Revitalization Strategy Areas. The Neighborhood Revitalization Plan utilizes authority that cities in Kansas have under State law to provide tax rebates to property owners in designated Neighborhood Revitalization Areas as an incentive for improving private property. The Plan also focuses Community Development Block Grant (CDBG) and HOME funding in Local Investment Areas to provide a significant visual impact on specific areas and provide an incentive for private investment.

Financial Considerations: The Neighborhood Revitalization Plan documents the policy and procedure for the Kansas Tax Rebate program that provides incentives for rehabilitation and new construction projects located in the NRA boundaries. Since 1999 approximately \$400,000 has been rebated back to property owners for projects located in the NRA.

Goal Impact: The Neighborhood Revitalization Plan addresses the indicators for the Support Dynamic Core Area and Vibrant Neighborhoods goal.

Legal Considerations: The attached ordinance and interlocal agreement was drafted by the Department of Housing and Community Services and approved by the Law Department. The ordinance implements the Neighborhood Revitalization Plan in accordance with the requirements of K.S.A. 12-17, 114 et seq. The interlocal agreement allows Unified School District 259 and the Board of County Commissioners of Sedgwick County and the City to jointly approve of the implementation of the Kansas Tax Rebate Program as a economic development incentive. The HUD requirements for the strategic plan described within the Neighborhood Revitalization Plan was developed according to 24 CFR 91.215 and HUD Notice CPD96-01.

Page 2

Recommendations/Actions: It is recommended that the City Council close the public hearing, receive any written comments, and: (1) approve the Neighborhood Revitalization Plan as a substantial amendment to the 2004-2008 City of Wichita Consolidated Plan and place the ordinance on first reading; (2) request the support and participation from Sedgwick County and Unified School District #259 and authorize the Interlocal Agreements necessary to implement the Kansas Tax Rebate Program and; (3) authorize necessary signatures.

Attachments: Neighborhood Revitalization Plan
Ordinance
Interlocal Agreement

Agenda Item No. 20.

revised

City of Wichita

City Council Meeting

April 17, 2007

Agenda Report No. 07-0353

TO: Mayor and City Council

SUBJECT: Comprehensive Compliance Report

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Receive and file the report.

Background: The City of Wichita provides various financial incentives to attract and encourage business expansions. These include Industrial Revenue Bond (IRB) financing, Economic Development Tax Exemptions (EDX), CDBG loans and grants, and HOME funding. Monitoring is performed to ensure compliance with conditions associated with issuance of revenue bonds, tax exemption approval, CDBG funding, and HOME funding. The attached Comprehensive Compliance Report provides an analysis of the current status of compliance relative to participating businesses and agencies for the years 1996 through 2006.

Analysis: The Comprehensive Compliance Report reflects specific compliance conditions and current status of projects receiving City assistance through IRB, EDX, CDBG and HOME programs. During 2006, ten IRBs were issued, eight EDX approvals, 175 CDBG contracts were awarded, and no new HOME-funded multi-family projects were completed.

As a requirement of the City's Economic Development Incentive Policy, there are a number of conditions that must be met before City Council approval. Compliance criteria for IRB and EDX include advertising for minority contractors, submittal of water conservation measures and an environmental assessment, and having site plans reviewed by a design council if building construction is involved. There are also a number of compliance conditions that are required on an ongoing basis such as submittal of an Equal Employment Opportunity/Affirmation Action Plan, paying an annual administrative service fee, job creation, and capital investment. For example, in 2006, all IRB and EDX companies are in compliance with the requirement to have an EEO/AA plan on file. 100 percent of all companies are in compliance with the IRB administrative fee requirement. As a result of the IRB and EDX projects that were approved in 2006, 237 new jobs will be created within 5 years and Wichita businesses report a capital investment of over \$412.7 million. This compares to 1022 jobs created and \$231.3 capital investment in 2005. (InfoNXX created 944 jobs that year).

In order for projects to be approved for CDBG funding, the project must benefit low or moderate-income persons, or eliminate slum or blighting condition. The 2006 Comprehensive Compliance Report reflects 175 CDBG contracts were awarded with a total value of \$3.5 million. The percentage of minority contractor participation is 42%.

Developer/Project owners requesting HOME funding for residential apartment projects must contractually agree to maintain a certain number of affordable apartment units for income-qualified individuals/families. These units must be offered at rents that comply with HOME program regulations for a predetermined period of time (affordability period), which is based on the amount of HOME funds invested and project type. In addition, apartment units must be maintained in compliance with local housing standards during the affordability period. The Comprehensive Compliance Report reflects nine HOME funded projects valued at \$3.4 million, since 1994. There were no new HOME-funded multi-family projects completed during 2006. All projects are in compliance with affordability requirements.

Conditions of compliance are monitored regularly by City associates through annual on-site monitoring visits, contractor and subcontractor interviews, required annual monitoring surveys, annual recertifications, review of certain contractor and subcontractor payrolls, and review of required submittals. Businesses and agencies not in compliance are notified and required to work with City associates for the purpose of full compliance with all conditions.

Financial Considerations: There are no financial considerations.

Goal Impact: Economic Vitality and Affordable Living. Providing low-cost financing will encourage businesses to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the City Council receive and file the Comprehensive Compliance Report.

Attachments: Comprehensive Compliance Report.

Agenda Item No. 21.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0354

TO: Mayor and City Council Members

SUBJECT: 29th St. North Improvement, between 119th St. West and Maize (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the revised project budget.

Background: On March 8, 2005, the City Council approved a project to improve 29th St. North, between 119th St. West and Maize. A substantial amount of right-of-way has been acquired for the project. As a result, additional City funding is needed. An amending Ordinance has been prepared to revise the project budget.

Analysis: This project will reconstruct 29th St. North to provide four through lanes and a median for left turn lanes. A new storm water sewer will be constructed, as well as sidewalk on both sides of 29th.

Financial Considerations: The current budget is \$3,500,000, with \$850,000 paid by the City and \$2,650,000 by Federal Grants administered by the Kansas Department of Transportation (KDOT). The funding source for the City share is General Obligation Bonds. The proposed revised budget is \$5,441,000, with \$2,291,000 paid by the City (\$2,200,000 GO/\$91,000 SA) and \$3,150,000 paid by Federal Grants. In addition to the higher than expected right-of-way cost, additional City Funding is needed because KDOT is not participating in a large part of the cost of storm sewer construction. The increased City funding will need to be programmed in the Capital Improvement Program, thus possibly impacting future project scheduling.

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

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

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

Attachments: Map, CIP Sheet and Ordinance.

132019-BID#37484

Published in the Wichita Eagle on

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 46-557 OF THE CITY OF WICHITA, KANSAS DECLARING 29TH ST. NORTH, BETWEEN 119TH ST. WEST AND MAIZE (472-84185) TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

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

SECTION 1. SECTION 3 of Ordinance 46-557 is hereby amended to read as follows:

“SECTION 3. The costs of the construction of the above described improvements is estimated to be Five Million Two Hundred Fifty Thousand Dollars (\$5,250,000) exclusive of the cost of interest on borrowed money, with \$2,100,000 paid by the City of Wichita and \$3,150,000 paid by Federal Transportation Grants. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.”

SECTION 2. The original of SECTION 3 of Ordinance No. 46-557 is hereby repealed.

SECTION 3. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2007

Signed by the Mayor

Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

Agenda Item No. 21a.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0362

TO: Mayor and City Council
SUBJECT: Sunday Liquor Sales
INITIATED BY: City Council
AGENDA: New Business

Recommendation: Approve the ordinances.

Background: In 2005, the Kansas Legislature enacted a law giving local cities and counties the option to allow the sale of cereal malt beverage (beer) or alcoholic liquor at retail on Sundays. (The law applied to sales at retail in the original packages and does not affect the sale by the drink or consumption on the premises.) Sunday sales may be authorized in Wichita in one of two ways: The adoption of an ordinance by the City Council or the submission of a petition by voters calling for a special election. The City Council cannot submit the question to an election on its own motion, but if the City Council adopts an ordinance authorizing Sunday sales, it would be submitted to a referendum vote if required by a sufficient number of petitions.

The City of Wichita currently has local ordinances that also prohibit the retail sale of alcoholic beverages on Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The days and times of sale and are otherwise set by the State Liquor Control Act. The City also currently has local ordinances that prohibit the retail sale of cereal malt beverages on Sundays. To opt into and adopt the provisions of the new State law, these local ordinances will also need to be amended.

Analysis: The first ordinance submitted for consideration provides for the City of Wichita to opt into the provisions of the State law expanding the days that retail sale of packaged cereal malt beverage and alcoholic liquor are allowed. Cereal malt beverages could be sold in the original package on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 pm. Alcoholic liquor could be sold in the original package on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 pm; sale will also be allowed on Memorial Day, Independence Day, and Labor Day. This ordinance will allow (but not require) retail stores and liquor stores to open and sell these products at any or all of these additional dates and times.

The Sunday sales ordinance will go into effect on the 61st day after passage and two publications, unless there is a petition submitted asking for a referendum on the ordinance. If, within 60 days of publication, a petition is signed by a number of voters not less than 5% of those voting for President in 2004, the City Council shall call a special election to submit the question of Sunday sales to the voters.

The second ordinance submitted is a simple ordinance that amends current City ordinances (Sec. 4.04.020 and 4.12.110) to conform to the provisions adopted in the first ordinance. This ordinance does not become effective unless and until the first ordinance becomes law. Other provisions on date and times of sales remain the same (including continued prohibition of retail sale of alcoholic liquor on Easter Day, Thanksgiving Day, and Christmas Day).

Financial Considerations: There is no direct financial impact of expanding the dates of sale of alcoholic liquor and cereal malt beverages, unless a sufficient petition is filed requesting a special election. The City would pay for the cost of an election. There may be indirect impacts on alcoholic liquor tax income at the State level, which may indirectly affect local distribution of taxes.

Goal Impact: Economic Vitality. These ordinances may provide increased opportunities to remain competitive to local businesses.

Legal Considerations: The ordinances have been prepared and approved as to form by the Law Department. They are consistent with the requirements of State law to expand the dates of sale. The Sunday sales ordinance must be adopted in the same manner as a charter ordinance, requiring a 2/3 vote of the Council.

Recommendations/Actions: Approve first reading of the ordinances.

Attachment:

Sunday sales ordinance

Delineated ordinance amending current ordinances(Published in The Wichita Eagle on _____ and _____)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WICHITA TO EXPAND THE DAYS OF SALE OF CEREAL MALT BEVERAGE IN THE ORIGINAL PACKAGE AND THE DAYS OF SALE AT RETAIL OF ALCOHOLIC LIQUOR IN THE ORIGINAL PACKAGE

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

Section 1. Pursuant to K.S.A. 41-2911, as may be amended, the sale at retail of cereal malt beverage in the original package is allowed within the City of Wichita on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m.

Section 2. Pursuant to K.S.A. 41-2911, as may be amended, the sale at retail of alcoholic liquor in the original package is allowed within the City of Wichita on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 p.m., and on Memorial Day, Independence Day and Labor Day.

Section 3. This ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

Section 4. This ordinance shall be take effect sixty-one days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the ordinance as provided in K.S.A. 41-2911, as may be amended, in which case the ordinance shall become effective upon approval by a majority of the electors voting thereon.

PASSED by the governing body of the City of Wichita, Kansas, not less than two-thirds of the members elect voting in favor thereof this date _____ 2004.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

DELINEATED
(First published in The Wichita Eagle, _____)

Ordinance No.. _____

AN ORDINANCE OF THE CITY OF WICHITA PERTAINING TO DATE AND TIME OF SALE OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE, AMENDING

SECTIONS 4.04.020 AND 4.12.010 OF THE CODE OF THE CITY OF WICHITA, AND REPEALING THE ORIGINALS OF SAID SECTIONS

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

Section 1. Section 4.04.020 of the Code of the City of Wichita is hereby amended to read as follows:

Section 4.04.020 Certain sales, etc. at retail prohibited.

(a) No alcoholic liquor shall be sold by any person at retail within the corporate limits of the city unless such person shall be licensed therefor under the provisions of this title and the State Liquor Control Act.

(b) No person shall sell at retail any alcoholic liquor within the corporate limits of the city:

(1) At or from premises located in areas zoned for more restricted or higher use than "NR" -- neighborhood retail, under Title 28 of this code;

(2) At or from premises located within two hundred feet of any public or parochial school, college or church; provided, that if any school, college or church shall be established within two hundred feet of any retail premises licensed under the provisions of the State Liquor Control Act and of this title after such premises have been licensed, then such premises shall be an eligible location for retailing licensing;

(3) At or from premises which do not conform to Title 18 of this code, relative to the building code of the city;

(4) On the first day of the week, commonly called Sunday;

(5) On Memorial Day, Independence Day, Labor Day, Easter Day, Thanksgiving Day and Christmas Day.

(c) Violation of subsection (a) or (b) of this section is a misdemeanor. Upon a first conviction of a violation of subsection (a) or (b) of this section, a person shall be sentenced to a fine of not less than one hundred dollars nor more than five hundred dollars; provided, however, for a second conviction the fine shall not be less than two hundred dollars nor more than five hundred dollars and for a third and subsequent conviction the fine shall not be less than five hundred dollars nor more than one thousand dollars.

SECTION 2. Section 4.12.110 of the Code of the City of Wichita is hereby amended to read as follows:

Section 4.12.110 Hours of sale--Possession during excluded hours--Prohibited sales.

(a) No cereal malt beverages may be sold, nor the premises on which a tavern is located be open or in use:

(1) Between the hours of twelve midnight and six a.m.; or

(2) On Sunday, except as may be authorized by Ordinance No. _____ for sale at retail of cereal malt beverage in the original package, and except in a place of business or special event which is licensed to sell cereal malt beverages for consumption on the premises and which derives not less than thirty percent of its gross receipts from the sale of food for consumption on the premises;

(3) Nor shall any person, during excluded hours, except the operator of the place of business or tavern, have in his possession in such place of business or tavern, cereal malt beverages.

(b) Nothing in subsection (a)(2) of this section shall be construed to permit taverns to be open on Sunday.

(c) Nothing in subsection (a)(2) of this section shall be construed to permit the sale of cereal malt beverages for consumption off the premises on Sunday by any license holder.

(d) No retailer, or employee or agent of a retailer, licensed to sell cereal malt beverages for consumption on the premises shall:

(1) Offer or serve any free drink to any person;

(2) Offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee;

(3) Sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price;

(4) Sell, offer to sell or serve any drink to any person on any one day at a price less than that charged the general public on that day;

(5) Increase the size of cereal malt beverage without increasing proportionally the price regularly charged for the drink on that day;

(6) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;

(7) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subdivisions (b)(1) through (6) of this subsection;

(8) Sell, offer to sell or serve any drink of cereal malt beverage for consumption off the premises;

(9) Knowingly allow or permit any person to remove a drink of cereal malt beverage or alcoholic liquor from the licensed premises.

(e) Nothing in subsection (d) shall be construed to prohibit a retailer from offering free food or entertainment at any time.

(f) Violation of any provision of this section is a misdemeanor and punishable by a fine of not more than five hundred dollars or imprisonment not to exceed one year or by both such fine and imprisonment.

(g) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by this title.

(h) As used in this section, "drink" means an individual serving of cereal malt beverage.

SECTION 3. The originals of Section 4.04.020 and 4.12.110 of the Code of the City of Wichita are hereby repealed.

SECTION 4. This ordinance shall be effective upon its passage and publication once in the official city newspaper, upon the effective date of Ordinance No. _____.

PASSED AND ADOPTED BY THE GOVERNING BODY, this day

_____.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney

(First published in The Wichita Eagle, _____)

Ordinance No.. _____

AN ORDINANCE OF THE CITY OF WICHITA PERTAINING TO DATE AND TIME OF SALE OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE, AMENDING SECTIONS 4.04.020 AND 4.12.010 OF THE CODE OF THE CITY OF WICHITA, AND REPEALING THE ORIGINALS OF SAID SECTIONS

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

Section 1. Section 4.04.020 of the Code of the City of Wichita is hereby amended to read as follows:

Section 4.04.020 Certain sales, etc. at retail prohibited.

(a) No alcoholic liquor shall be sold by any person at retail within the corporate limits of the city unless such person shall be licensed therefor under the provisions of this title and the State Liquor Control Act.

(b) No person shall sell at retail any alcoholic liquor within the corporate limits of the city:

(6) At or from premises located in areas zoned for more restricted or higher use than "NR" -- neighborhood retail, under Title 28 of this code;

(7) At or from premises located within two hundred feet of any public or parochial school, college or church; provided, that if any school, college or church shall be established within two hundred feet of any retail premises licensed under the provisions of the State Liquor Control Act and of this title after such premises have been licensed, then such premises shall be an eligible location for retailing licensing;

(8) At or from premises which do not conform to Title 18 of this code, relative to the building code of the city;

(9) On Easter Day, Thanksgiving Day and Christmas Day.

(c) Violation of subsection (a) or (b) of this section is a misdemeanor. Upon a first conviction of a violation of subsection (a) or (b) of this section, a person shall be sentenced to a fine of not less than one hundred dollars nor more than five hundred dollars; provided, however, for a second conviction the fine shall not be less than two hundred dollars nor more than five hundred dollars and for a third and subsequent conviction the fine shall not be less than five hundred dollars nor more than one thousand dollars.

SECTION 2. Section 4.12.110 of the Code of the City of Wichita is hereby amended to read as follows:

Section 4.12.110 Hours of sale--Possession during excluded hours--Prohibited sales.

(a) No cereal malt beverages may be sold, nor the premises on which a tavern is located be open or in use:

(4) Between the hours of twelve midnight and six a.m.; or

(5) On Sunday, except as may be authorized by Ordinance No. _____ for sale at retail of cereal malt beverage in the original package, and except in a place of business or special event which is licensed to sell cereal malt beverages for consumption on the premises and which derives not less than thirty percent of its gross receipts from the sale of food for consumption on the premises;

(6) Nor shall any person, during excluded hours, except the operator of the place of business or tavern, have in his possession in such place of business or tavern, cereal malt beverages.

(b) Nothing in subsection (a)(2) of this section shall be construed to permit taverns to be open on Sunday.

(c) Nothing in subsection (a)(2) of this section shall be construed to permit the sale of cereal malt beverages for consumption off the premises on Sunday by any license holder.

(d) No retailer, or employee or agent of a retailer, licensed to sell cereal malt beverages for consumption on the premises shall:

(7) Offer or serve any free drink to any person;

(8) Offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee;

(9) Sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price;

(10) Sell, offer to sell or serve any drink to any person on any one day at a price less than that charged the general public on that day;

(11) Increase the size of cereal malt beverage without increasing proportionally the price regularly charged for the drink on that day;

(12) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;

(7) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subdivisions (b)(1) through (6) of this subsection;

(10) Sell, offer to sell or serve any drink of cereal malt beverage for consumption off the premises;

(11) Knowingly allow or permit any person to remove a drink of cereal malt beverage or alcoholic liquor from the licensed premises.

(e) Nothing in subsection (d) shall be construed to prohibit a retailer from offering free food or entertainment at any time.

(f) Violation of any provision of this section is a misdemeanor and punishable by a fine of not more than five hundred dollars or imprisonment not to exceed one year or by both such fine and imprisonment.

(g) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by this title.

(h) As used in this section, "drink" means an individual serving of cereal malt beverage.

SECTION 3. The originals of Section 4.04.020 and 4.12.110 of the Code of the City of Wichita are hereby repealed.

SECTION 4. This ordinance shall be effective upon its passage and publication once in the official city newspaper, upon the effective date of Ordinance No. _____.

PASSED AND ADOPTED BY THE GOVERNING BODY, this day

_____.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. 22.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0355

TO: Mayor and City Council

SUBJECT: CUP2007-00007 and ZON2007-00004 DP-8 University Gardens
Community Unit Plan – Amendment #11 to alter allowed uses, maximum
building coverage, gross floor area, the number of buildings allowed and
zone change to LC Limited Commercial on Parcel 9. (District I)

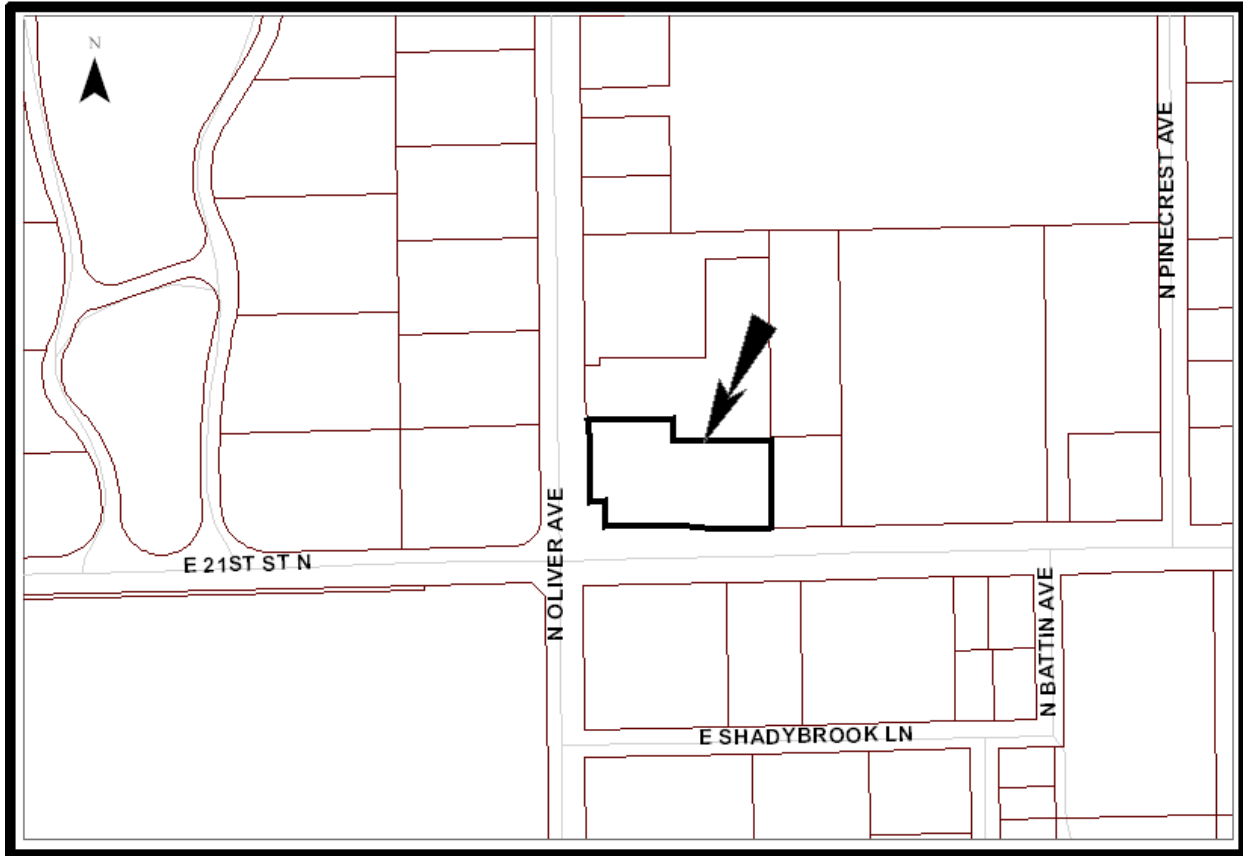
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve (12-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Approve rezone (7-0); Recommend meeting with the Northeast
Heights and Crestview Heights Neighborhood Associations in regards to proposed uses.



Background: The applicant is requesting to rezone a 1.8 acre tract from “SF-5” Single-family Residential to “LC” Limited Commercial and to amend DP-9 University Gardens Community Unit Plan. The amendment would change the provisions for maximum building height, maximum land coverage, maximum gross floor area, floor area ratio, proposed general uses and the maximum number of buildings allowed on Parcel 9, located on the northeast corner of 21st Street North and Oliver Avenue.

The subject property is an isolated strip of SF-5 land located between Oliver and other land within the parcel that is already zoned LC. Prior to the current code’s landscaping and buffering requirements, it was a common practice to leave a narrow strip of land zoned SF-5 adjacent to LC zoned land to provide a buffer between the applicants property and adjacent property. The practice left an owner with a split-zoned tract. With the adoption of landscaping and supplemental development requirements, split zoning is not used much anymore.

The applicant proposes to change the maximum building height from 30 feet to 45 feet, the maximum land coverage from 3,000 square feet to 15,000 square feet, maximum gross floor area

from 6,000 square feet to 27,000 square feet, floor area ratio from 7.6% to 35% and the maximum number of buildings allowed from 1 to 3 buildings. The applicant also proposes to add the following uses to the General Uses: Office, General; Bank or Financial Institution, Retail, General; Restaurant, Convenience Store, Printing and Copying, Limited; College and University and a Vocational School.

The restaurant use, including fast food restaurants with a drive-thru, and convenience store, would be limited to access on 21st Street North only and would require increased screening and landscaping along North Oliver Avenue.

The surrounding area to the south and west includes a golf course, church and single-family residences on property zoned SF-5. The area to the south and east includes offices, a fast food restaurant and strip store on property zoned LC. The property to the north and east includes storage units, a retail store on property zoned LC and vacant SF-5 zoned property.

New buildings would have uniform architectural compatibility to the new development occurring directly to the east of the subject site, Parcel 10, in terms of character, color, texture and materials, and exterior walls facing residential would not be metal siding. The parcel would share a similar landscape palette as the development just east of the subject site. A site plan would be required to assure internal cross lot circulation, joint access and smooth traffic flow.

Analysis: District Advisory Board I was initially scheduled to hear this request on March 7, 2007, however the applicant was not present, and the DAB asked for the case to be returned to the April hearing. At the MAPC meeting held March 15, 2007, MAPC voted (12-0) to approve the CUP amendment and zone change. At District Advisory Board I on April 2, 2007, the DAB voted (7-0) to approve the zone change for the property, but the DAB recommended the applicant meet with the Northeast Heights and Crestview Heights Neighborhood Associations in regards to two uses proposed in the CUP amendment (Restaurant and Convenience Store uses). No protests have been received on the rezone.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

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

Recommendation/Actions:

1. Concur with the findings of the MAPC, approve the amendment and zone change to the CUP DP-8, Parcel 9, and approve the first reading of the ordinance establishing the zone change;
or

2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

Agenda Item No. 23.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0356

TO: Mayor and City Council

SUBJECT: PUD2006-03 – Create PUD #23 Firepoint Planned Unit Development.
Generally located north of K-96 and west of Webb Road along Toben
Street North. (District II)

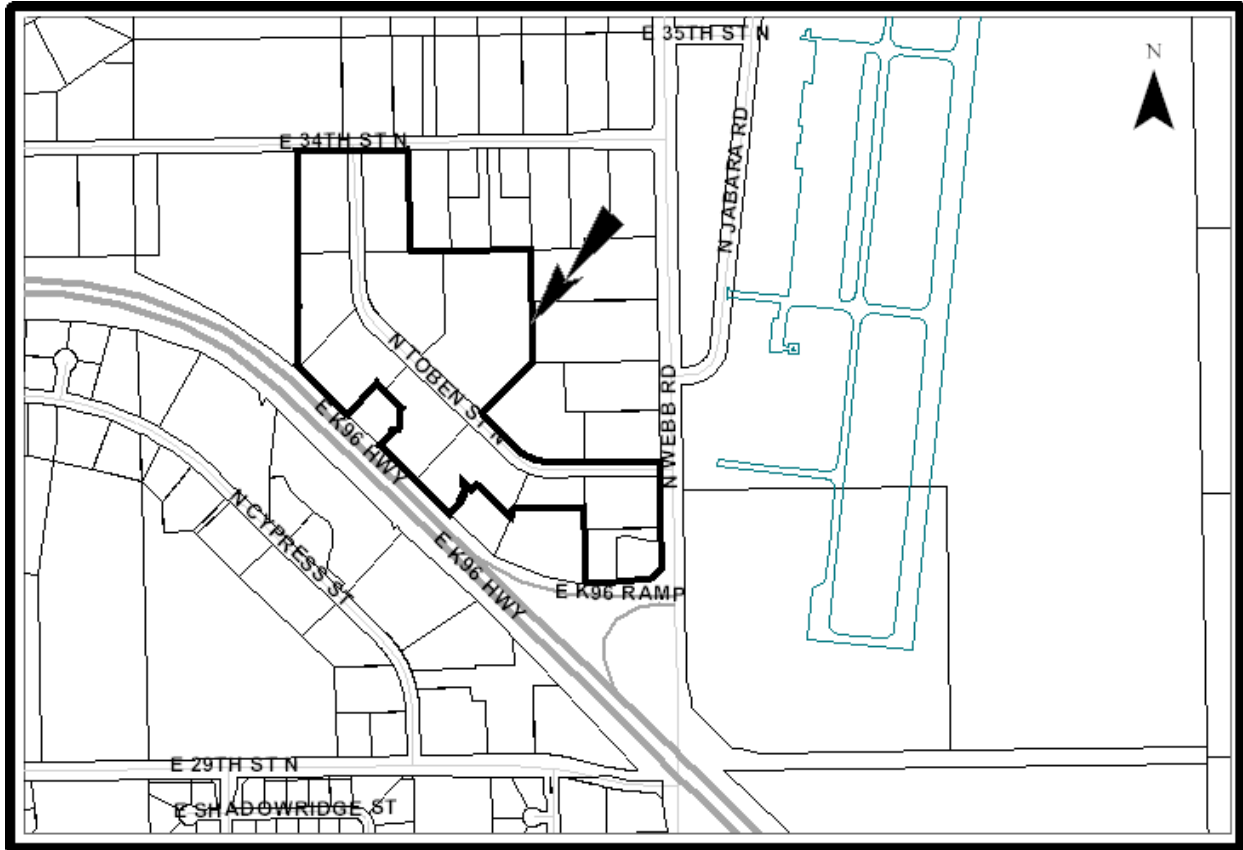
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendation (12-0).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve subject to staff recommendation (10-1).



Background: The applicant proposes to create PUD #23 Firepoint Planned Unit Development consisting of eleven parcels, primarily for the purpose of allowing shared signage among the parcels. The property is located along the north side of K-96 and west of Webb Road and is bisected by Toben Street North (formerly named 31st Street North), which curves from Webb Road westward and will extend northward to 34th Street North.

The “PUD” Planned Unit Development special zoning district would replace the current zoning district of “LI” Limited Industrial, but the permitted uses for the PUD would remain those uses permitted by right in the LI district. Parcels range in size from one acre to seven acres. Reserve A is a median strip shown within the existing right-of-way of Toben Street North at its terminus with Webb Road. A vacation request (VAC2006-33) has been filed to vacate the right-of-way to form the reserve.

Maximum building height for buildings is unspecified. However, since the property is near Jabara Airport, building heights will require FAA review. Proposed maximum building coverage would be 30 percent for retail, office or restaurant use and 60 percent for industrial use.

The reasoning for a greater percentage building coverage for industrial use is based on the lower employee and general parking ratios necessary with an industrial-type use. Number of buildings per parcel is unspecified. Building setbacks will be 35 feet along Toben Street North, K-96 and 34th Street North and 45 feet (platted) setback for Parcels 7 and 8 on Webb. Other development attributes will be consistency in parking lot and lighting elements, providing a landscaped street yard and parking lot landscaping and screening along K-96, Toben, 34th Street North and Webb Road and pedestrian connectivity between buildings.

The main purpose of the proposed PUD is to allow parcels or lots within the development to share signage without the signage being considered offsite. Per the Wichita Sign Code, onsite signage is limited to advertising for uses located upon a zoning lot, but in a CUP or PUD, advertising for any use within the CUP or PUD is considered onsite by the Sign Code, even though it is placed upon a different parcel (or zoning lot).

The PUD excludes tracts along K-96 developed with the Candlewood Suites hotel, the Johnny Carino's restaurant and the Fritz Co Grille restaurant, all of which have benefited or been affected by administrative adjustments to the Wichita Sign Code. BZA2004-09 granted an onsite sign (35 feet allowable height) or offsite sign (25 feet allowable height) with advertising limited to uses on Lots 6 and 7, Block 3, Mediterranean Plaza Addition, but stipulated that no offsite advertising would be permitted for a use with a separate ground sign (Candlewood met this criterion with its existing pole sign). BZA2006-02 allowed offsite signage for Fritz Co Grille on the portion of Lot 5, Block 3, Mediterranean Plaza Addition that is Parcel 4 of the PUD. BZA2004-20 allowed a taller sign (35 feet) for Ted's Montana Grill on Parcel 8 of the PUD in exchange for giving up one sign location.

In terms of sign spacing, the Sign Code requires a minimum spacing interval of 150 feet apart on a single zoning lot, including a PUD property. This spacing interval is used to calculate the number of allowable sign locations per Code. The minimum spacing can be varied from strict application by reducing it up to 1/3 (per administrative adjustment guidelines of the Sign Code), but varying the spacing is not to be used to add to the maximum number of sign locations based on the 150-foot spacing interval. Also, a sign that is 25 feet in height or less is considered to utilize a single sign location. The Sign Code allows a trade-off of five additional feet in height for a forfeiture of one sign location, up to a maximum height of 35 feet.

Based on these requirements of the Sign Code, the PUD would be eligible for a total of eight sign locations on K-96; three locations have been utilized today. Webb Road would be allowed a total of four sign locations, including the land within Reserve A. Two locations are utilized today, leaving a potential for two more signs. Also, spacing should be at least 100 feet between signs, which also can be achieved by combining the two sign locations. The number of signs requested and allowed on Webb Road, Toben Street North and 34th Street North are in alignment. The applicant has requested to modify the sign locations shown on the PUD drawing by combining four sign locations into two larger (450 square feet) and taller (45 feet) signs along K-96.

Virtually all of the surrounding land is zoned LI. To the north, northeast and northwest, the development consists of an automobile dealership, a specialty hospital and industrial parkland with manufacturing firms and office/warehouse firms. To the east is Jabara Airport. To the south is K-96. South of K-96 is an office park with a variety of office, medical facilities, industrial, manufacturing and service firms.

Analysis: At the District II Advisory Board meeting held March 5, 2007, DAB II voted (10-1) to recommend approval of PUD2006-03 as recommended by staff with a modification of the two larger signs being 450 square feet in size and 45 feet in height, although the Board expressed some concerns with the magnitude of these signs.

At the MAPC meeting held March 15, 2007, MAPC voted (12-0) to approve subject to staff recommendation as modified by the DAB recommendation. No protest petitions have been received.

The MAPC recommendation was to APPROVE subject to the following conditions:

1. Add 35-foot building setbacks along K-96 and 34th Street North.
2. Add "leased area" abutting the west property line of Parcel 8 to the PUD for joint signage purposes.
3. Revise General Provision #2 to clarify that site development standards, including but not limited to parking requirements and screening, shall be provided per the Unified Zoning Code as per requirements for the LI zoning district unless otherwise specified by the general provisions of the PUD.
4. Add to General Provision #11 that a landscaped street yard is required along Toben Street North and 34th Street North.
5. Provide revised sign plan, limiting the two larger signs to 450 square feet in size. Incorporate general provision that signs shall conform to the sign plan, shall not be less than 150 feet apart; sign height not to exceed 35 feet except for two signs that may be 45 feet in height, and that any modification of freestanding signage within the PUD or the excluded tracts shall be compensated for by the PUD so as not to result in an overall increase in freestanding signage from that shown on the Sign Plan herein.
6. Delete General Provision #15.
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
9. Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #23) includes special conditions for development on this property.
10. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the community unit plan and the zone change subject to replatting within one year; withhold the publication of the ordinance until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

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

(150006) Published in The Wichita Eagle on _____
ORDINANCE NO. _____

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

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

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

Case No. PUD2006-00003

Request for Zone change from LI Limited Industrial to PUD Planned Unit Development on property described as:

Lots 2 through 9, Block 3 and Lots 1 and 2, Block 4, Mediterranean Plaza Addition, Wichita, Sedgwick County, Kansas

ALONG WITH

Lot 18, Comotara Industrial Park 5th Addition, an Addition to Wichita, Sedgwick County, Kansas.

EXCEPT the following described tract:

Beginning at the southerly most corner of said Lot 6; Thence N 45° 58' 58" W for a distance of 308.86 feet; Thence N 44° 40' 05" E for a distance of 66.10 feet to a point of curvature;

Thence on a curve to the left for a distance of 107.13 feet to a point of reverse curvature, said curve to the left having a radius of 100 feet and a central angle of 61° 22' 49" and a tangent of 59.35 feet; Thence on a curve to the right for a distance of 16.32 feet, said curve to the right having a radius of 301.44 feet with a central angle of 53° 49' 34" and a tangent of 153.01 feet;

Thence S 45° 58' 58" E for a distance of 64.38 feet; Thence N 44° 40' 05" E for a distance of 35.03 feet; Thence S 45° 58' 58" E for a distance of 224.82 feet to the southeasterly line of said Lot 6;

Thence S 21° 06' 23" W for a distance of 214.80 feet to the Point of Beginning;

ALONG WITH the following described tract:

Beginning at the Westernmost corner of said Lot 5, said corner also being the Southernmost

corner of said Lot 4; Thence northwest along the southwesterly line of said Lot 4 for a distance of 51 feet; Thence Northeast perpendicular to the Southwesterly line of said Lot 4 for a distance of 215 feet; Thence Southeast parallel to the southwesterly line of said Lot 4 for a distance of

53.44 feet to a point on the Southeasterly line of said Lot 4; Thence continuing Southeast parallel

to the southwesterly line of said Lot 5 for a distance of 125.56 feet to a point; Thence Southwest perpendicular to the Southwesterly line of said Lot 5 for a distance of 18.50 feet to a point;

Thence South on an angle to the left of 40° 22' 44" for a distance of 95.25 feet to a point; Thence on a curve to the left, said curve having a radius of 60 feet, a central angle of 27° 23' 23", an arc

length of 42.90 feet, a chord bearing of S65° 58' 10" W, and a chord distance of 41.98 feet to a

point; Thence Southwesterly perpendicular to the Southwesterly line of said Lot 5 for a distance of 85 feet to the southwesterly line of Lot 5; Thence Northwest along the Southwesterly line of

said Lot 5 for a distance of 174 feet to the Point of Beginning;

ALONG WITH the following described tract:

Beginning at the southeast corner of said Lot 7; Thence S86° 48' 53" W along the south line of said Lot 7, for a distance of 29.57 feet; Thence N79° 40' 22" W along the south line of said Lot 7

for a distance of 180.28 feet; Thence N65° 46' 54" W along the south line of said Lot 7 for a

distance of 265.71 feet to the southwest corner of said Lot 7; Thence N21° 06' 23" E along the

west line of said Lot 7 for a distance of 255.33 feet; Thence N88° 55' 07" E (calculated) to the east

line of said Lot 7 for a distance of 350.06 feet; thence S01° 04' 55" E along the east line of said

Lot 7 for a distance of 384.55 feet to the point of beginning.

ALONG WITH the following described tract:

A portion of Lot 8, Block 3, Mediterranean Plaza an Addition to Wichita, Sedgwick County, Kansas described as follows:

Beginning at the northeast corner of said Lot 8; Thence S 01° 04' 55" E along the east line of said Lot 8 for a distance of 15 feet; Thence N 88° 55' 05" W parallel to the north line of said Lot 8 for a

distance of 46.88 feet; Thence on a curve to the right, said curve having a radius of 330 feet, a

delta of 14° 21' 53", an arc length of 82.74 feet, a chord bearing of N 83° 53' 58" W and a chord

distance of 82.52 feet; Thence on a curve to the left, said curve having a radius of 150 feet, a

delta of 14°54'48", an arc length of 39.04 feet, a chord bearing of N 83°37'31"W and a chord distance of 36.08 feet to a point of intersection with the north line of said Lot 8, said point being 164.51 feet west of the northeast corner of said Lot 8; Thence S 88°55'05"E along the north line of said Lot 8 for a distance of 164.51 feet to the point of beginning. Generally located north of K-96 and west of Webb Road along Toben Street North.

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

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

ADOPTED AT WICHITA, KANSAS, _____

Carlos Mayans - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. 24.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0357

TO: Mayor and City Council Members

SUBJECT: SUB 2006-96 -- Plat of Walsh Addition located east of West Street and north of Maple. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0)

Background: This site, consisting of one lot on 1.27 acres, is located within Wichita's city limits.

A zone change (ZON 2004-61) from "SF-5" Single-family Residential District to "MF-18" Multi-family Residential District has been approved. This plat is subject to a Protective Overlay (PO #159) addressing lighting, building height, screening and parking. A Notice of Protective Overlay has been submitted.

Analysis: Municipal services are available to serve this site. A Petition, 100 percent, and a Certificate of Petition have been submitted for paving improvements. Municipal Services are available to serve the site.

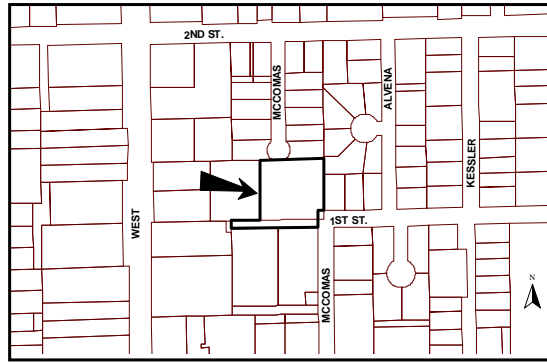
This plat has been reviewed and approved by the Planning Commission, subject to conditions. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Notice of Protective Overlay and Certificate of Petition will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat, authorize the necessary signatures, adopt the Resolution and approve first reading of the Ordinance.



(OCA150006 BID 37529-009 CID#76383) Published in The Wichita Eagle on

ORDINANCE NO. _____

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

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

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

Case No. ZON 2004-61

Request for zone change from “SF-5” Single-family Residential District to “MF-18” Multi-family Residential District, and to PO #159 Protective Overlay District on property described as:

Lot 1, Block A, Walsh Addition, Wichita, Sedgwick County,
Kansas.

Generally located east of West Street and north of Maple.

SUBJECT TO PLATTING WITHIN ONE YEAR AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY #159:

1. The property shall be platted within one year of approval.
2. A site plan approved by the Planning Director and incorporating the Protective Overlay conditions shall be completed prior to recording of the plat.
3. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
4. An additional 5 parking spaces shall be provided.
5. Solid screening, 6 to 8 feet tall, shall be required along the north and east sides of the site where it adjoins properties zoned "SF-5".
6. Solid screening shall be provided around all dumpsters; all dumpsters must be located a minimum of 20 feet from the "SF-5" zoning districts.
7. Outside pole lighting shall be no taller than 14 feet in height including the poles, light fixtures and base, and be placed within the interior circulation landscape island. No exterior lighting on the rear of the multi-family units shall be placed higher than the 1st story.
8. Landscaping shall consist of a 20-foot buffer with a minimum of one shade tree or two ornamental trees every 40 lineal feet planted within the buffer but outside all utility easements along the north and east sides of the site, a landscaped street yard and parking lot landscaping and screening per the Landscape Ordinance. The landscape plan shall be approved prior to the issuance of a building permit.

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 _____ day of _____, 2007.

ATTEST:

, Mayor

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. 25.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0358

TO: Mayor and City Council Members

SUBJECT: SUB 2006-98 -- Plat of Hunter's Health Clinic 2nd Addition, located on the north side of Central and east of Hydraulic. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This site, consisting of one lot on 2.99 acres, is a replat of the Hunter Health Clinic Addition and a portion of Stite's Bro's 2nd Addition. A zone change request (ZON 2006-49) from "TF-3" Two-Family Residential to "GO" General Office has been approved.

Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for alley, sewer and water improvements. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the proposed reserves. An Alley and Drive Approach Closure Certificate has been submitted for the closure of the east-west alley return and for the closure of any driveway openings. A Temporary Utility Easement has been submitted.

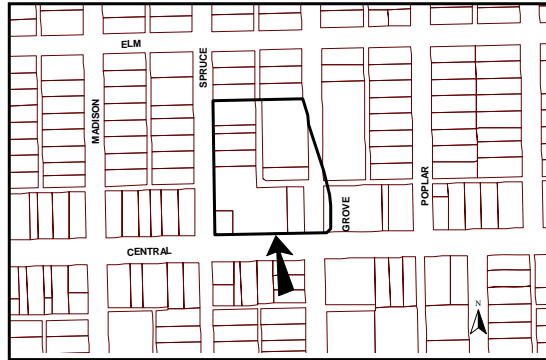
This plat has been reviewed and approved by the Planning Commission, subject to conditions.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Certificate of Petitions, Restrictive Covenant, Alley and Drive Approach Closure Certificate and Temporary Utility Easement will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat, authorize the necessary signatures, place the Ordinance on first reading and adopt the Resolutions.



(OCA150006 BID 37529-009 CID#76383) Published in The Wichita Eagle on

ORDINANCE NO. _____

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

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

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

Case No. ZON 2006-49

Request for zone change from “TF-3” Two-family Residential District to “GO” General Office District on property described as:

Reserve “A”, together with that part of Lot 1, Block 1, Hunter Health Clinic 2nd Addition, Wichita, Sedgwick County, Kansas, described as beginning at the N.W. corner of said Lot 1; thence S00°00’00”W, along the west line of said Lot 1, 153.18 feet; thence N89°32’44”E, 127.91 feet; thence N00°01’37”E, 152.16 feet to the south line of an alley as platted in said addition; thence S90°00’00”W, along said south line, 127.98 feet to the place of beginning.

Generally located on the north side of Central and east of Hydraulic.

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 _____ day of _____, 2007.

ATTEST: _____, Mayor

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. 26.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0359

TO: Mayor and City Council

SUBJECT: VAC2006-00037 Request to vacate the plat's text to allow additional uses in a portion of a platted reserve, located on the southwest corner of Mainsgate Street and 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text for a portion of platted Reserve B, Fairmont Addition. The applicant requests the vacation to allow the additional uses of a neighborhood pool, parking and a pool house while retaining the existing allowed uses in Reserve B. The uses that Reserve B have been set aside for include landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. There are manholes and a sewer line in the west portion of the reserve, confined to a platted utility and drainage easement located in the reserve, but there appears to be no water lines in the reserve. Franchised utilities are confined to the platted drainage and utility easement located along the west side of the reserve. The plat also states that Reserve B shall be owned and maintained by the homeowners of the association for the addition. The Fairmont Addition was recorded with the Register of Deeds on February 21, 2002. This case is also associated with BZA2006-00065, a variance on the parking, and CON2006-00033, a conditional use request for a neighborhood pool and its associated uses in "SF-5" zoning.

Analysis: The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

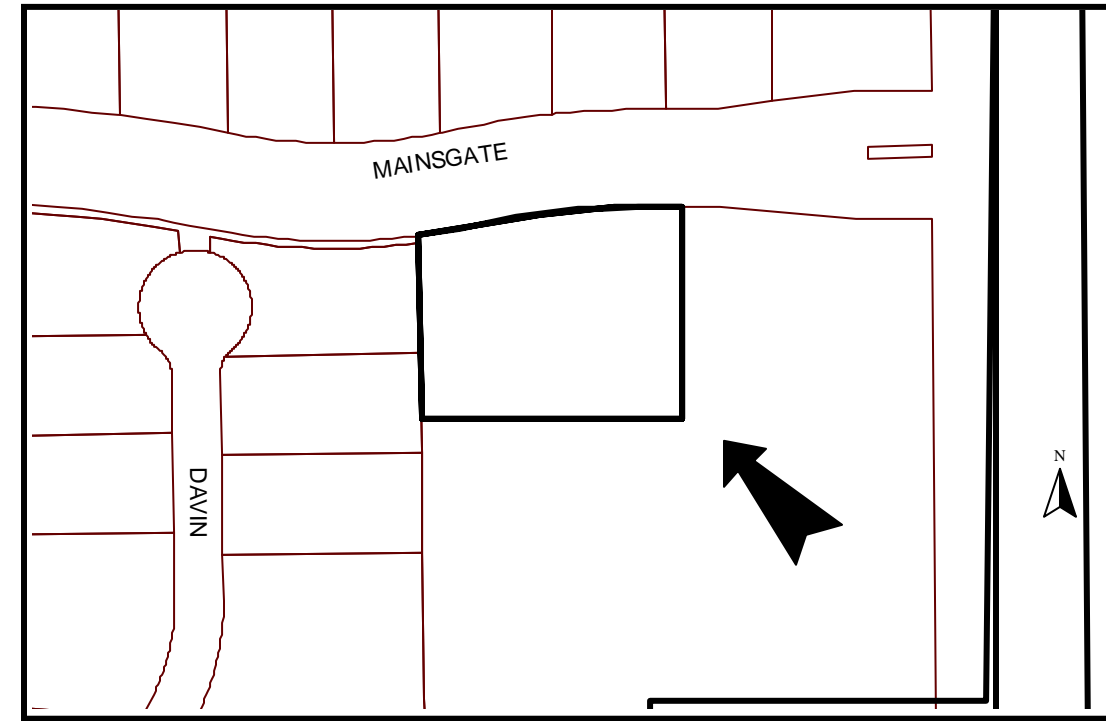
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



Agenda Item No. 27.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0360

TO: Mayor and City Council

SUBJECT: VAC2006-00043 Request to vacate portions of platted setbacks located on the northeast corner of Rock Road and Bradley Fair Parkway. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant proposes to vacate 25-feet of a southern portion of the platted 50-foot setback which runs parallel to the site's Rock Road frontage and 10-feet of the platted 35-foot setback which runs parallel to the site's Bradley Fair Parkway frontage, all on Lot 1, Block 1, Bradley Fair 2nd Addition, which is a key corner lot. This case is associated with CUP2006-50, DP-191, a proposed amendment, which will reduce the CUP's setbacks (which are these platted setbacks) to allow the expansion of the maximum building coverage and gross floor area on the site, referred to as Parcel 7. The Unified Zoning Code's (UZC) minimum street side setback for a CUP is 35-feet. Per the UZC, the Metropolitan Area Planning Commission (MAPC) or the Governing Body may modify or waive the setback and lot coverage requirements as part of an amendment of the CUP, as directed in Art.III, Sec.III-2(d) of the UZC. This is the first requested reduction of the CUP's/platted setbacks that run parallel to the CUP's street frontage. The base zoning of the CUP is "LC." The UZC requires a minimum of a 10-foot street side yard setback (the Rock Road side) and 20-foot front yard setback (the Bradley Fair Parkway side). There are no platted easements, manholes or sewer line located in the described portion of the platted setback. The Bradley Fair 2nd Addition was recorded with the Register of Deeds on June 10, 1996.

Analysis: The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

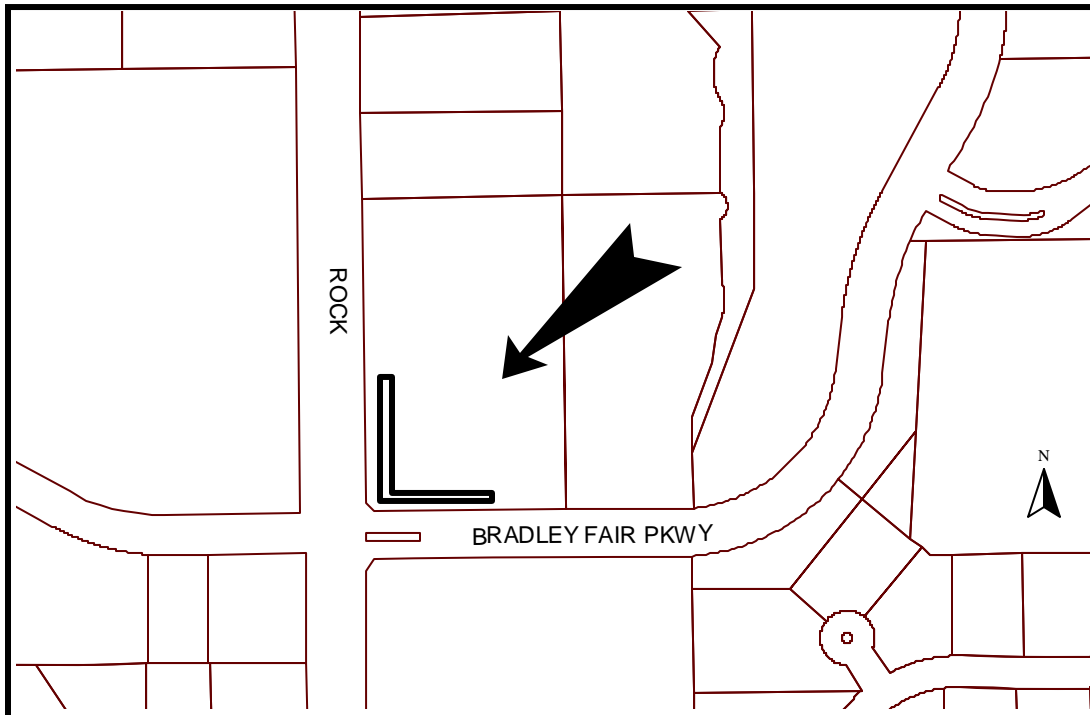
Financial Considerations: None.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Goal Impact: Ensure Efficient Infrastructure.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



Agenda Item No. 28.

City of Wichita
City Council Meeting
April 17, 2007

Agenda Report No. 07-0361

TO: Mayor and City Council Members

SUBJECT: Procedure for Filling Vacancy in City Council District #1

INITIATED BY: City Council

AGENDA: City Council

Recommendation: Initiate the vacancy procedure.

Background: On April 10, 2007, Carl Brewer submitted his resignation as City Council member for City Council District #1 because he was elected as Mayor. It is now necessary for the City Council to set in motion the process for filling the vacant position in City Council District #1.

Analysis: Section 2.04.040 of the City Code provides the following steps for filling the vacancy:

- The City Council announces the Notice of Vacancy in District # 1.
 - The City Council announces that petitions by candidates to fill the vacancy must be filed with the City Clerk within three weeks unless a time certain is otherwise indicated by the City Council.
 - The City Council also designates the District Advisory Board for Council District #1 as the appropriate group to conduct a public forum to screen the candidates.
 - The District Advisory Board for District #1 shall, within seven days following the petition deadline set by the City Council, hold a forum open to the public to screen all candidates who filed a lawful petition for candidacy.
 - At the conclusion of the public forum, the District Advisory Board for District #1 shall, by majority vote of the members present, nominate not less than four and not more than five candidates for the City Council to consider.
-
- At the next regular meeting of the City Council following the nomination, at which all of the remaining Council members are present, the remaining Council members shall elect by written ballot from those nominated a new member to fill the unexpired term of office, and such election shall require a majority vote (four votes).

Financial Considerations: There are no financial considerations.

Legal Considerations: The City Council has established the vacancy process by City Ordinance.

Recommendations/Actions: I move that the City Council:

1. Hereby announces the Notice of Vacancy for the position of City Council Member for District Number 1, because of the resignation of City Council Member Carl Brewer, that was effective on April 10, 2007,
2. Sets (May 1 or earlier) _____, 2007, at noon, as the deadline for candidate petitions to be filed with the City Clerk of the City of Wichita,
3. The District Advisory Board for City Council District Number 1 is hereby designated to conduct a public forum within seven days of the above candidate petition deadline to screen all candidates who file a lawful petition for candidacy and forward to the City Council in writing the names of the candidates nominated in alphabetical order, and
4. All other procedures for filing for the vacant position and filling the vacancy will be in accordance with City Code Section 2.04.040, unless otherwise designated by the City Council.