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City Council Agenda

**City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603**

December 12, 2006
12:00 AM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Lana Kennedy	District No. 1	Clark Duffy	District No. 6
John Alcala	District No. 2	Brett Blackburn	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
John Nave	District No. 4	Richard Harmon	District No. 9
Bill Haynes	District No. 5		

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council

Persons addressing the City Council will be limited to four (4) minutes of public address on a particular agenda item. Debate, question/answer dialogue or discussion between Councilmembers will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Council or the Council by affirmative vote of five (5) members may extend the four (4) minute limitation.

Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.

Citizens wishing to offer Public Comment may sign up by phoning the City Clerk's office at 368-3940.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th – Room 166 and on the City's web site at <http://www.topeka.org>)

INVOCATION:

PLEDGE OF ALLEGIANCE:

- 1. **PROCLAMATIONS:**
- 2. **PRESENTATIONS:**
- 3. **ROLL CALL:**
- 4. **CONSENT AGENDA:**

A. Human Relations Commission

A COMMUNICATION recommending the re-appointment of Michael Bell, 601 NW Highway 24, to the Human Relations Commission for a two-year term that will expire December 31, 2008.
(District No. 2)

B. Topeka Housing Authority Board of Commissioners

 [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Susan White, 1312 SW Polk, Apt 906, to the Topeka Housing Authority Board of Commissioners to a four-year term which will end December 31, 2010. *(Council District No.1)*

C. MINUTES of the regular meeting of December 5, 2006

D. APPLICATIONS:

5. PUBLIC HEARINGS:

A. Public Hearing and Ordinance - Frito Lay Economic Development Exemption

 [ATTACHMENTS](#)

A PUBLIC HEARING to obtain citizen comment and review of a property tax exemption ordinance for improvements to real and personal property on behalf of Frito-Lay, Inc., located at approximately 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., exempting certain property, more specifically property owned by Frito-Lay, Inc. from property taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III and located at approximately 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas. Final Reading.

(Approval would provide a property tax exemption for improvements to real and personal property for Frito-Lay, Inc.)

6. UNFINISHED BUSINESS:

A. Condemnation Ordinance for Project #70190-01

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Trafficway Improvement Project No. 70190-01, Part B, which provides for the reconstruction of East 6th Street to five lanes wide between Golden Avenue and Market Street. Final Reading. *(Council District No. 3)*

(The ordinance will initiate condemnation proceedings to acquire the property rights.)

B. Ordinance - Water service outside city limits

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending

City of Topeka Code Section 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section. Final Reading. *(The Policy and Finance Committee made no recommendation to the full Council and request that the Council remand the ordinance back to the Committee for further review and discussion by a vote of 3-0-0.)*

(The amendment would require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.)

C. Final Plat - Lauren's Bay Villas Subdivision No. 2 (P06/30)

 [ATTACHMENTS](#)

A FINAL PLAT for Lauren's Bay Villas Subdivision No. 2 located west of SW Wanamaker Road, approximately 650' south of the intersection of SW 43rd Terrace and SW Wanamaker Road being contiguous to the City of Topeka within unincorporated Shawnee County, Kansas. (P06/30) *(The Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval)(Approval would accommodate development of the property for single-family residential uses.)*

(The final plat was added to the agenda at the meeting.)

7. NEW BUSINESS:

A. Contract between City of Topeka and KAPE 2006-2008

 [ATTACHMENTS](#)

A COMMUNICATION approving and authorizing the City Manager to execute the bargaining unit agreement between the City of Topeka and the Kansas Assoc. of Public Employees Local 4565 for the period beginning January 2006 through December 2008.

(Approval will implement the new KAPE contract)

B. Authorization of Weekly Expenditures for Week Ended November 26, 2006

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period November 20, 2006, through November 26, 2006, and enumerating said expenditures therein. First and Final Reading.

8. ZONING:

A. Ordinance - Darrell, Mark, and Steve Martinek, and Rick Flynn (Z06/32)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the southeast corner of SW Van Buren Street and SW Roby Place in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District TO "C-3" Commercial District. Final Reading.(Z06/32) *(Council District No. 3) (The Planning Commission recommended approval by a vote of 9-0-0)(The Planning Department recommended approval)*

(The applicant is proposing to zone the property to accommodate its use and development as a commercial office and show room in association with the window and siding business located immediately north across SW Roby Place.)

B. Ordinance - Topeka Planning Commission (Z06/23)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located north of SE 45th Street about 1,830-feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final Reading(Z06/23) *(Council District No. 4) (The Planning Commission recommended approval by a vote of 9-0-0) (The Planning Department approval.)*

(The zoning change is being sought in conjunction with the development of Rockfire at the Lake Subdivision and Rockfire at the Lake Subdivision No. 2 to be more reflective of an urbanizing single-family area within the City.)

C. Ordinance - Topeka Planning Commission (Z06/27)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final Reading (Z06/27) (Council District No. 8)(The Planning Commission recommended approval by a vote of 9-0-0) (The Planning Department recommended approval.)

(The zoning change is being sought in conjunction with the development of Sherwood Park Subdivisions No. 1-9 to be more reflective of an urbanizing single-family area within the City.)

D. Ordinance - Topeka Planning Commission (Z06/28)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "OS-1" Open Space District. Final Reading (Z06/28) (Council District No. 8) (The Planning Commission recommended approval by a vote of 9-0-0 on November 20, 2006.) (The Planning Department recommended approval.)

(Approval would zone a neighborhood park within the Sherwood Park Subdivision consistent with parks, trails and open space.)

E. Ordinance- Sims Development Company (Z06/33)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1201 SW Oakley Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with a Conditional Use Permit for a cultural facility ALL TO "O&I-2" Office and Institutional District. Final Reading. (Z06/33) (Council District No. 6)(The Planning Commission recommended approval by a vote of 8-0-1)(The Planning Department recommended approval.)

(Approval would allow the property to be used for office and institutional uses.)

9. FIRST READINGS:

A. Cereal Malt Beverage Retailer License Fees

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. concerning cereal malt beverage retailer license fees, amending City of Topeka Code § 30-53 and specifically repealing said original section. First Reading.

(This ordinance will reduce the yearly license fee for a limited retailer of cereal malt beverages.)

B. Ordinance - Bruno and Frances Langer (V04S/5)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of the South Half of SE 31st Street extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision extending located north of 3100 SE Granger Street, City of Topeka, Shawnee County, Kansas.First Reading. (V04S/5)(Council District #4)

(Approval would vacate a 15-foot wide unimproved portion of SE 31st Street and establish necessary utility and access easements)

C. Ordinance - Nelson Banman et al. (V06S/2)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of all of SE Lake Terrace Road in Shawnee Estates Subdivision extending from the East line of SE Granger Street to the east line of Shawnee Estates Subdivision located south of 3108 SE Granger Street, City of Topeka, Shawnee County, Kansas. First Reading. (V06S/2)(Council District No. 4)

(Approval would vacate a 30-foot wide unimproved portion of SE Lake Terrace Road and establish necessary utility easements)

D. Ordinance - Capital City Downtown Business Improvement District - Service Fee Levy for 2007

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember Lana Kennedy relating to the Capital City Downtown Business Improvement District, establishing a service fee levy for 2007, amending City of Topeka Code Section 42-38 and specifically repealing said original section. First Reading. (Council District 1)

(The ordinance proposes that the 2007 service fee levy remain at the 2006 service fee level.)

E. Ordinance - Mission Woods Subdivision PUD (Z84/52J and Z84/53J)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the Master PUD Plan of Mission Woods Subdivision by providing for development of a small animal clinic on property located at the northeast corner of SW Urish Road and SW 29th Street in the City of Topeka, Kansas. First Reading. (Z84-52J and Z84-53J) (Council District No. 8) (Planning Commission recommended approval 8-0-0)(Planning Department recommended approval)

(Approval would allow inclusion of a small animal hospital as a permitted use within the office/medical park.)

F. Franchise Ordinance - Medevac MidAmerica, Inc.

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., City Manager repealing City of Topeka Code Appendix B, Article XI, and amending City of Topeka Appendix B, Article VIII relating to ambulance services within the City of Topeka, Kansas, providing a non-exclusive franchise to Medevac MidAmerica, Inc. doing business as American Medical Response to operate an ambulance service within the City of Topeka, Kansas, and specifically repealing City of Topeka Code Appendix B, Articles VIII and XI. First Reading.

(The ordinance was added to the agenda at the meeting.)

10. MISCELLANEOUS:

-

11. PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL:

-

12. PUBLIC COMMENT:

-

13. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 28, 2006

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DATE:	November 28, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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No Attachments Available



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No Attachments Available



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BACKGROUND:

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SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 20, 2006

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DATE: November 28, 2006

CONTACT PERSON: Celeste Benton **DOCUMENT #:**

SECOND PARTY/SUBJECT: Human Relations Commission **PROJECT #:**

CATEGORY/SUBCATEGORY: 006 Communication / 003 Requests

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the re-appointment of Michael Bell, 601 NW Highway 24, to the Human Relations Commission for a two-year term that will expire December 31, 2008.
(District No. 2)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the re-appointment of Michael Bell, 601 NW Highway 24 to the Human Relations Commission for a two-year term that will expire December 31, 2008. Mr. Bell is eligible for re-appointment. The Commission has an attendance policy; Mr. Bell has attended all meetings.

BACKGROUND:

TCC Chapter 86 and Ordinance 18382. The purpose of the Human Relations Commission is to endeavor to eliminate prejudice among various racial, ethnic and other groups in the city and to further goodwill among all people of the city.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 22, 2006

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DATE: November 28, 2006

CONTACT PERSON: Celeste Benton **DOCUMENT #:**

SECOND PARTY/SUBJECT: Topeka Housing Authority **PROJECT #:**
Board of Commissioners

CATEGORY/SUBCATEGORY 006 Communication / 003 Requests

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Susan White, 1312 SW Polk, Apt 906, to the Topeka Housing Authority Board of Commissioners to a four-year term which will end December 31, 2010. (Council District No.1)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Susan White, 1312 SW Polk, Apt 906, to the Topeka Housing Authority Board of Commissioners to a four-year term. Bio is attached.

BACKGROUND:

KSA 17-2341 states that of the members appointed to the Topeka Housing Authority Board of Commissioners, at least one shall be a client of the authority. Ms. White is a client of the authority.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[THA-White Bio](#)

To Whom It May Concern:

Thank you for your consideration as a resident representative for THA Board of Commissioners.

Through a series of life events, I had to seek housing through Topeka Housing Authority and became a resident in April 2006. I would be happy to serve a four year term and professionally represent those of us who reside in THA public housing. I believe I can act as a realistic voice for all residents.

Sincerely,

Susan J. White
1312 SW Polk Apt. 906
Topeka, KS 66612



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 28, 2006

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CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

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DATE: November 28, 2006
CONTACT PERSON: Norton N. Bonaparte, Jr. **DOCUMENT #:**
SECOND PARTY/SUBJECT: Frito-Lay **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 003 IRB
CIP PROJECT: No
ACTION OF COUNCIL: Approve Ordinance **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING to obtain citizen comment and review of a property tax exemption ordinance for improvements to real and personal property on behalf of Frito-Lay, Inc., located at approximately 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., exempting certain property, more specifically property owned by Frito-Lay, Inc. from property taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III and located at approximately 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas. Final Reading.

(Approval would provide a property tax exemption for improvements to real and personal property for Frito-Lay, Inc.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The administrative review committee met on November 20, 2006, as required by City Code Section 138. The committee members agreed that this exemption request should be considered favorably by the City Council.

BACKGROUND:

Frito Lay will be manufacturing the new whole grain product line with this expansion. The expansion will be a \$40 million investment and will create approximately 50 positions. The exemption is for a new building addition of approximately 75,000 square feet, to be located at the existing plant in South Topeka.

BUDGETARY IMPACT:

SOURCE OF FUNDING:

Item #10

ATTACHMENTS:

[Ordinance](#)

[Memorandum - Project Description](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., exempting certain property, more specifically property owned by Frito-Lay, Inc. from property taxation for economic development purposes, pursuant to the provisions of the Code of the City of Topeka, Chapter 138, Article III, and located at approximately 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

In accordance with § 13 of Article 11 of the Kansas Constitution, and pursuant to the Code of the City of Topeka Chapter 138 Article III, a percentage of the assessed valuation of real property, owned by Frito-Lay, Inc. (Frito-Lay), more specifically tangible real property consisting of a building addition of approximately 75,000 square feet located at or near 4236 SW Kirklawn Avenue, Topeka, Shawnee County, Kansas, which land and building are used by Frito-Lay exclusively for exempt purposes and is therefore exempt from property taxation for a maximum term of ten (10) calendar years.

Section 1. The annual amount of the tax payment required of the owners of said property shall not be less than the amount that is determined under Topeka City Code §§ 138-84 and 138-86 and such additional amount that may be set forth in any other ordinance or resolution. Said amounts shall be paid to the County Treasurer at the same time as any property taxes on such property would be payable.

Section 2. Eligibility for successive years shall be redetermined annually. If the company fails to meet eligibility requirements for any one (1) year, no exemption shall be granted for that year. However, this will not jeopardize eligibility for the remaining years.

In order to continue eligibility for the exemption granted herein, the following criteria shall be met by the company:

- (a) Continuation of at least one (1) of the new jobs created.
- (b) Continue to be a manufacturer.
- (c) Continuation of original ownership (exemption is not transferable).
- (d) The company remains current on tax payments.
- (e) Exemption is contingent upon approval from State Board of Tax Appeals.
- (f) Eligibility for successive years shall be redetermined annually.
- (g) If the company fails to meet eligibility requirements in any one (1) year, no exemption shall be granted for that year. However, this would not jeopardize eligibility for the remaining years.

Section 3. Determination of Exemption.

(a) The actual percentage of assessed valuation exempted shall be determined by the City according to the Code of the City of Topeka, Chapter 138, Article III.

(b) In determining the actual percentage exemption, the City shall require Frito-Lay to provide the following:

- 1. Certification as to the number of new full time equivalent jobs created.
- 2. Certification as to the overall wage rate for the new full time equivalent jobs created.
- 3. Any other documentation the City may deem necessary.

Section 4. Responsibilities of Frito-Lay.

(a) Submission of complete annual renewal application by January 15 of each year.

(b) Submission of information as required by the City.

(c) Must file claim of exemption with County Appraiser by March 1 of each year.

Section 5. Responsibilities of City.

Review and make determination of renewal application by February 1 of each year.

Section 6. Disclaimer.

City does not guarantee Frito Lay will receive an exemption of any amount for any or all years that it is eligible.

Section 7. No tax exemption shall be granted by the City unless the property for which the exemption is being sought is used exclusively for the purposes specified in § 13 of Article 11 of the Kansas Constitution.

Section 8. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

PROJECT SUMMARY

Over the past few years, Frito-Lay has experienced strong growth in our “better for you” product lines, and the company is making an even stronger commitment to providing consumers with a greater variety of healthy snack options. As a result, a very successful existing whole grain product line continues to grow and drive additional demand. To supply this demand, Frito-Lay’s Topeka manufacturing facility is one of two facilities being considered for this new production line. The target date for this new line to be up and running is April, 2007.

Additionally, due to continued growth of Frito-Lay corn chips, additional production capacity is needed in the central part of the US. The Topeka plant has an existing tortilla chip line that is currently not running at full capacity, thus reducing efficiencies at the facility. Therefore, the consideration is to convert the existing tortilla chip line to a corn chip line, and immediately ramp production volume up to closer to 75%, versus the existing 25%-40%.

In total, these two projects are estimated to create at least 40 new full-time jobs, and possibly more, depending on the level of automated technology to be incorporated into the project, with an investment of approximately \$30 million in equipment and \$10 million in building. The anticipated investment breakdown is as follows:

Real Property

Land	\$1,100,000
Building Improvements	\$9,850,000

To include approximately 75,000 square feet of additional building space added to the north end of the existing facility. New building will be for processing, packaging and warehouse associated with the two new processing lines.

Machinery & Equipment

Bulk Transfer System	\$1,800,000
Wheat Cook System	\$850,000
Extruder System	\$1,500,000
Fryer System	\$1,500,000
Seasoning System	\$1,400,000
Packaging System	\$5,800,000
Automated Packaging	\$9,500,000
Auto Palletizing	\$2,000,000
Fork Trucks	\$85,000
Racking System	\$350,000
Installation	\$4,250,000
Tax/Freight	\$700,000

Spares	\$500,000
Project Expense	\$500,000
Total	\$30,735,000

The recent action taken by the Kansas legislature to exempt personal property tax on manufacturing machinery and equipment has played a significant role in Topeka, KS, being a finalist for this new investment decision. Without this exemption, Topeka would not have been as competitive in the location bid.

ANTICIPATED PUBLIC BENEFITS

The proposed project is expected to contribute direct economic benefit to the City of Topeka and surrounding community through the creation of additional, high paying manufacturing sector jobs; significant capital investment in real estate, building improvements and machinery and equipment; and increased spending on goods and services provided by other area businesses.

In addition to the more than \$30 million investment in machinery and equipment, the overall anticipated level of investment in land and building expansion is over \$11 million, thus increasing the taxable property base and revenue to the City of Topeka. Many local and area construction contractors are expected to be employed during the construction of the building expansion and installation of equipment.

The project will also create an incremental 40 to 70 new jobs in the first two years of operation, depending on the level of processing and packaging technology is available at the time of equipment installation. The average hourly wages will range from a starting wage of \$17.30/hr to more than \$26.00/hr, substantially higher than the average manufacturing wage rate in the community. In addition to wages, employee benefits typically make up another 30-40% of overall compensation.

This project is not expected to place a significant strain on City utility and infrastructure demands. The overall increase in water use and wastewater treatment is minimal and availability has been confirmed with public works. The project should not place any increased demands on public fire and police protection. The types of new jobs being created do not typically place additional needs in the school system either.

Furthermore, this project will help increase the competitiveness of the Frito-Lay Topeka operations, thus improving the opportunities to attract other capital investment and job creation projects in the future. The additional land purchase of adjacent parcels plays a critical role in allowing for this and future expansions. Ultimate plans for the Topeka facility could more than double existing operations,

and the support of the City of Topeka, Shawnee County and State of Kansas will be paramount in continuing to expand this facility to it's full potential.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 21, 2006

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DATE: November 28, 2006

CONTACT PERSON: Rusty Rakestraw **DOCUMENT #:**

SECOND PARTY/SUBJECT: Trafficway Improvement **PROJECT #:** 70190-01

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 002 Condemnations

CIP PROJECT: Yes

ACTION OF COUNCIL: First Reading 12/05/06 **JOURNAL #:**
Deferred until 01/09/07
12/12/06

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Trafficway Improvement Project No. 70190-01, Part B, which provides for the reconstruction of East 6th Street to five lanes wide between Golden Avenue and Market Street. Final Reading. (Council District No. 3)

(The ordinance will initiate condemnation proceedings to acquire the property rights.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Staff recommends Council approve Condemnation Ordinance.

BACKGROUND:

KSA 26-201 states that the governing body shall by ordinance authorize and provide for the acquisition of the interests to be condemned and for what purpose the same is to be used. The ordinance sets out the individual parcels and specific interests to be acquired.

Negotiations are in progress to acquire the property interests for the construction of the project. If successful negotiations are completed, the respective parcel will be deleted from the proceedings.

BUDGETARY IMPACT:

To be determined by Condemnation appraisers.

SOURCE OF FUNDING:

General Obligation Bonds

ATTACHMENTS:

Item #11

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the initiation of condemnation proceedings to acquire property by eminent domain for City of Topeka Trafficway Improvement Project No. 70190-01, Part B, which provides for the reconstruction of East 6th Street to five lanes wide between Golden Avenue and Market Street.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That it is hereby declared necessary to condemn and appropriate for the use of the City of Topeka certain lands within the City of Topeka for Trafficway Improvement Project No. 70190-01, Part B, and for other public purposes, said lands being described as follows:

Parcel No. 5

Owner of Record: Thomas R. Zeltner
2401 SE 6th Avenue
Topeka, KS 66607

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Owner of Record

PROPERTY TO BE ACQUIRED:

Fee Simple:

Lots numbered 28, 30, 32, 34, and 36 and the West five (5) feet of Lot 38 on Tenth Avenue, East, in Bedwell's Subdivision in the City of Topeka, Shawnee County, Kansas.

AND

The East Twenty (20) feet of Lot Thirty-eight (38), and all of Lots Forty (40), Forty-two (42), and Forty-four (44), on Tenth Avenue in Bedwell's Subdivision to the City of Topeka, Kansas, being situated upon a part of the Southwest Quarter of the Southwest Quarter of Section Thirty-three (33), Township Eleven South (11S), of Range Sixteen East (16E) of the 6th P.M., in Shawnee County, Kansas.

AND

Beginning at the Southwest corner of the East Half of the Southwest Quarter of Section Thirty-three (33), Township Eleven (11), Range Sixteen East (16E) of the 6th P.M., in Shawnee County, Kansas; thence due North to the center line of Sixth Avenue East one hundred and thirty feet more or less; thence in a Southeasterly direction along the center line of said Sixth Avenue East to the center of Tenth Avenue East; thence West along the center line of Tenth Avenue East to the place of beginning, in East Fairview Addition to the City of Topeka, according to the recorded plat thereof.

Parcel No. 6

Owner of Record: Patrick DeLapp
PO Box 1292
Topeka, KS 66601

Contract Purchaser: NONE

Lienholder of Record: NONE

Party in Possession: Vacant rental residence

PROPERTY TO BE ACQUIRED:

Fee Simple:

The South half of Lots 24 and 26, East Tenth Street, Bedwell's Subdivision in the City of Topeka, Shawnee County, Kansas.

Parcel No. 11

Owner of Record: James B. Ditzler
2127 SW Prairie Rd
Topeka, KS 66614

Contract Purchaser: NONE

Lienholder of Record: Social and Rehabilitation Services
Legal Division
Docking State Office Building
915 SW Harrison
Topeka, KS 66612

Party in Possession: Vacant rental residence

PROPERTY TO BE ACQUIRED:

Fee Simple:

All of Lots 16 and 18, except the South 96 feet thereof, on Tenth Avenue in Bedwell's Subdivision to the City of Topeka, Shawnee County, Kansas.

Parcel No. 12

Owner of Record: Calvin L. Millard
2201 SE 6th Avenue
Topeka, KS 66607

Contract Purchaser: NONE

Lienholder of Record: 1. Shawnee County Treasurer (Real Estate Taxes)
200 SE 7th Street
Topeka, KS 66603
2. City of Topeka
215 SE 7th Street
Topeka, KS 66603

Party in Possession: 1. Owner of Record
2. The Texas Company
fka Texaco, Inc.
nka Chevron Corporation
Corporate Office:
6001 Bollinger Canyon
San Ramon, CA 94583

PROPERTY TO BE ACQUIRED:

Temporary Easement:

Portions of Lots 8, 10, 12 and 14 on East Tenth Avenue, in Bedwell's Subdivision in the City of Topeka, Shawnee County, Kansas, described as follows: Commencing at the Southwest corner of the Southwest Quarter of Section 33, Township 11 South, Range 16 east of the 6th P.M.; thence on an assumed bearing of North 88°26'21" East, on the South line of said Southwest Quarter, 854.10 feet; thence North 01°33'39" West, 30.54 feet to the Southwest corner of Lot 8; thence North 00°11'01" East, on the West line of Lot 8, 6.96 feet to the point of beginning; thence easterly on a line which is 37.50 feet north of the South line of said Southwest Quarter, 28.63 feet; thence easterly on a curve concave northwesterly, having a radius measure of 212.50 feet and an arc length of 72.93 feet, the chord of which bears North 78°36'24" East, 72.58 feet to a point on the East line of Lot 14; thence North 67°39'30" West, 16.21 feet; thence South 77°10'02" West, 20.37 feet; thence South 63°45'17" West, 16.74 feet to a point on the West line of Lot 12; thence North 89°12'42" West, 24.93 feet to a point on the West line of Lot 10; thence North 76°01'36" West, 11.26 feet; thence South 88°29'29" West, 14.00 feet to a point on the West line of Lot 8; thence South 00°11'01" West on the West line of Lot 8, 12.04 feet to the point of beginning.

The above-described property to be acquired contains 951 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

Portions of Lots 8, 10, 12 and 14 on East Tenth Avenue, in Bedwell's Subdivision in the City of Topeka, Shawnee County, Kansas, described as follows: Commencing at the Southwest corner of the Southwest Quarter of Section 33, Township 11 South, Range 16 east of the 6th P.M.; thence on an assumed bearing of North 88°26'21" East, on the South line of said Southwest Quarter, 854.10 feet; thence North 01°33'39" West, 30.54 feet to the Southwest corner of Lot 8, being the point of beginning; thence North 00°11'01" East, on the West line of Lot 8, 6.96 feet; thence easterly on a line which is 37.50 feet north of the South line of said Southwest Quarter, 28.63 feet; thence easterly on a curve concave northwesterly, having a radius measure of 212.50 feet and an arc length of 72.93 feet, the chord of which bears North 78°36'24" East, 72.58 feet to a point on the East line of Lot 14;

thence South 00°04'12" West on the East line of Lot 14, 19.45 feet; thence South 88°29'29" West on the South lines of Lots 14, 12, 10 and 8, 99.80 feet to the point of beginning.

The above-described property to be acquired contains 989 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Parcel No. 17

Owner of Record: Maria M. Mier and Remigio Mier
2124 SE 6th Avenue
Topeka, KS 66607

Contract Purchaser: Manuel A. Domingos, Jr.
549 SE Davies Street
Topeka, KS 66607

Lienholder of Record: NONE

Party in Possession: Vacant residence

PROPERTY TO BE ACQUIRED:

Temporary Easement:

A tract in the Southwest Quarter of Section 33, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Commencing at the Southwest corner of Lot 2 on Sixth Avenue East in Roseworn Addition; thence on an assumed bearing of North 00°35'14" West on the West line of said Lot 2, 2.50 feet to the point of beginning; thence North 73°03'40" West, parallel with the North line of Sixth Avenue East, 52.8 feet; thence North 00°35'14" West, parallel with the West line of said Lot 2, 6.00 feet; thence South 77°17'21" East, 51.74 feet to a point on the West line of said Lot 2; thence South 00°35'14" East on the West line of said Lot 2, 10.00 feet to the point of beginning.

The above-described property to be acquired contains 403 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

This easement expires two (2) years after legal possession through condemnation or ninety (90) days after completion of the construction for which this easement is acquired or whichever comes first.

Permanent Right-of-Way Easement:

A tract in the Southwest Quarter of Section 33, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Southwest corner of Lot 2 on Sixth Avenue East in Roseworn Addition; thence on an assumed bearing of North 73°03'40" West, on the North line of Sixth Avenue East, 52.8 feet; thence North 00°35'14" West, parallel with the West line of said Lot 2, 2.50 feet; thence South 73°03'40" East, parallel with the North line of Sixth Avenue East, 52.8 feet to a point on the West line of said Lot 2; thence South 00°35'14" East on the West line of said Lot 2, 2.50 feet to the point of beginning.

The above-described property to be acquired contains 126 square feet, more or less, and is subject to all rights-of-way, easements, restrictions, and covenants of record, if any.

Section 2. That the City Attorney of the City of Topeka, Kansas, on behalf of the Council of the City of Topeka, Kansas shall present a written application to the District Court of Shawnee County, Kansas, for the appointment of appraisers to make the appraisal and assessment required by law when land is taken for public purposes, and said City Attorney shall do all things necessary for the condemnation of said land completing the appropriation of the same for public purposes.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council_____.

William W. Buntin, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 1, 2006

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DATE: November 28, 2006

CONTACT PERSON: Clark Duffy and Jeff Preisner **DOCUMENT #:**

SECOND PARTY/SUBJECT: Water service outside city limits **PROJECT #:**

CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 001 General Provisions

CIP PROJECT: No

ACTION OF COUNCIL: First reading. 09/19/06 **JOURNAL #:**
Deferred for 2 weeks.
09/26/06 Referred to Policy
and Finance Committee
10/10/06

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code Section 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section. **Final Reading.** *(The Policy and Finance Committee made no recommendation to the full Council and request that the Council remand the ordinance back to the Committee for further review and discussion by a vote of 3-0-0.)*

(The amendment would require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.)

POLICY ISSUE:

Whether or not to require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.

STAFF RECOMMENDATION:

BACKGROUND:

Presently City Code requires a consent to annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the MSA prior to service being provided. This amendment would require new or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after September 10, 2006, and for which the structure has not been connected to the city's water system outside of the city's corporate boundaries that are not contained within the MSA to be annexed prior to service being provided.

BUDGETARY IMPACT:

None.

Item #12

SOURCE OF FUNDING:

ATTACHMENTS:

[Ordinance](#)

[Committee Report Sheet](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code § 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 146-37, Water service to owner of real property outside city limits, is hereby amended to read as follows:

Water service to owner of real property outside city limits.

Requirements:

(a) Consent to annexation.

(1) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after September 10, 2006, and for which the structure has not been connected to the City's water system that are contained within the current Municipal Services Area established by the City Council under Topeka City Code section 134-1 ("MSA") shall require ~~consent to~~ annexation prior to water service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The cost to design and construct the extension of water mains necessary to serve these areas may be paid through the City of Topeka water fund depending on priority and if sufficient capital improvement funding is available. The developer may, depending on the proximity to existing water transmission mains, bear part, or all, of the cost

30 of extending City water service to the development. Such extension costs
31 would be in addition to the payment of connection fees and the cost of the
32 construction of the water infrastructure within the development.

33 (2) New or redeveloped parcels established by preliminary or final plat,
34 lot, split or otherwise, after September 10, 2006, and for which the
35 structure has not been connected to the City's water system outside of the
36 city's corporate boundaries that are not contained within the MSA shall
37 require ~~consent~~ to annexation prior to service being provided. Extension of
38 water transmission mains shall conform to sizing, routing and other
39 specifications as determined by the city engineer and water
40 superintendent. The total cost of extending the City's water service shall
41 be borne by the developer without any participation by the City. Such
42 extension costs would be in addition to the payment of connection fees
43 and the cost of the construction of the water infrastructure within the
44 development.

45 (b) Platting. Further, before city water service is provided to an owner of real
46 property outside city limits, the owner shall plat or cause to be platted the property to be
47 served.

48 Exception:

49 An owner of real property outside the city limits may be exempt from the
50 platting requirement set forth above provided the planning director and
51 public works director jointly find that all of the following conditions exist:

(1) Land on which the principal structure is that of an existing detached single-family dwelling. That there are no other structures except permitted accessory structures, or uses for which water service is to be provided.

(2) As determined by the City of Topeka Public Works Department, adequate utility and drainage easements and/or street rights-of-way presently exist or can be secured by separate written instrument and recorded with the Shawnee County Register of Deeds for which the property owner consents.

(3) There is no existing or anticipated drainage problems related to the site or the development.

(4) Adequate public utilities and services otherwise service the site and the proposed development conform to the dimensional requirements of the zoning district.

(5) The existing or proposed improvement is compliant with the current adopted Shawnee County Wastewater Management Plan, or variances as may be granted by the applicable governing body as provided by said plan.

Section 2. That City of Topeka Code § 146-37 is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

COMMITTEE REFERRAL SHEET COMMITTEE REPORT

Name of Committee:	Policy and Finance
Title:	Ordinance amending City of Topeka Code Section 146-37 concerning water service to an owner of real property outside city limits.
Date referred from Council meeting:	October 10, 2006
Date referred from Committee:	December 4, 2006
Committee Action:	Duffy moved that the Committee make no recommendation to the full Council and request that the Council remand the ordinance back to the Policy and Finance Committee for further review and discussion. Motion passed 3-0-0
Comments:	None
Amendments:	None
Members of Committee:	Chair Richard Harmon, Jeff Preisner, Clark Duffy
Agenda Date Requested:	December 12, 2006



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

December 8, 2006

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DATE:	November 28, 2006		
CONTACT PERSON:	Bill Fiander/David Thurbon	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Lauren's Bay Villas Subdivision No. 2	PROJECT #:	P06/30
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:	Approved the final plat 12/12/06	JOURNAL #:	06
	PAGE #:		

DOCUMENT DESCRIPTION:

A FINAL PLAT for Lauren's Bay Villas Subdivision No. 2 located west of SW Wanamaker Road, approximately 650' south of the intersection of SW 43rd Terrace and SW Wanamaker Road being contiguous to the City of Topeka within unincorporated Shawnee County, Kansas. (P06/30) (The Planning Commission recommended approval by a vote of 9-0-0.) (Planning Department recommended approval)(Approval would accommodate development of the property for single-family residential uses.)

(The final plat was added to the agenda at the meeting.)

POLICY ISSUE:

Consistent with the City of Topeka Subdivision Regulations. Owner has consented to annexation with recording of the plat. The property is contiguous to the city limits.

STAFF RECOMMENDATION:

STAFF RECOMMENDATION:The **Final Plat Phase of Lauren's Bay Villas Subdivision No.2** was reviewed by the Planning Commission on November 20, 2006, at their regular monthly meeting. At that time, the Planning Commission took the following action on the plat: **APPROVAL (9-0-0)** as referenced in their attached minutes dated **November 20, 2006**. The Planning Department evaluated this proposal relative to the standards and provisions of the Subdivision Regulations and recommended the Planning Commission **APPROVE** the proposal as referenced in the attached staff report.

BACKGROUND:

- See attached Staff Report.
- The applicant has consented to annexation with recording of the final plat.
- City Council options:
 - Accept the plat as presented for recording by the Shawnee County Register of Deeds.
 - Reject the plat so it would **not** be eligible for recording by the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Final Plat p 1-2](#)

[Aerial](#)

[Minutes](#)

[Minutes](#)

November 20, 2006
Agenda Item #E-1

SUBDIVISION REPORT

(Major Plats)

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Lauren's Bay Villas Subdivision No.2 - [P06/30]

OWNER/DEVELOPER: Brainstorm Development Group, LLC

ENGINEER/SURVEYOR: Level-4 Engineering, LLC

GENERAL LOCATION: West of SW Wanamaker Road, approximately 650' south of the intersection of SW 43rd Terrace and SW Wanamaker Road being, contiguous to the City of Topeka within unincorporated Shawnee County.

PARCEL ID NUMBERS: 1492901001001000, 1442004001045000, 1442004001026000, 1442004001027000, 1442004001028000.

JURISDICTION: Class "B" subdivision within the three-mile extra territorial jurisdiction (ETJ) of the City of Topeka with a portion being outside the municipal service boundary (MSA) although all being contiguous to the corporate city limits.

ANNEXATION: The applicant has granted their consent to annexation with recording of the final plat. Current city regulations require a consent to annexation into the City prior to providing water service.

Area	# of Lots	Density	Proposed Land Use	Zoning
21.64 acres	50	2.31 units/acre	Single-Family Residential	"RR-1" Residential Reserve District
4.62 acres	4	N/A	Open Space	

Pending Zoning Case: None.

Design: The subject plat contains 21.64 acres, more or less and is irregular in shape, measuring approximately 920.61' x 1,085' with its greatest length running parallel to SW Wanamaker Road. The proposal consists of a 2-block, 54-lot subdivision, with Block "A" containing 15 Lots, and Block "B" 39 Lots. Four lots and 3 tracts A-C, containing approximately 4.62 acres is provided as open space which has areas designated as stream buffer, drainage detention and green space. The perpetual care and maintenance of these areas is to be the responsibility of a homeowners association. The subdivision will have an average lot size of approximately 9,675 square feet; this is excluding the three large lots fronting SW Wanamaker Road which average 37,381 square feet in area.

BACKGROUND: The preliminary plat was approved by the Planning Commission on October 16, 2006.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** City of Topeka public water supply and distribution system, with all water connections to be at developer expense. A note has been added to the plat which states: "Currently the City of Topeka

November 20, 2006
Agenda Item #E-1

Water Division cannot provide water service to any parcel above elevation 1120. No building permits shall be issued for lots above elevation 1120 until such time that adequate fire protection and water service can be provided." The Topeka Water Division has proposed an agreement with RWD #6 to provide service in the event they cannot service the property. The Topeka City Council must approve said agreement.

2. SEWAGE DISPOSAL: The development is to be serviced by means of connection to the Sherwood Regional Treatment Plant. All sewer main installation will be at developer expense.
3. WASTEWATER PLAN SERVICE AREA: The property is located within the Urban Service Area as reflected by the Shawnee County Wastewater Management Plan. The proposal appears to be in full compliance with said Plan.
4. DRAINAGE CONDITIONS: The drainage report as submitted by the developer to the City of Topeka Department of Public Works as been approved per memo dated November 3, 2006 .
5. STREET PLAN/ACCESS: The preliminary street plans as submitted to the City of Topeka Department of Public Works have been reviewed for compliance with the Street Design Criteria as described in the City of Topeka Standards and Design Criteria Manual per memo dated November 3, 2006 .
6. FIRE DISTRICT: City of Topeka Fire District upon annexation.
7. STREAM BUFFER: A 50-foot stream buffer (Type II) will be dedicated with the subdivision .
8. SCHOOL DISTRICT: U.S.D. 437 – Auburn/Washburn District .
9. PARKS/OPEN SPACE: No parkland is being dedicated therefore; the parkland development fee is calculated at \$11,250. This figure is based on 50 single-family dwelling units with each dwelling unit being assessed a fee of \$225.00 per unit.

WAIVER/VARIANCE TO STANDARDS: A variance is requested to the provisions of Code Section 134-135(c) of the City of Topeka Subdivision Regulations to allow for the following cul-de-sac length in excess of 500' due to topographical constraints:

- SW Brandywine Lane (South of SW 44th Street) - 690 feet.

PUBLIC CAPITAL IMPROVEMENTS IN WHICH THE DEVELOPER ANTICIPATES REQUESTING THE GOVERNING BODY TO PARTICIPATE: None anticipated.

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's CIP (2006-2011) affecting this area although the County/City are currently improving SW Wanamaker Road from SW 37th Street to SW 61st Street funded by the County-wide ½ cent sales tax.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Urban Suburban Low Density Residential* land use. This subdivision will have full public services and therefore, this subdivision is found compliant with the comprehensive plan.

STAFF ANALYSIS:

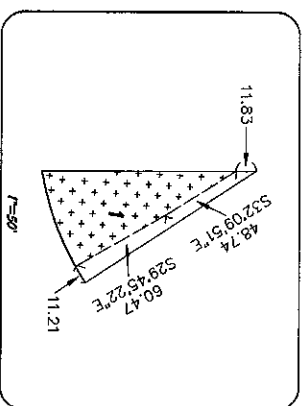
As proposed the overall subdivision design conforms to the established standards and provisions of the subdivision regulations relative to design criteria; and the design appears compatible with existing and planned conditions. Based upon the above

November 20, 2006
Agenda Item #E-1

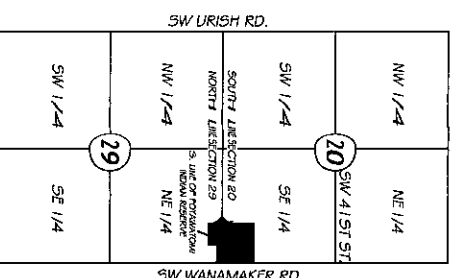
findings and staff analysis, the Planning Department recommends the final plat phases of Lauren's Bay Villas Subdivision No. 2 be **APPROVED**, subject to:

1. The Planning Commission granting the variance to Section 134-135(c) regarding cul-de-sac length of approximately 690' for SW Brandywine Lane (South of SW 44th Street) due to topographical constraints.

Prepared by: Dean W. Diediker
Planner II



CURVE DATA				
LABEL	RADIUS	LENGTH	CORDED	DELTA
C1	200	18.95	17.20	35.92-22
C2	250	29.96	22.94	50.24-43
C3	250	53.69	52.99	12.90-07
C4	400	40.11	40.09	05.94-42
C5	200	28.45	28.42	08.08-56
C6	250	87.33	86.89	20.90-54



SW 53RD ST.
LOCATION MAP
SECTION 20-12-15
SECTION 29-12-15
Scale 1" = 2000'

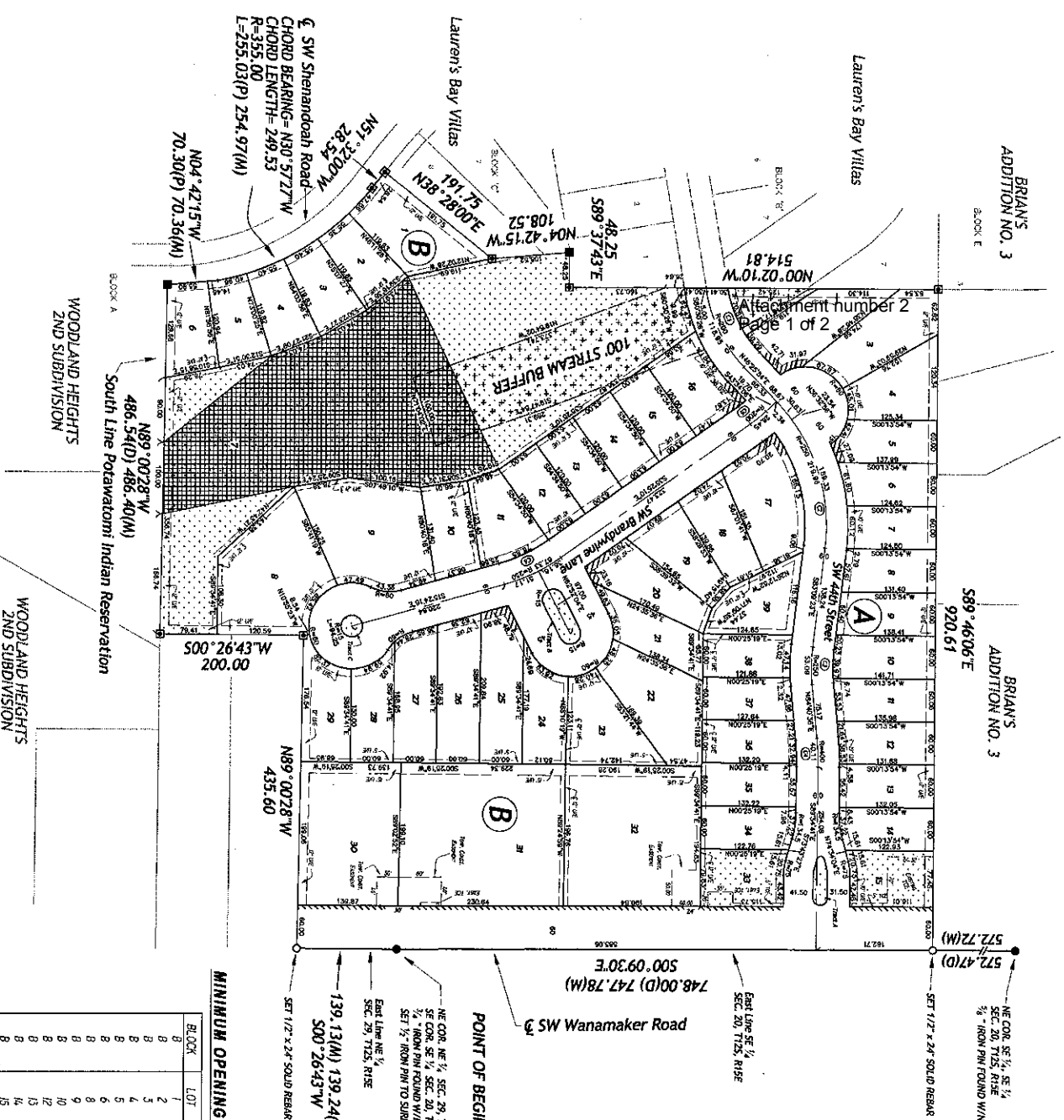
BM: Railroad spike in East face of power pole near NE corner of Lot 1, Block E, Woodland Heights 2nd Subdivision.
Elevation= 1093.64
City of Topeka, USGS Datum

Basis of Bearings: East line SE $\frac{1}{4}$, Sec. 20, T12S, R15E
S 00° 09' 30" E

**Basis of Bearings: East Line SE $\frac{1}{4}$, Sec. 20, T12S, R15E
S 00°09'30" E**

The physical boundary survey, monumentation, and reference reports for this plat were performed by:

3420 SW Urish Road
Topeka, Kansas 66614



Block	LOT	M.L.O.
B	1	1661.5
B	2	1673.8
B	3	1675.8
B	4	1675.8
B	5	1673.8
B	6	1673.8
B	8	1675.8
B	9	1675.8
B	10	1675.8
B	12	1673.8
B	13	1662.9
B	14	1660.7
B	15	1656.6
B	16	1656.5
A	2	1650.1

MINIMUM OPENING ELEVATIONS

POINT OF BEGINNING

NE COR. NE 1/4, SEC. 29, T12S, R15S
SE COR. SE 1/4, SEC. 20, T12S, R15S
3/4" IRON PIN FOUND W/NO ID CAP
SET 1/2" IRON PIN TO SURFACE

East Line NE ¼
SEC. 29, T12S, R15E
139.13(M) 139.24(D)

SET 1/2" x 24" SOLID REBAR

MINIMUM OPENING	
BLOCK	LOT

[illegible]

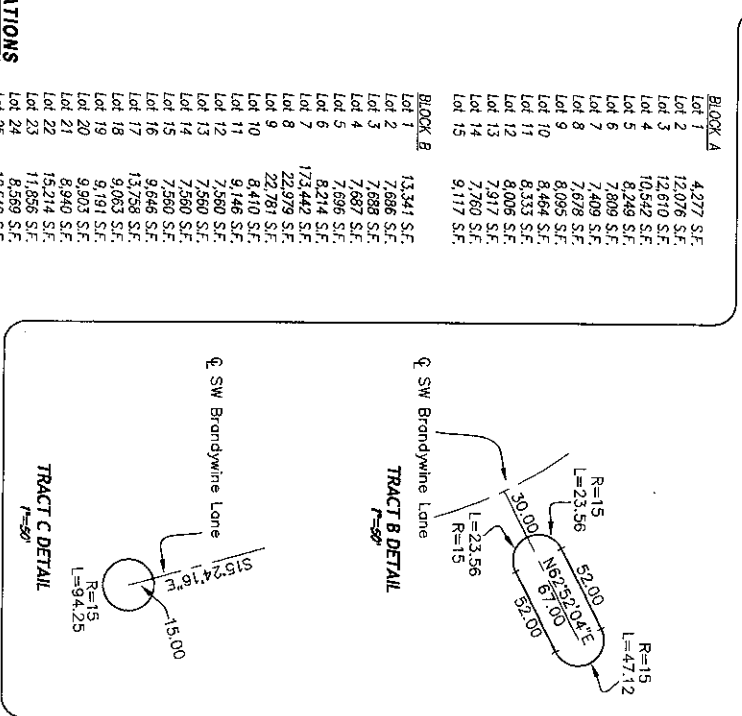
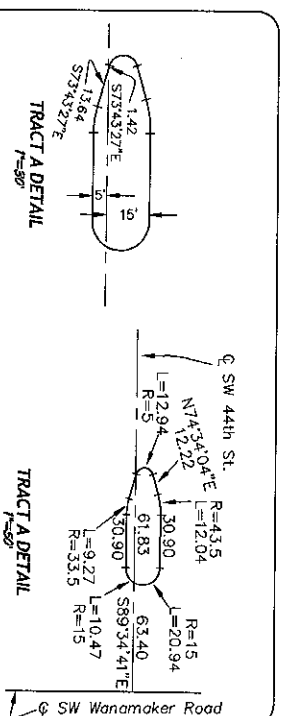
8	9	10	12
3	3	3	3

14	B
15	B
16	B
2	A

development

Shamemaker Road
556614
54
96 Fax

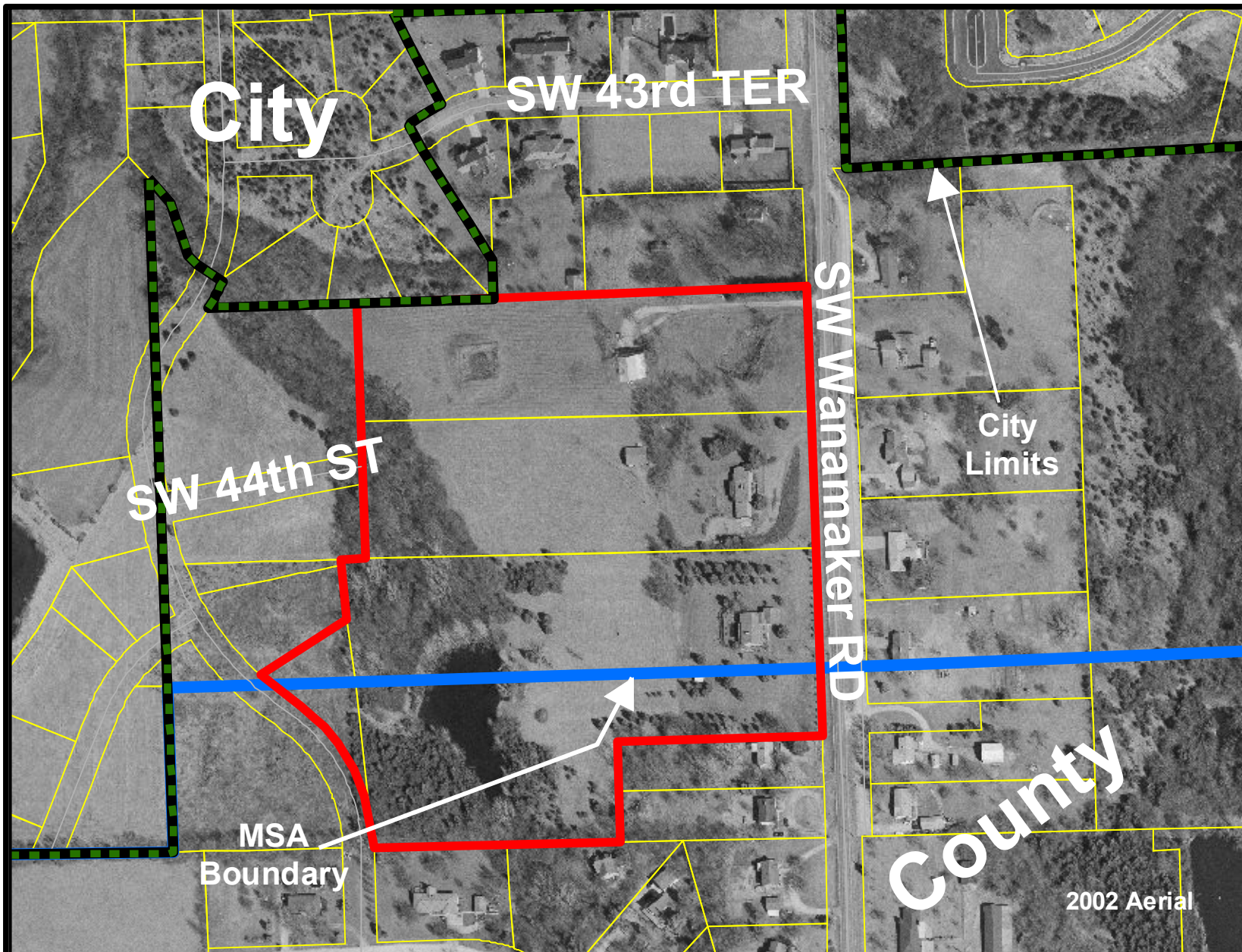
September 17, 2006



LAUREN'S BAY VILLAS NO. 2

SEC. 29, T12S, R15E, AND SEC. 20, T12S, R15E
SHAWNEE COUNTY, KANSAS

4 ENGINEERING, LLC
Developing great ideas
11251 Strong Line Road | Lenexa, Kansas 66215 | 913.317.9500 | 913.317.9501 (F)



P06/30 Lauren's Bay Villas No.2

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
October 16, 2006**

Lauren's Bay Villas No. 2 (Preliminary Plat Phase)(P06/30) by Brainstorm Development Group, L.L.C., Robert R. and Frieda G. Meyers and Charles and Jane Wichert on property located west of SW Wanamaker Road the centerline of which is approximately 650' south of the intersection of SW 43rd Terrace and SW Wanamaker Road being contiguous to the City of Topeka within unincorporated Shawnee County, Kansas. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Ralph Skoog asked about the requested 690 foot cul-de-sac variance on Brandywine. Mr. Diediker stated that is due to topographical issues. Mr. Skoog added we don't want anymore cuts on Wanamaker Road. Mr. Diediker said Lots 30 through 32 will continue to be accessible to Wanamaker. Howard Blackmon asked with that size of variance to a cul-de-sac are we sure they have the appropriate fire protection? Mr. Diediker said they are required to have hydrants at the end of each cul-de-sac. Fred Sanders asked if fire reviews these plats? Mr. Diediker replied yes.

Proponents:

Gene Jani, Brainstorm Development Group, spoke in favor of the proposal. He said he is trying to keep good positive development in the area. This development will give a good entrance into Lauren's Bay Subdivision. He said he doesn't believe there are any major issues with this plat. He said is planning to keep the three lots Mr. Diediker spoke of and will look to the planning department for future development on these lots. Mark Boyd asked if 44th Street west is part of the 1st phase? Mr. Jani stated it is part of 2nd phase. Mr. Boyd said by the time this subdivision is developed there will be access. Mr. Jani replied absolutely to help prevent traffic problems.

No one spoke in opposition to the proposal.

Fred Sanders moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (8-0-0)**

DRAFT

**Minutes
of the
Topeka Planning Commission
November 20, 2006**

Lauren's Bay Villas No. 2 (Final Plat Phase)(P06/30) by Brainstorm Development Group, L.L.C., Robert R. and Frieda G. Meyers and Charles and Jane Wichert on property located west of SW Wanamaker Road the centerline of which is approximately 650' south of the intersection of SW 43rd Terrace and SW Wanamaker Road being contiguous to the City of Topeka within unincorporated Shawnee County, Kansas. **(Diediker)** Dean Diediker summarized the staff report.

Theron Sims moved approval of the consent agenda, seconded by Howard Blackmon. **APPROVAL. (9-0-0)**



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

+ Back Print

DATE: November 28, 2006
CONTACT PERSON: Ken Benjamin (8-0141) **DOCUMENT #:**
SECOND PARTY/SUBJECT: Labor Agreement (KAPE) **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION approving and authorizing the City Manager to execute the bargaining unit agreement between the City of Topeka and the Kansas Assoc. of Public Employees Local 4565 for the period beginning January 2006 through December 2008.

(Approval will implement the new KAPE contract)

POLICY ISSUE:

Whether or not the City will enter into a new agreement with the KAPE bargaining unit. This will provide for retroactive pay increases for all bargaining unit employees back to January 2006. The 2006 and 2007 wage increases have been budgeted for in each of those fiscal year budgets. The tentatively agreed to 2008 3.5% wage increase and \$250 bonus for eligible employees has not been approved because the 2008 budget has not been adopted by Council.

STAFF RECOMMENDATION:

Approval.

BACKGROUND:

This is the culmination of six months of negotiations resulting in both Union and Management-proposed improvements for new three-year Agreement, including retroactive pay increases for 2006 and performance-related ("Meets Expectations") bonuses in 2007 and 2008 for non-step eligible employees. Prior to January 2006 each of the two KAPE bargaining units had separate but similar contracts. For the year 2005 the City approved a one year amendment to provide for pay increases. In 2006, there has been no contract with this bargaining unit.

BUDGETARY IMPACT:

The overall three-year budgetary impact will be \$1,359,000. Two and one tenth of a percent (2.1%) cost of living adjustment (COLA) and step increases for 2006, costing \$329,000 when combined with wages already paid out, and 2.0% COLA and step increases for 2007, costing a total of \$398,000 including base wages, both figures within already approved budgets for those years. In addition, a 3.5% across-the-board increase + steps for 2008, requiring future outlay of \$607,000 (total wages) and, for both 2007 and 2008, \$250 cash bonuses for non-step eligible members totaling an estimated \$12,500 each year. The 2006 and 2007 wage increase have been budgeted for in each of those fiscal year budgets. The tentatively agreed to 2008 3.5% wage increase and \$250 bonus for eligible employees has not been approved because the 2008 budget has not been adopted by Council.

SOURCE OF FUNDING:

Departmental Budgets.

ATTACHMENTS:

[KAPE 2006 Pay Matrix](#)

[KAPE 2007 Pay Matrix](#)

[KAPE 2008 Pay Matrix](#)

[Proposed 2006-2008 Contract as Revised](#)

[Previous Contract](#)

[Executive Memo and Summary](#)

MEMORANDUM

TO : Mayor Bunten and Members of the Council

FROM : Norton N. Bonaparte, Jr.

RE : Changes to KAPE Contract, 2006-08

DATE : December 12, 2006

Enclosed is an "Executive Summary" detailing a series of 51 contemplated changes, some of them repetitive and conforming, to the proposed three-year contract (2006-2008) with the Kansas Association of Public Employees (KAPE), the City's largest bargaining unit. Each change makes page number reference to an accompanying attachment, which is the existing agreement with deletions and additions highlighted.

The most significant aspect of the tentative new Agreement is that it combines two contracts and what were previously two separate bargaining units into one. That is, the 219 employees of the former Clerical, Service, and Maintenance staff will now be merged with the 116 Technical and Fiscal people to become a single 335 member unit. This will be a major convenience for both labor representatives and management supervisors alike when a contract issue arises.

The wage package in the new contract -- always important to both sides -- incorporates across-the-board increases of 2.1%, 2.0%, and 3.5% in 2006 (retroactive), 2007, and 2008, respectively. When coupled with assured step advancement of 1.5% each year, the total overall value reaches 12.1%. An additional new feature beginning in 2007 establishes a one-time \$250 bonus in lieu of a step for those who are topped out, provided they receive a "Meets Expectations" annual appraisal. This same performance-related component also applies to step eligibility itself in 2008.

One of the key provisions that drove the consolidation decision for the Union was application of "bumping" rights to any position in the bargaining unit for which an employee meets the particular job description criteria. Another benefit improvement for them was an increase in the entitlement to severance pay (in the event of reductions in force) to one week's pay for each complete year of service. Still a third valued change was the creation of a call-back compensation arrangement for work performed at home. We also clarified that there is no requirement for a minimum Sick Leave balance.

The most significant change from management's standpoint is a new, simplified rotation system for voluntary overtime to replace the very cumbersome "accumulation of hours" seniority method now in effect. We also had as a priority elimination of the requirement that a supervisor notify a union steward regarding proposed discipline, instead making that the choice and responsibility of the individual employee. Finally, to address the growing problem of unfunded liabilities in the outyears, we won acceptance of a stipulation that compensatory time in lieu of overtime requires supervisory approval.

Curiously, of the some 42 substantive changes from the old contract, 21 are Union and 21 are Management items, truly a testament to the balance we seek and expect from constructive collective bargaining efforts.

EXECUTIVE SUMMARY

[Highlighting Code in Body of Contract: Strikethrough = language proposed to be deleted; Bold = language proposed to be added; Italics = language carried over from 2005 amendment.]

1. On page 1, paragraph 1, changes reflecting the new combined bargaining unit designation and full KAPE affiliation reference.
2. On page 1, paragraph 2, changes conforming the non-discrimination clause to that adopted by the City Council on November 26, 2004.
3. On pages 2 and 3, "Section 4. Bargaining Unit," changes denoting the job classifications formerly split between two contracts, along with new ones (9) approved since the last agreement.
4. On page 12, paragraph K, a slight expansion of the definition of "immediate family" to include step-siblings and step-grandparents.
5. On page 14, line 3, addition of "voluntary transfer" to the category of employees to whom Interim Probation applies.
6. On page 15, paragraph CC, a new definition for "Temporary Duties."
7. On page 17, line 7, a reduction from five to three years of the time in which a record of a serious disciplinary action is kept in an employee's file.
8. On page 19, lines 6-8, updating and conformance for disciplinary purposes to City's no harassment or discrimination policy (*cf.* item 2 above).
9. On page 20, lines 4 and 7, removal of the requirement that management notify a steward regarding proposed employee discipline, leaving it up to the discretion and responsibility of the employee.
10. On page 20, bottom half of page, new language allowing an employee to voluntarily waive both a 48-hour notification requirement and accompaniment by a union representative regarding proposed discipline, with a consent form to that effect.
11. On page 21, "Section 4. Performance Related Corrective Actions," language stipulating that sick leave abuse can be cited in a performance evaluation as an area of needed improvement, but sick leave utilization itself not otherwise used to determine an overall rating.
12. On page 34, "Section 2. Initial Probation," new language providing that new employees shall automatically be moved from step 1 to step 2 of the pay matrix upon completion of their initial probationary period.
13. On page 35, line 1 and "Section 5.B.," further conforming changes to #6 above adding "voluntary transfer" to the category of those covered by an interim probationary period.

14. On page 38, Section 1.E. “Bumping,” an increase from seven to 14 days in the time during which an employee can exercise bumping rights (coupled with deletion of the definitional language because of later, less limited, options).
15. On page 39, Subsection E.3., a key change applying bumping to any position throughout the newly-combined bargaining unit, provided the more senior employee meets the particular job description criteria.
16. On page 42, “Section 2. Severance Pay,” a clarification that severance entitlement would also (in addition to a lay-off) apply to those whose jobs have been eliminated.
17. On page 43, a change in the severance pay calculation to one week’s salary for each complete year of service, similar to, but less generous than the City policy generally, which provides for two years for each year of service after the first 10.
18. On page 44, “Section 1. Pay Period,” a stipulation that employees “shall” instead of “may” be paid on a work day preceding a holiday.
19. On pages 44-46, “Section 2. Wages,” a recitation of the 3-year pay package providing for 2.1%, 2.0 %, and 3.5% base salary increases in 2006, 2007, and 2008, respectively, plus step advancement all three years or, for employees who are not step-eligible, a one-time \$250 bonus (beginning in 2007) provided they have at least a “Meets Expectations” on their performance appraisals (NOTE: this same performance standard also applies to step eligibility itself beginning in 2008).
20. On page 46, “Section 3. Shift Differential,” an increase from 45 to 50 cents per hour.
21. On page 48, “Section 5. Call Back,” a new subsection C providing that work performed at home will be compensated by one hour of call back pay for the first call received and 15 minutes, or actual time worked, for each call thereafter.
22. On page 49, “Section 7. Overtime Compensation,” a change in the election by the employee of compensatory time to require that the employer must concur or it will be paid as overtime.
23. On page 57, (Sick Leave) “Accrual and Balance,” a stipulation that no minimum balance is required, but supervisors will call it to their attention if employees fall below a three-day (24 hour) reserve.
24. On page 58, (Sick Leave) “Payment,” a new requirement that employees notify their supervisors of their unavailability for work at least one hour prior to the start of their shift (instead of the previous “as soon as practical.”)
25. On page 60, Subsection F.2. “Emergency Use of Sick Leave,” the core change regarding notification as set out in #24 above, with the proviso that exceptions may be made in extreme extenuating circumstances.
26. On pages 61-62, Subsection H. “Return to Work” (after Sick Leave), a provision that employees cleared for duty will receive their regular pay (instead of charged Sick Leave) from the time they first reported.

27. On page 72, Subsection D.4. (Vacation Requests), language stipulating that supervisors should grant leave applications filed in a timely manner if the needs of the Department so permit.
28. On pages 80-81, Section 10.C. (Court time), language essentially mirroring the policy followed by the Police Department providing for one hour of travel time and two hours' minimum "show up" pay for duty-related witness appearances, limited to two per day.
29. On page 84, "Section 15. Union Leave," a reduction from the current 10 to seven members of the new combined bargaining unit authorized time for negotiation sessions and other union functions.
30. On pages 96 (and again on pages 118 and 122), updated title references from "Chief Administrative Officer" to "City Manager."
31. On page 107, "Protective Safety Gear," an increase from \$125 to \$150 in the reimbursement for footwear and a locking in of that latter amount for prescription safety glasses.
32. On page 109, "Section 6. Cafeteria Benefit Plan," a clarification broadening the exception to the irrevocability rule on plan participation, consistent with general City policy.
33. On page 110, "Section 7. Deferred Compensation," similar conforming language expanding participation to any benefit-eligible employee, consistent with general City policy.
34. On page 110, "Section 8. Employee Development," removal of the provision formerly allowing for reimbursement of textbook expenses in conjunction with outside academic/technical coursework.
35. On page 110, Subsection 8.B., a doubling to \$1,000 of the amount reimbursable for tuition expenses associated with approved outside academic or technical courses.
36. On page 114, Section 15, a new miscellaneous benefit providing for payment by the City of all fees for professional licenses and certifications required for employment.
37. On page 115, first paragraph, further conforming changes to the City's non discrimination policy (*cf.* Items #2 and #8 *supra*).
38. On page 117, "Section 4. Performance Evaluations," subsection A, clarifying language changing "performed satisfactorily" to "Meets Expectations" to conform to new standard established in wages section, Item #19 above.
39. On page 125 and again on page 126, inclusion in the process for dealing with employees who have lost their driving privileges those who may also or instead become uninsurable under current City policy coverage.
40. On page 129, additional conforming changes under "Equal Opportunity" to the City's current anti-discrimination clause, as previously highlighted in Items #2, #8, and #37 above.
41. On page 145, Section 9.B. "Voluntary Overtime/Call Back," the first of a series of 10 changes in this area, this one allowing probationary employees to be utilized when the voluntary list of non-probationary employees has been exhausted.

42. On page 146, Section 9.B.2., the second change providing for the development of new voluntary overtime lists twice a year, in June and December.
43. On page 146, Section 9.B.3., the third change doing away with the practice of keeping track of the number of overtime hours actually worked and instead relying on a simple rotating list based on seniority, proceeding through that on an opportunity by opportunity, continuing and repeat basis.
44. On page 147, Section 9.B.4, the fourth change again scrapping the old “accumulation” system and going by simple rotation, with an employee being placed at the bottom of the list if he or she does not respond to a legitimate attempted contact.
45. On page 147-148, Section 9.B.5, the fifth change in the overtime policy permitting employees on approved leave to retain their positions on the list until their return, but stipulating that they must work at least a half shift before becoming eligible.
46. On page 148, Section 9.B.6, the sixth change allowing for employees to turn down an overtime offer with no penalty other than being rotated to the bottom of the list.
47. On page 148, Section 9.B.8, a new (seventh) provision permitting supervisors to offer overtime to an employee with special expertise on a particular defined project without regard to the voluntary overtime list.
48. On page 149, Subsection C. “Involuntary Overtime/Call Back,” the eighth change in paragraph 3 allowing for probationary employees to be utilized when the normal involuntary overtime list has been exhausted.
49. On page 149, new paragraph 4, the ninth change stating that while employees may not refuse a call for involuntary overtime, supervisors may choose to excuse them under circumstances of personal hardship (in which case they would be first on the list for the next time).
50. On page 149-150, new paragraph 5, the last change in the overtime system providing for the Employer to waive adherence to the established involuntary overtime list if an employee’s particular skills or qualifications are required to accomplish a task or an unacceptable delay in reporting time could otherwise be experienced.
51. On page 152, simple changes in the effective dates of the contract to specify its applicability for the three-year period January 1, 2006 through December 31, 2008.

ARTICLE 1

RECOGNITION AND UNION SECURITY

Section 1. Preamble. This Agreement is entered into between the City of Topeka, Kansas, hereinafter referred to as the City and the ~~Technical/Fiscal & Staff Unit~~ , and the **Technical and Fiscal Staff and Clerical, Service, and Maintenance employees** (“employees”) represented by the Kansas Association of Public Employees (**KAPE**), **AFT, AFL-CIO, Local 4565**, hereinafter referred to as the Union. This Agreement constitutes the implementation of the provisions of K.S.A. 1975, Supp. 75-4321 et seq., as amended, in order to provide for orderly and constructive employment relations in the public interest, in the interest of the employees hereby covered, and in the interest of the City.

The parties agree that there shall be no discrimination because of race, disability, creed, ~~sex~~, **gender, sexual orientation, familial status**, color, age, nationality, religion, political orientation, **beliefs, or** affiliation or non-affiliation with any labor organization. The City and the Union agree that the provisions of the Agreement shall apply to all employees covered by the Agreement without discrimination.

It is the purpose of this Agreement to maintain a harmonious relationship between the City and the Union, to provide for equitable and peaceful adjustment of differences which may have arisen and to establish wages, hours and other conditions of employment.

The City and the Union recognize that it is in the best interest of both parties and the public that all dealings between them continue to be characterized by mutual responsibility and respect. To insure that this relationship continues and improves, the City and the

Union, and their respective representatives at all levels, will apply the terms of this Agreement fairly in accordance with its intent and meaning and consistent with the Union's status as the exclusive bargaining representative of all employees in the bargaining unit.

Section 2. Employees Covered. This Agreement shall be restricted to the employees within the collective bargaining unit as defined in the State of Kansas Public Employee Relations Board Case 75-UDC-3-1996.

Section 3. Employee Rights. The employees shall have the right to form, join and participate in the activities of the Union, for the purpose of meeting and conferring with the City with respect to grievances and conditions of employment. In accordance with existing state laws, the employees also shall have the right to refuse to join or participate in the activities of the Union.

Section 4. Bargaining Unit. The City recognizes the Union as the authorized representative of all benefit eligible employees in the following classifications.

Accounting Specialist I	Aircraft Mechanic I and II
Animal Control Officer	Aquatics Specialist
Arborist I, II, and III	Associate Planner
Biologist	Buyer
Carpenter	Chemist
Civil Rights Investigator	Community Resource Specialist

Compliance Inspector I	Computer Operator
Courier/Building Attendant	Economic Development Specialist
Education Specialist	Electrician
Electronics Technician I and II	Engineering Technician I and II
Environmental Technician I and II	Equipment Operator I, II, and III
Grantsperson writer	Horticulturalist
HVAC Specialist I and II	Human Relations Specialist
Inventory Specialist	Laboratory Technician
Maintenance Worker I, II, and III	Master Mechanic
Network Engineer I and II	Office Assistant I, II, and III
Parking Control Officer I and II	Planner I and II
Associate Planner	Plumber
Probation Officer I	Procurement Officer I and II
Property Maintenance Inspector I, II, III	Real Estate Officer
Recreation Specialist I and II	Rehabilitation Specialist
Safety Specialist	Security Monitor
System Developer I and II	User System Consultant I and II
Welder	Zoo Commissary Specialist
Zoo Keeper I, II, and III	Zoo Vet Tech

The City agrees to advise the Union in advance of the elimination of any of the above classifications or the creation of new classifications within the bargaining unit.

The City agrees to meet and confer with the Union regarding the terms and conditions

of employment of the affected employees prior to taking either of the above referenced listed personnel actions.

Section 5. Union Dues Deductions. The City agrees to deduct the Union membership assessments, dues, and/or representation fee once each month from the pay of those employees who personally request in writing that such deductions be made. The written authorization for the above deduction shall be delivered and received in the office of the Financial Director no later than thirty (30) days prior to the date that the deduction is to be made. The amounts to be deducted shall be certified to the City by the official Treasurer of the Union. The aggregate deductions of all employees shall be remitted together with an itemized statement to the official Treasurer of the Union by the end of the succeeding month after such deductions are made by the City. An itemized statement shall consist of a listing of every employee for which current Union deductions are withheld.

The above shall not limit the right of any employee, who after one hundred and eighty (180) days from the date of his/her initial authorization, directs a written request thirty (30) days prior to cancellation to the Director of Financial Services and Union President stating he/she no longer desires deductions for Union membership assessments, dues, and/or representation fees.

All other qualifying deductions shall be deducted from the employee's pay before the Union checkoff is deducted. The City is not responsible for the union dues deduction in the event sufficient wages do not remain once other qualifying deductions are made. The City shall not deduct dues when an employee is receiving any type of non-paid leave.

An employee's authorization shall automatically be canceled upon termination of

employment or following any placement in a classification outside of the bargaining unit.

The Union will indemnify and save harmless the City from any and all claims, demands, suits and other forms of liability resulting from the Union's use of funds collected by the City for the purpose of complying with the above provisions.

Section 6. Orientation of New Employees. The City shall provide each new employee with a copy of the collective bargaining agreement then in force. Management will cooperate in permitting the newly hired employee to attend a private on-the-job orientation session of approximately fifteen (15) minutes with his/her steward during the new employee's first two (2) weeks of work. In order to facilitate participation in the union orientation portion of the employee's city orientation, the City will inform KAPE of the date, time, and location of all orientation sessions one week in advance. Within that notification, the City will provide the names of all employees scheduled to attend and their position titles.

Section 7. Visits by Union Representatives. Non-employee union representatives will be permitted to come on the premises of the City for the purpose of investigating grievances, discussing alleged violations of the Memorandum of Agreement and fulfilling their exclusive representative obligation to the members of the appropriate unit, provided they report to the Department Head and give the following information:

- A. The name of the employee to be visited.
- B. The approximate time needed for the visit.

The Department Head will determine whether the employee's duties are such that

the employee is available at the designated time to talk to the Union representative. If the Department Head determines that the employee's duties are such that the employee can not be released at that time, the Union representative will be told when the employee will be available to talk to the non-employee Union representative.

Section 8. Steward Procedures. The City and KAPE recognize that it is in the best interests of the City and the bargaining unit members to provide trained individuals to assist the members in resolving problems in the workplace. It is therefore agreed that the following procedures shall be followed in order to provide assistance to the members.

The Union shall provide a listing of all official Union stewards to the Human Resources Director. Any change in the status of a Union steward or the replacement of an official Union steward shall be provided to the Human Resources Director after a change has been made.

The function of stewards are to represent and/or serve as witnesses for bargaining unit members in disciplinary meetings in which the member ~~will~~ reasonably believes will culminate in disciplinary actions, assisting members in making determinations relative to the grievability of issues, drafting grievances and in presenting grievances and grievance cases to management. Each steward will be allowed reasonable time during working hours, without loss of pay or leave, for the purposes of representing members and discussing grievances or potential grievances in the appropriate area represented by the steward. Reasonable time means not more than three (3) hours per week unless additional time is granted by management.

In addition to the above responsibilities, the function of the chief steward is to

represent KAPE officials and to give advice and assistance to line stewards. The chief steward shall observe the same guidelines as the line steward.

Any time spent by a line steward or the chief steward participating in any type of investigation or meeting called by management shall not be counted as a portion of the time granted to the steward to perform his/her duties.

It is agreed that the time during working hours granted to the steward pursuant to this agreement shall not be used for discussing any matters connected with the operation of KAPE, the collection of dues or assessments, the solicitation of memberships, campaigning for elective office in KAPE or the distribution of KAPE literature unless such literature pertains to the resolution of grievances.

Notification by Stewards of the Need to Leave the Work Site.

1. To attend a meeting called by management.

A steward shall inform his/her supervisor that he/she is leaving his/her work site to attend a meeting called by management to represent a member of the unit. The steward's supervisor may contact the management member calling the meeting in order to reschedule the meeting in the event the conditions existing at the time of the meeting make it impossible for the steward to be in attendance at the meeting. The supervisor shall inform the steward of the rescheduling of the meeting if the meeting is canceled and subsequently rescheduled. Time spent in such meetings shall not be counted as a portion of the weekly time allotted to the Union steward.

2. To meet with a member regarding a grievance or potential grievance.

The steward shall, prior to leaving the work site, request permission of his/her supervisor to leave the work site to discuss a grievance matter with a unit member. The supervisor may deny the request to leave the work site at the requested time if the supervisor has good cause for such denial. The supervisor shall inform the steward of the time when the steward may be excused.

The steward shall contact the employee's supervisor and inform the supervisor of the name of the employee with whom the steward needs to meet and the anticipated duration of the meeting. The supervisor will make the employee available to the steward unless conditions existing at the time preclude the release of the employee from duties. In such an event, the supervisor shall advise the steward of the time when the employee shall be available to meet with the steward. The steward shall promptly return to the work site upon completion of the meeting.

Section 9. Bulletin Boards. The City agrees to provide adequate space on existing departmental bulletin boards, not to exceed one-half of total space, for use by the Union. All notices shall be posted by the President of the Local Union and his/her designee, signed and dated and shall relate to the matters listed below:

- A. Union recreational and/or social affairs;
- B. Union appointments;
- C. Union elections and results;

- D. Union meetings;
- E. Ruling of policies of the Union or other Labor organizations with which the Union is affiliated;
- F. Reports of Union standing committees;
- G. Official Union publications;
- H. Any other material authorized by the City and the President of the Local Union and his/her designee.

No material detrimental to the City or the Union, (e.g. political, denunciatory, inflammatory or derogatory) shall be posted. The bulletin board's Union designated space shall be the responsibility of and shall be maintained in a neat and orderly appearance by the Local Union President and his/her designee. All items shall be removed in a timely fashion. The cost of posting said materials shall be borne by the Union.

Section 10. Distribution of the Memorandum of Agreement. The City will provide to the Union one copy of this agreement for each employee in the appropriate unit within one week after receiving the reproduced copies. Stewards will be authorized to distribute copies of the Memorandum of Agreement to employees of each appropriate unit in all areas. Employees may request a copy of the Memorandum of Agreement from management.

The Union agrees to reimburse the City one-half (1/2) of the cost of producing copies of the Memorandum of Agreement.

ARTICLE 2

MANAGEMENT RIGHTS

The parties to this Agreement recognize that specific areas of responsibility must be reserved to the City if the public service mission of the City is to function effectively and efficiently. Nothing in this Agreement shall be construed to restrict, limit or impair the rights, powers and authority of the City as granted to it under the laws of the State of Kansas. Unless specifically modified by any subsection of this Agreement, the City reserves the rights, powers and authority including, but not limited to, the following:

- A. Direct the work of its employees;
- B. Hire, promote, demote, transfer, assign, retain, and recall employees in positions with the City of Topeka;
- C. Discipline, suspend, demote and/or discharge employees for just cause;
- D. Maintain effectiveness, productivity and efficiency of governmental operations;
- E. Relieve employees from duties because of lack of work or other legitimate reasons;
- F. Take actions as may be necessary to carry out the mission of the City in emergencies as declared by the City Council or Administration;
- G. Determine the methods, means, and personnel by which operations are to be carried on.

The provisions of this Article shall not be used for the purpose of undermining the Union.

ARTICLE 3

DEFINITIONS

- A. Benefit-eligible shall be defined as a full time or part time budgeted position which is approved for benefit eligibility on relevant personnel schedules. A benefit-eligible position scheduled for less than full-time shall be eligible for benefits on a pro-rated schedule. A benefit-eligible position shall have access to the City's full benefit program as stated in this Agreement.
- B. Break of service shall be defined as any time an employee is voluntarily or involuntarily separated from the City for a period exceeding one hundred twenty (120) days.
- C. Classification shall be defined as the categories into which employees are grouped which are sufficiently alike in duties and responsibilities to be called by the same descriptive title, to be accorded the same pay scale, and to require substantially and relatively similar knowledge, skills, and abilities.
- D. Comparable Position shall be defined as a position within the same or a different classification which has the same or similar minimum qualifications, job duties and is within the same pay grade.
- E. Compensatory Time shall be defined as payment in hours in lieu of dollars for hours in pay status above the Fair Labor Standards Act (FLSA) limit. Compensatory payment in hours shall be at the rate of one-and-one-half (1 1/2) hours for each one (1) hour worked or in pay status. Compensatory time payment shall be at the option

of the employee.

- F. Doctor or Physician shall be defined as a medical doctor who is in good standing with the American Medical Association, the State of Kansas and the Kansas Medical Association.
- G. Full-time Employee shall be defined as one who works a minimum of 40 hours per work week on a regular and continuing basis.
- H. Hire Date shall be defined as the date the employee was hired into City service. Any breaks in service over one hundred twenty (120) days shall cause an individual to be classified as a new hire.
- I. Holiday shall be defined as a day wherein an employee is released from duty with full pay for the day. Holidays are listed within Article 10, Section 10 of this Agreement.
- J. Holiday Pay shall be defined as the pay for hours equal to the number of hours regularly scheduled if the day had not been declared a holiday as defined by Article 10, Section 10 of this Agreement.
- K. Immediate Family shall be defined as one's spouse, child, son-in-law, daughter-in-law, step-child, parent, step-parent, spouse's parent or step-parent, sibling, **step-sibling**, grandparent, spouse's grandparent, **step-grandparent**, grandchild, uncle, aunt, or a member of the immediate household permanently residing under the same roof.
- L. Layoff shall be defined as temporary termination of an employee, as provided for in Article 8 of this Agreement which is due to a shortage of funds, lack of work, or

abolishment of a position.

- M. Management shall mean the Department Head or person(s) designated by the Department Head to perform a function on behalf of the Department Head.
- N. Non-immediate Family shall be defined as any relative not specifically designated in the Immediate Family definition.
- O. Over-time Work Hours shall be defined as the total hours worked including any in pay status, except for hours actually worked on a holiday, which exceed the FLSA limit.
- P. Part-time Employee shall be defined as one who works less than 40 hours per work week.
- Q. Pay Status shall be defined as any time an employee is receiving compensation from the City either for services rendered or on an approved leave with pay. Eligibility for benefits generally is contingent on being in a pay status.
- R. Probation Period shall be defined as a period of time during which supervisors may assess the work of an individual in order to determine the ability of the employee to continue employment in the position.
 - 1. Initial probationary period shall apply to a new hire in the City and shall constitute a period of time of not less than 1040 hours which may be extended for an additional 520 hours if the employee is rated unsatisfactory by the supervisor upon completion of the 1040 hour period. An employee who experiences a break in continuous employment with the City of more than one hundred twenty (120) days shall be considered to be a new hire if re-employed by the City. An employee who does not successfully complete

initial probation shall be considered a termination for just cause.

2. Interim probation shall apply to all City employees when they are promoted, demoted, **voluntarily transferred**, or reclassified and shall constitute a period of time of not less than 1040 work hours which may be extended for an additional period of 520 hours by Management.
 3. Performance evaluation probation shall mean a period of at least 520 hours during which an employee is given an opportunity to improve his/her performance in order to remain within a specific position. Performance evaluation probation shall commence only after a special evaluation has been called pursuant to Article 4, Section 4 and the employee has received proper notice.
- S. Promotion shall be defined as the advancement of an employee from his/her current position in one classification to a vacated or new position in another classification which is assigned to a higher pay grade.
- T. Re-allocation of a position shall mean a change in the classification of a position resulting from the permanent assignment of duties of a different classification.
- U. Re-classification of a position shall mean a change in the classification of a position resulting from the determination that position has been improperly classified.
- V. Review date shall be defined as the date of hire of an employee or the date of the employee's last promotion.
- W. Seniority shall be defined as the number of days, months and years an employee has been employed in:
1. The City of Topeka (City seniority);

2. A specific department of the City (departmental seniority); or
 3. A specific division of the City (divisional seniority).
- Y. Serious Illness shall be defined as a condition which requires hospitalization and/or continuous professional medical care and shall be determined by the attending physician, unless otherwise specifically addressed in this Agreement.
- Z. Shift Differential shall be defined as premium pay over and above base pay for work performed on a night shift or under other conditions as specified in Article 9 of this Agreement.
- AA. Shift Work shall be defined as any established work hours which continue on a regularly scheduled basis.
1. Day Shift shall be defined as any regularly scheduled work hours which fall between the hours of 6:00 AM and 6:00 PM.
 2. Night Shift shall be defined as any regularly scheduled work hours when any of the scheduled work hours are between the hours of 6:00 PM and 6:00 AM.
- BB. Termination shall be defined as a complete separation from City employment resulting from discharge, resignation, retirement, or death.
- CC. Temporary Duties shall be defined as those assigned on an interim basis, normally for no longer than a six-month time period, but with exceptions to be made when the needs of the department or division so require.**

ARTICLE 4

DISCIPLINE & DISCHARGE

Section 1. Policy. The City reserves the right to, with just cause, discharge, suspend or otherwise discipline employees for violations of City and/or departmental rules and regulations. All disciplinary and corrective actions shall be subject to the provisions of the grievance procedure contained in this Agreement. The seriousness of an offense will often vary with the circumstances prevailing at the time of the occurrence and the motives which prompted the offense. Related and mitigating factors shall be considered when determining the appropriate action to be taken. The disciplinary process involves four steps of progressive discipline for infractions of a similar nature and which are of a nature not serious enough to constitute just cause for immediate suspension or discharge. The progressive steps are:

First Offense.....	Documented Verbal Warning
Second Offense.....	Written Warning
Third Offense.....	Suspension
Fourth Offense.....	Termination

Section 2. Procedure. The progressive disciplinary system listed above is intended to serve as warning to the employee that he/she needs to improve in the listed area and that repeated incidents may result in suspension or termination. The steps of progressive discipline are intended as a guideline for the application of discipline but the City may apply

any level of discipline commensurate with the seriousness of the offense committed.

- A. Disciplinary actions not considered serious enough for immediate suspension or termination shall be removed from an employee's file on completion of two years of continuous service free from additional disciplinary actions for violations of a similar nature. An employee may file a written request with the Director of Human Resources for the removal of disciplinary actions serious enough to warrant an immediate suspension after ~~five (5)~~ **three (3)** years of continuous service free from additional violations of a similar nature. The Director of Human Resources shall consider the overall work record of the employee and the seriousness of the offense for which the employee was suspended in any determination relative to the removal of such disciplinary actions. All items removed from the employee's personnel file shall be given to the employee. Union representatives may assist employees in this process, provided Management retains the authority to remove items from an employee's personnel file without such request.
- B. The City shall have the right to discipline employees up to and including termination; provided, however, that all actions to terminate employees shall require the approval of the Human Resources Director of the City. The City may place the employee to be terminated on administrative leave with or without pay pending the resolution of an appeal filed under the provisions of Article 5 of this Agreement.
- C. Offenses not normally considered serious enough to warrant immediate suspension or termination:

1. destruction or loss of City property;
2. improperly using or obtaining leave time;
3. tardiness;
4. absence without permission or proper notice;
5. interference with the regular conduct of City business;
6. using City vehicles, property or equipment for personal use;
7. consistent or continual unavailability for work;
8. engaging in habits that interfere with the individual's or any other employee's performance on the job;
9. violations of any work rule governing a management's right or Administrative Rule and Regulation which governs a mandatory subject not contained within this Agreement.

The above list does not constitute a complete and total listing of offenses but is for illustrative purposes only.

D. Examples of offenses which may constitute sufficient and just cause for immediate suspension or termination are as follows. This listing shall not be construed to constitute the entire list of such offenses but is solely for the purpose of illustration. The City reserves the right to determine that any violation of rules and/or regulations may constitute just cause for immediate suspension or termination depending on the circumstances relating to the offense.

1. dishonesty in any form or degree;
2. theft of property belonging to the City;

3. knowingly making false statements in matters relative to employment;
4. insubordination;
5. unreasonable and abusive treatment of a client, citizen or other individual in the community or on the City payroll;
6. ~~verbal or non-verbal harassment;~~ **violation of the City's No Harassment or Discrimination policy;**
7. ~~disregard for the City's EEO/Affirmative Action policy prohibiting discrimination;~~
7. solicitation or acceptance of money or anything of value to influence decisions in public matters or as a reward for such decisions;
- 8 possession of any type of firearm, explosive or concealed weapon without specific authority;
9. possession, sale, consumption or being under the influence of any alcoholic, narcotic or other non-prescription substance while on the work site, except to the extent governed by the City Substance Abuse Policy;
10. other violations of a similar nature.

Section 3. Representation for Disciplinary Proceedings. An employee may request and shall be permitted to have a representative from the Union present if a bargaining unit member is to receive a corrective or disciplinary action or the member is to be questioned about a matter and the member reasonably believes that such questioning may result in a

disciplinary or corrective action which may be intended to be a part of the employee's official personnel record. For the purpose of this Article, "Representative" shall mean an officially designated Union steward or other paid representative of the Kansas Association of Public Employees. Except in an extreme emergency, employees ~~and stewards~~ will be notified forty-eight (48) hours prior to any meeting that may result in disciplinary or corrective action being taken or any time a member is to be questioned for the purpose of disciplinary or corrective action. At the time of notification the employee ~~and steward~~ will be informed of the nature of the meeting.

Where an employee seeks Union representation at the meeting, the employee is responsible for contacting a steward. The employee may voluntarily choose to waive both the forty-eight (48) hour wait time before the meeting and accompaniment by a Union representative, but only after being advised of the right to each and signing a written understanding -- to be kept on file -- to that effect. The Waiver Form shall state:

I understand that I am or may be the recipient of a disciplinary or corrective action. I further understand that I have the right to a 48-hour notification before any disciplinary meeting may occur and to have a Union steward, whom I may obtain by calling 235-0262, present to assist me at that meeting.

I voluntarily choose to waive _____ (1) the 48-hour notification period but not Union representation; _____ (2) Union representation but not the 48-hour wait requirement; or _____ (3) both the 48-hour notification and accompaniment by a Union steward.

_____ Employee	_____ Date	_____ Supervisor
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All disciplinary actions shall be administered as promptly as possible. The selection of a representative will be at the discretion of the employee receiving the disciplinary action but shall be limited to the most readily available steward, or paid member of the Union. A representative shall be allowed to participate in the disciplinary process and will be in pay status only if the representative is on duty and within his/her normal work hours. The City shall schedule all investigative or disciplinary meetings at a time so as not to deny the employee representation and the employee shall be considered in pay status for any and all such meetings called by the City.

Section 4. Performance Related Corrective Actions. Each employee of the City shall be evaluated at least annually as provided in these rules and regulations. The evaluation and any special evaluations shall be used as the basis for all performance based corrective actions. **While a prior documented abuse of Sick Leave, as described in Article 10, Section 3, paragraph I.1, shall in addition to the measures set out in that subsequent paragraph I.2 be appropriate for listing in the performance evaluation as a need for behavioral modification, Sick Leave utilization itself shall not otherwise be a component of an employee's overall rating.** All non-probationary evaluations, either performance or special, will be subject to the appeals process set forth in Article 13, Section 4C.

- A. Corrective actions - as used in this section, corrective actions shall include:
1. special performance probation
 2. demotion

3. termination

B. Special evaluations -

1. The City may cause a special evaluation to be conducted for any employee when the management determines that such employee's performance is "less than satisfactory" with respect to any or all of the duties, tasks, and/or responsibilities which have previously been presented to the employee in writing.
2. The special evaluation document shall set forth the specific areas, (duties/tasks/responsibilities) in which the employee is expected to improve during the special evaluation period.
3. Special evaluations shall be performed in five hundred twenty (520) continuous work hour intervals which period shall be considered an opportunity for the employee to improve his/her performance to an acceptable level. Management shall identify the areas of improvement necessary to correct the employee's performance.
4. The employee shall be considered to be on a probationary status during the five hundred twenty (520) continuous work hour period following a special evaluation in which his/her performance ranks "less than satisfactory." The employee shall be given a second special evaluation on the completion of the five hundred twenty (520) continuous work hour probationary period. In the event that an employee's performance has not improved, as reflected by the second special evaluation, management, with the concurrence of the

Director of Human Resources, may take the appropriate action of:

- (a) demote the employee to a position of lesser responsibilities within his/her expected abilities;
- (b) extend the special probationary period for another five hundred twenty (520) hours; or,
- (c) terminate the services of the employee.

ARTICLE 5

GRIEVANCE PROCEDURE

Section 1. Definitions.

- A. Grievance shall be defined as any matter(s) involving an alleged violation, misinterpretation, or misapplication of this Agreement or of a traditional work practice. Such matter(s) shall be exclusively resolved in accordance with the procedure herein provided.
- B. Grievant shall be defined as the party filing the grievance. For purposes of this Agreement, the party may be an aggrieved employee or Union acting on behalf of an aggrieved employee/employees.
- C. Days shall be defined as calendar days commencing with the day following the filing of the grievance.
- D. Department Head shall be defined as the director of a department.
- E. Immediate Supervisor shall be defined as the individual responsible for the performance evaluation of the employee.

Section 2. Employee Representation. KAPE shall be the exclusive representative of all the employees in the bargaining unit for the purposes of the resolution of grievances. Except as provided in Section 5, A, Step 1, below, an employee may have an appropriate representative present to represent him/her at any step of the grievance process if the employee so desires. If the employee is to be represented, the employee shall be

represented by a designated KAPE representative, (KAPE staff member or officially designated steward), an attorney of the employee's choosing at the employee's expense, or an individual who does not hold him or herself out as a representative of any other organization. If the employee chooses not to be represented by KAPE, KAPE shall be notified of the grievance and permitted to participate in all grievance resolution proceedings as an interested party to the interpretation of the agreement. If KAPE does not actively participate in the grievance process, the decision or the resolution of such a grievance will only impact the aggrieved employee's situation and will not set precedent for future grievance resolution and/or contract interpretations. Any employee electing to forego KAPE representation shall be responsible for all costs incurred in the grievance process.

Section 3. Failure to Respond. In the event the grieving party fails to respond within the prescribed time sequences, the matter shall be considered resolved on the basis of management's last determination. In the event management does not respond within prescribed time sequences, the grievant shall have the right to proceed to the next step of the grievance procedure. The parties may, at any step of the grievance procedure, agree to extend the time limitations specified in this article.

Section 4. Grievance Forms. All grievances shall be filed on a form to be provided by the Department of Human Resources and incomplete forms shall be returned to the grieving employee for completion. Forms so returned shall be considered as timely filed if the form would have otherwise been timely and the form is returned to the proper management representative within twenty-four (24) hours of rejection.

Section 5. Procedure. The City and the Union agree to the following exclusive procedure of presenting and adjusting grievances and complaints, as defined above, which must be processed in accordance with the following steps, time limits and conditions:

A. STEPS:

STEP 1: The aggrieved employee who believes that a violation, as set forth above, has occurred shall first, within seven (7) days of the incident giving rise to the "grievance" or within seven (7) days of first having knowledge of the incident, informally discuss the "grievance" with the employee's immediate supervisor outside of the bargaining unit.

STEP 2: In the event the grievant believes that the solution offered by his/her immediate supervisor does not resolve the "grievance," the grievant may, within seven (7) days, reduce the matter to writing for presentation to the immediate supervisor. The supervisor shall verify the completeness of the grievance and either signify acceptance or return the form to the grievant with instructions regarding the appropriate information needed to complete the form. *Once the immediate supervisor has accepted the correctly completed form he/she will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form.* The supervisor shall have seven (7) days in which to investigate the matter, prepare a written response and provide the response to the grievant by hand delivering the response to the grievant or by placing a copy in the U.S. Postal Service certified mail addressed to the grievant and simultaneously providing

a copy to the Union.

STEP 3: In the event the grievant believes that the written response provided by the supervisor as specified in Step Two, does not resolve the matter, the grievant may, within seven (7) days of receipt of the written response, file his/her grievance with the next higher level of supervision. *The next level supervisor accepting the grievance will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form.* The supervisor receiving a Step Three grievance shall have seven (7) days to investigate the matter and provide a written response to the grievant. Written responses shall be delivered in the manner as described in Step Two of this procedure. (This procedure must be followed up the chain of command until the grievance is addressed by the department head).

STEP 4: In the event the grievant believes that the written response of the department head does not resolve the matter, the grievant may, within seven (7) days of receipt of the response, file his/her grievance with the Department of Human Resources. *The Director of Human Resources or his/her designee accepting the grievance will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form.* The Director of Human Resources shall investigate, shall, unless sustaining the grievance, conduct an informal hearing giving all parties an opportunity to express their positions and shall, within fourteen (14) days,

deliver a written resolution as provided in Step Two of this procedure.

STEP 5: Following receipt of the Director of Human Resources' determination in the matter, the grievant or the union shall have up to seven (7) calendar days to either accept the determination or issue a notice of intent to arbitrate. The notice of intent to arbitrate shall be in writing and shall be filed with the Department of Human Resources.

- a. The Director of Human Resources shall request a roster of arbitrators from the Federal Mediation and Conciliation Service. *The request shall state that the roster will consist of regional arbitrators.* The parties shall either agree on the arbitrator or shall engage in the alternate striking procedure to select the arbitrator.
- b. The costs associated with fees and expenses of the arbitrator shall be shared equally by the parties. The grievant shall be responsible for the grievant's share of the arbitration costs in the event the grievant chooses not to use KAPE as their representative.
- c. The arbitrator shall conduct a hearing into the grievance at a time, place and date mutually agreed on by the appropriate parties. In the event the parties cannot, within seven (7) days of the notification of the arbitrator, agree on a time, place and date for the hearing, the arbitrator shall issue a notice of hearing listing the time, place and date for the hearing.
- d. All documentary evidence and a list of witnesses shall be presented to the opposing party prior to the commencement of the hearing.

Acceptance of additional evidence presented to the arbitrator which was not submitted in advance to the opposing party or testimony from a witness not listed in advance shall be admitted at the sole discretion of the arbitrator. The arbitrator shall honor any request for a continuance of the hearing made by a party not provided evidence or advised of a witness prior to the hearing, in the event the arbitrator determines to admit such evidence or testimony.

- e. The arbitrator, after hearing all evidence and testimony, shall enter an order resolving the grievance. Such order shall indicate findings, conclusions and a resolution and shall grant the relief deemed appropriate by the arbitrator. This order shall be final and binding on the parties.

- B. Expedited Grievance Procedure. In the event of a termination, the grievant or the Union may pass Step 1, 2 and 3 and file the grievance directly with the Director of Human Resource as indicated in Step 4. All arbitration procedures shall be taken in accordance with the provisions of Step 5 of this Section.

Section 6. Investigation of Grievance(s). No more than two employees of the City (the aggrieved employee(s) and/or the Union representative(s)) shall be granted on-duty time off with pay to investigate grievances and to facilitate conferences and discussions with City supervisors and/or administrators relating to the resolution of a specific grievance.

Section 7. Grievance Meetings. All parties shall be afforded an equal opportunity to present facts or arguments pertaining to the matter(s) under consideration in all meetings conducted under the auspices of this procedure.

ARTICLE 6

SENIORITY

Section 1. Definition. The City shall give full consideration to seniority in all matters relating to promotions, transfers, demotions, reductions in force, layoffs, recall, vacations, and any other action so specified in this Agreement. Seniority shall be applied according to the provisions of this Agreement. Seniority shall be defined as the total length of uninterrupted service accumulated by an employee in each of the following categories:

- A. City Seniority: The total length of uninterrupted service following initial date of hire with the City.
- B. Division Seniority: The total length of uninterrupted service following the date of assignment to the specific division where the employee is currently employed.
- C. Department Seniority: The total length of uninterrupted service following the date of assignment to the specific department where the employee is currently employed.
- D. Classification Seniority: The total length of uninterrupted service following the date of assignment to a specific job classification within a specific division of the City.

Employees shall accrue seniority for time spent on involuntary Military Leave or leave as a result of an on-the-job injury or as provided elsewhere in this Agreement.

Section 2. Loss of Seniority. An employee's seniority accumulation shall cease if the employee:

- A. Is discharged for just cause (unless reversed through the grievance or other legal procedure);
- B. Retires; or
- C. Quits or resigns.
 - 1. Any employee who voluntarily resigns on good terms from the City and returns to work within one hundred twenty (120) days shall receive credit for all City seniority previously accrued (less any time away from work in a non-pay status). Any employee who does not receive direct compensation from the City during the above mentioned one hundred twenty (120) day period shall not accrue seniority during that time. Divisional and classification seniority shall commence on the date the employee returns to work.
 - 2. Employees who leave the service of the City and are re-hired within two years will be given their previous seniority (less any time away from work in a non-pay status) after eighteen (18) months of continuous employment.

Section 3. Seniority List. Each division head shall maintain an up-to-date seniority list of all employees which shall contain the name of each employee, date of hire, date of entry in the division, and date of entry in the classification.

Every six (6) months the City shall update and post the seniority lists on the official

bulletin boards and submit a copy to the Union. The City and the Union shall be allowed thirty (30) days to notify one another of any errors they find in the seniority lists as posted.

In the event two (2) or more employees have the same Classification Seniority, then Divisional Seniority shall determine the most senior employee. If employees have the same Classification and Division Seniority, then City Seniority shall determine the most senior employee. If employees have the same Classification, Division and City Seniority, then they will draw numbers to determine who has the greater seniority.

Section 4. Seniority of an Initial Hire Probationary Employee. An initial probationary employee shall have no seniority until the completion of the probationary period. On the successful completion of the initial probationary period the employee will accrue seniority from the date of hire.

ARTICLE 7

PROBATIONARY STATUS

Section 1. Purpose. Probation is an integral part of the selection/screening process and shall be utilized for closely observing the performance of the employee, for informing the employee of his/her ability to perform the duties/tasks/responsibilities of the position and for replacing or reassigning an employee whose performance does not meet the required performance standards.

Section 2. Initial Probation. Initial probationary period shall mean the probationary period served by an employee on a new hire with the City as defined in Article 3. The initial probationary period shall be at least six (6) months in duration, except that such probationary period may be extended for up to a maximum of three (3) months at the request of a division head and with the approval of the Director of Human Resources for performance related issues. During the initial probationary period the new hire shall not be permitted to bid on other positions outside of their department/division until after their probation is completed. **Upon the successful completion of their initial probationary periods, regardless of when that occurs during the contract term and whether or not step increases have otherwise been generally authorized for City employees, new hires shall be moved from step 1 to step 2 of the applicable pay matrix.**

Section 3. Interim Probationary Period. Interim probation shall mean a probationary

period for promotion, reallocation, **voluntary transfer**, or demotion as defined in Article 3.

The Interim probationary period shall be at least six (6) months in duration.

Section 4. Performance Evaluations During Initial and Interim Probationary Period.

Employees shall receive an oral evaluation of their performance at mid point of the initial or interim probationary period three (3) months and the required written evaluation prior to the completion of the six months. The evaluation of performance shall be based on standards established by the employee and City as those standards relate to the major duties and responsibilities as listed on the position description.

Section 5. Removal During Probationary Period.

- A. Initial: A department head may remove an employee from a position at any time and for any reason during the initial probationary period. An employee failing to successfully complete his/her initial probationary period shall be considered to be "terminated" for just cause.
- B. Promotion, **Transfer**, or Reallocation: An employee who does not successfully complete an interim probationary period resulting from a promotion, **voluntary transfer**, or reallocation shall be returned to their former position provided that the position remains vacant at the time the employee is determined not able to complete the probationary period. The City shall provide written reasons to the employee stating the basis for the failure of the employee to successfully complete the probationary period. The

written reasons shall be provided to the employee at the time the employee is notified of his/her failure to complete the probation. If the former position of the employee has been filled, the employee shall be placed in a comparable position within the department where they were formerly employed if such a vacant comparable position exists within the department. The employee shall be placed in the next available comparable position within City employment if no position exists in the department.

- C. Demotion: An employee who does not successfully complete an interim probationary period resulting from a demotion may be terminated from City employment for just cause.

Section 6. Rights of Employee During Probationary Period.

- A. Initial: The employee may not use the grievance procedure for failure to make initial probationary period.
- B. Interim: The employee may grieve their failure to successfully complete the interim probationary period.

ARTICLE 8

REDUCTIONS IN FORCE

Section 1. Reduction in Force: Lay Off

- A. General. A Reduction in Force is defined as a reduction in the work force due to a shortage of funds, lack of work, abolishment of a position, or other material change in duties or organizational structure. All reductions in force shall be considered to be short term reductions until the employee is returned to duty or all provisions of this Article are exhausted. The provisions of this Article are intended to protect a benefit-eligible employee's tenure and benefits.
- B. Order of Separation.
1. Management shall first designate the division(s) and classification(s) where the reduction in force will occur. Temporary employees shall be laid off first, followed by benefit eligible employees.
 2. The order of lay-off for regular, benefit-eligible employees will occur in the inverse order of their seniority in the classification.
 3. An employee who has been laid off shall have his/her name entered on a re-employment list at the time of lay-off and shall remain on the list for a period of three (3) years unless the employee chooses to waive the right to recall.
- C. Required Notice. Employees who are to be laid off shall be given formal

written notice at least thirty (30) days in advance of the date of the layoff or at the option of the employer, they shall be given four(4) weeks of salary in lieu of the required notice. The Union shall be given a copy of the layoff notice.

D. Layoff Options. The Department Head and/or the Union may recommend alternative cutback areas (to any anticipated layoff of employees) to the Director of Human Resources of the City. The City and the Union may enter into an agreement to minimize the effect of general layoffs by:

1. Reducing the total number of working hours of employees;
2. Reducing the level of payment to current classification;
3. A rotation layoff system; or
4. Other variations which may cause minimal impact on services rendered to the public.

E. Bumping. Bumping may occur at the time the employer notifies an employee of his/her pending lay-off. An employee shall notify the City within ~~seven (7)~~ **fourteen (14)** days of receiving the lay-off notice of his/her desire to exercise bumping rights. ~~Bumping rights are defined as an employee's ability to displace another employee from their position in the same or a lower classification for which the employee meets the minimum qualifications in the event of a lay-off.~~ Bumping rights may be exercised by an employee into:

1. any position in a different section of a department which is in the same classification as the classification in which the employee is employed and which is occupied by an employee with less City

seniority;

2. any position in a different section in the same or lower classification which was previously held by the employee within the past three (3) years regardless of the department in which the work was performed and the employee occupying the position has less City seniority;
3. Any position in the bargaining unit in any classification for which the employee meets the ~~required minimum job qualifications~~ **particular position description criteria** and the employee occupying the position has less City seniority;
4. any new position created by the City regardless of the classification, when the employee meets the minimum qualifications for the classification.

F. Recall.

1. An employee who has been laid off and whose name appears on the re-employment list shall be given the first available vacancy in the same or similar position the employee last held regardless of the department in which the vacancy exists. The employee with the most City seniority in the classification to be recalled shall be given the position in the event there are two or more employees on the recall list.
2. An employee's name may be removed from the re-employment eligibility list for any of the following reasons:

- a. Expiration. If the time limit for recall expires.
- b. Wavier. An employee may elect to waive the right to recall by signing a waiver form provided by the City. Employees who waive their right to recall shall immediately become eligible to receive severance pay.
- c. Forfeiture. Employees forfeit the right to recall if they:
 - (1) Refuse a job in a position that is not more than two pay grades below their position at the time of lay off;
 - (2) Fail to notify the City of their intent to accept recall within five (5) calendar days of work notice;
 - (3) Out placement assistance by the City results in an offer of comparable employment with an employer other than the City;
 - (4) Fail to answer written inquiries from the City's Department of Human Resources; or
 - (5) Fail to advise the City of a change of address and/or telephone number within a reasonable period of time of the change.

G. Reinstatement

- 1. Wages. When an employee is recalled he/she shall be paid at the pay grade assigned to the classification into which the position falls and at the step the employee had attained at the time of lay-off plus any adjustments to which they would have been entitled had the lay-

off not occurred. If recalled to a lower position, employees shall receive compensation at the pay grade for the classification into which the position falls and at the step which the employee had attained prior to the lay-off.

2. Benefits

- a. Vacation. When employees on lay-off are recalled within the time limits provided in this Article, they will commence to accrue vacation and shall be credited with any vacation time not paid at the time of layoff.
- b. Sick Leave. Any sick leave accumulated and not utilized at the time of lay off will be reinstated at the time of recall.
- c. Seniority. Employees shall be credited with seniority earned prior to the layoff.

H. Employee Benefits During Lay Off

- 1. Vacation Time. An employee on lay off may elect to be paid for any vacation and/or compensatory time which the employee accrued prior to the lay off, or the employee may choose to “bank” his/her vacation and/or compensatory time until the employee is recalled or the employee otherwise notifies the City of the decision to receive pay for the accrued hours. An employee shall be paid for accrued vacation and/or compensatory time at the base rate of pay of the employee at the time of lay-off. Vacation time does not accrue during the separation.

2. Group Insurance. An employee who is laid off may elect to continue group insurance for eighteen (18) months. Timely payment of premiums will be the responsibility of the employee.
 3. Other Benefits. Additional benefits (holiday, health coverage, retirement contribution or other insurance) will neither accrue nor be paid while an employee is laid off.
- I. Grievance. Lay off and demotions necessitated by the conditions listed in this Article shall not be subject to grievance except to contest the order of separation among affected employees.

Section 2. Severance Pay

- A. General. The purpose of the severance pay policy is to provide temporary relief to employees who have been laid off **or to employees whose job has been eliminated through reallocation or reorganization**. Severance pay shall be paid as follows:
1. On a weekly basis following each week of lay-off until the employee has exhausted the number of weeks of severance to which he/she is entitled pursuant to the schedule in Paragraph B of this Section; or
 2. An employee voluntarily waives the right to recall, as described in (F)(2b);
- B. Severance Pay. Employees eligible to receive severance pay shall be compensated ~~according to the following schedule:~~

<u>YEARS OF SERVICE TO THE CITY</u>	<u>SEVERANCE PAY</u>
Less than one full year	1 week of salary
1 yr. but less than 5 yrs.	2 weeks of salary
5 yrs. but less than 10 yrs.	3 weeks of salary
10 yrs. but less than 15 yrs.	4 weeks of salary
15 yrs. but less than 20 yrs.	5 weeks of salary
20 yrs. or more	6 weeks of salary

at the rate of one (1) week's salary for each complete year of service, as of the date of separation. However, in no case shall severance pay exceed one (1) year's salary. Severance pay shall be calculated using the employee's regular base hourly wage and shall not include any premium payments for overtime, longevity, etc.

ARTICLE 9

WAGES

Section 1. Pay Period. Employees shall be paid on every other Friday, except that employees may **shall** be paid on the preceding work day when a pay day falls on a holiday work day **unless technologically unfeasible**.

Section 2. Wages. The Union and the City hereby agree to continue the pay matrix and plan now existing which are appended hereto and specifically made a part of this Agreement.

~~The pay matrix shall be increased by three (3%) percent at all levels and steps as of January 1, 2002 and employees shall be granted a step increase on the anniversary of their hire date. As a result of the classification study mutually agreed by the City and the Union, the classifications due a market adjustment will receive one third (1/3) of the total increase as determined by the classification study. This increase shall be reflected as "premium pay" on the employee's paycheck.~~

~~———— The pay matrix shall be increased by three and one half (3-1/2%) percent at all levels and steps as of January 1, 2003 and employees shall be granted a step increase on the anniversary of their hire date. As a result of the classification study mutually agreed by the City and the Union, the classifications due a market adjustment will receive the final two thirds (2/3) of the classification study.~~

~~The pay matrix shall be increased by three and one half (3-1/2%) percent at all levels and steps as of January 1, 2004 and employees shall be granted a step increase on the~~

~~anniversary of their hire date.~~

~~———— No later than January 5, 2004 both parties agree to re-open the existing bargaining unit agreement for the purpose of discussing wages for the calendar year 2005. Any compensation and classification review conducted shall be in compliance with the position market comparability policy in effect for the calendar year 2004. Both parties agree that these negotiations will be completed thirty (30) calendar days prior to the budget submission date as defined in K.S.A. 75-4322 para. V.~~

~~———— The 2004 pay matrix shall be adjusted by an increase of one and one half percent (1.5%) across the board. This increase shall be come effective January 1, 2005. There shall be no step movement for the calendar year 2005.~~

~~———— Any wage increase or step movement for future years shall be negotiated between the employer and the Kansas Association of Public Employees Union — KAPE Local 4565 Clerical, Service and Maintenance Unit.~~

The pay matrix shall be increased by two and one-tenth percent (2.1%) at all levels and steps as of January 1, 2006 and eligible employees shall be granted step increases on the anniversaries of their hire dates.

The pay matrix shall be further increased by two percent (2.0%) at all levels and steps as of January 1, 2007 and eligible employees shall be granted step increases on the 2007 anniversaries of their hire dates. In addition, employees who are not step-eligible due to being at their top level but receive an overall annual performance evaluation for 2006 of “Meets Expectations” or better shall be given a one-time lump sum bonus of two hundred fifty dollars (\$250.00), payable with the first pay period

following that January 2007 rating.

The pay matrix shall be further increased by three and one-half percent (3.5%) at all levels and steps on January 1, 2008 and employees who are otherwise eligible and receive an overall annual performance evaluation for 2007 of “Meets Expectations” or better shall be granted step increases on the 2008 anniversaries of their hire dates. In addition, employees who are not so eligible due to being at their top level but receive an overall annual performance evaluation for 2007 of “Meets Expectations” or better shall be given a one-time lump sum bonus of two hundred fifty dollars (\$250.00), payable with the first pay period following that January 2008 rating.

Section 3. Shift Differential.

- A. Day shift workers shall be paid shift differential for all hours worked between the hours of 6:00 PM and 6:00 AM.
- B. Night shift workers shall be paid shift differential for all hours worked.
- C. The shift differential shall be ~~forty-five (\$0.45)~~ **fifty cents (\$0.50)** per hour.

Section 4. On-Call Pay.

- A. On-call is defined as a period of time, outside of an employee’s regularly scheduled duty time, when the employee is officially notified of the possible recall to work. Only non-probationary employees shall be required to serve in “on-call” status.
- B. Official notification of an on-call status shall require notification by the appropriate person either in person, by phone, or by memorandum.

Employees shall be given a minimum of twelve (12) hours of notification of being placed on on-call duty except for emergency situations. Any failure by an employee officially placed on on-call duty to respond, may result in removal from on-call duty.

- C. Any employee officially on on-call, shall be entitled to two (2) hours of pay for every day they are on on-call and three (3) hours per day on weekends and holidays. On-call pay shall be considered as actual hours worked for F.L.S.A.
- D. A designated on-call employee shall not be entitled to receive on-call pay for the day(s) they were called to work pursuant to the conditions outlined in Subsection E below.
- E. Employees who are serving on official on-call who are called back to work shall be given a minimum of three (3) hours call back pay or the actual number of hours worked, whichever is greater; provided, however, that only one minimum call time allowance shall be provided per twenty-four (24) hours on-call period.

An employee shall only be paid for actual hours worked on subsequent calls in a twenty-four (24) hour period. The end of call back time occurs when an employee officially leaves the work site.
- F. When any employee is selected to be on-call, the employee may be provided a City vehicle, while on-call, for the purpose of driving to and from work and/or responding to a call. The privilege of driving to and from work while selected to be on-call shall not be construed to be a taxable benefit.
- G. No employee shall be required to serve in on-call status for any two (2)

consecutive holidays. Christmas Eve and Christmas Day shall be considered one holiday for purposes of this Article.

Section 5. Call Back. The City may call an off duty employee to return to duty in the event conditions necessitate such call back. Employees shall make themselves available for duty as soon as possible, upon such notification, unless they are incapable of reporting to their assigned place of duty.

- A. Call back procedure. Call back to duty shall be accomplished from the voluntary call back list whenever possible and from the involuntary overtime list after the voluntary list has been exhausted. All call back shall be accomplished as set forth in Article 15, Section 9.
- B. Call back pay. All employees covered by this Agreement who are called back to work prior to their normal starting time shall receive their normal rate of pay plus any premium pay as provided for in this Agreement. Any employee called back to work shall receive a minimum of three (3) hours call back pay or the actual number of hours worked, whichever is greater. Except in cases of emergencies, work schedules will not be changed to avoid the payment of overtime by utilization of the call back procedure.
- C. **Work at Home.** In the event an employee is called at home to perform work that may be accomplished there, he or she shall be compensated by the payment of one (1) hour of call back pay for the first call received and fifteen (15) minutes, or the actual time worked, whichever is greater,

for each ensuing call during the same contiguous off-duty period ending with the employee's next regular reporting time.

Section 6. Hazardous Duty Pay. A committee shall be established to review the nature of the duties assigned to each classification in this unit and to identify those duties of a particularly hazardous nature. The committee shall be comprised of equal numbers of members (not to exceed six (6) in total) appointed by the City and the Union. The committee shall be responsible for reporting their findings back to the negotiating team of the City and the Union who shall utilize that information in the development of a contract subsection addressing hazardous duty pay.

Section 7. Overtime Compensation.

- A. Employees who are in pay status in excess of 40 hours in a work week shall be paid one and one-half (1 1/2) times their regular pay for all such excess hours, or, at the option of the employee, **subject to concurrence by the employer**, they shall be given compensatory time off at a rate of one and one-half (1 1/2) hours for each such excess hour. Use of compensatory time will be permitted within a reasonable period if it does not unduly disrupt the operations of the Department/Division. Use of compensatory time may only be at the employee's request and not forced or scheduled by any supervisor.
- B. An employee may accumulate up to a maximum of two hundred forty (240) hours of compensatory time and may carry over an equal amount of

compensatory time from one calendar year to another.

Section 8. Classification/Pay Grades/Unit Placement.

- A. Establishment of New Job Classifications. The City and the Union herein agree that the City may, from time to time, establish new job classifications consisting of duties similar to those currently being performed by bargaining unit members or create a new level of classification within an existing classification “career ladder” which is currently placed within the appropriate bargaining unit. In such an event the City shall notify the Union of the intent to take the action and shall then meet with the Union representatives to determine compensation levels for the new “classification”.

Any new classification and determined pay grade shall automatically be included within the bargaining unit and the Memorandum of Agreement existing at that time shall be considered amended to include the new classification. All rights under the Memorandum of Agreement shall be automatically extended to employees hired into the new classification.

- B. Unit Placement of Newly Created Job Classifications. The City agrees to submit a listing to the Union of any classification created by the City after the effective date of the Agreement for consideration of bargaining unit placement. The listing shall include job or position descriptions and classification specifications. The Union shall be granted a period of thirty (30) days from receipt of the proposed classification in which the Union may notify the City of

its belief that such classification should appropriately be placed within the established bargaining unit governed by this Agreement. The parties shall meet to seek agreement of the placement of the classification within the Unit. Any dispute concerning placement of a new classification within the established Unit shall be submitted to the Kansas Public Employees Relations Board (PERB) as set forth in the provisions of K.S.A. 75-4321 et. seq. Nothing in this section shall be construed as a prohibition to filling the position during the dispute resolution procedure undertaken by the PERB; provided the thirty (30) day period as set forth above has passed.

- C. Job/Classification Reviews. The City may redefine, consolidate and/or otherwise modify or create the classifications and recognized job classifications pursuant to the provisions of Article 9 of this Agreement. An employee may request a review of his/her classification placement and/or position description by filing a written request with the supervisor/department head. In the event the employee does not believe the appropriate consideration has been given to their request, or the supervisor/department head disagrees with the employee's request or fails to forward the request to the Human Resources Department, the employee shall have the right to forward their request directly to the Human Resources Department. All reclassification and re-allocation requests presented by the department head or employee to the Human Resources Department shall be made in compliance with the policy and procedures in effect for the calendar year. The

Human Resources Director shall cause such a review to be made within thirty (30) days of the request and shall provide the written results to the department head and employee.

Section 9. WPC Optimization Project.

An optimization project has been initiated within the Water Pollution Control, Street and Water Divisions. Employees of these divisions shall be eligible to share in the incentive pay program. The City and KAPE have entered into a Memorandum of Understanding (MOU) defining the criteria for the incentive pay program. Any changes to the MOU shall be negotiated with KAPE.

ARTICLE 10

ABSENCE FROM DUTY

Section 1. Leave of Absence With Pay.

Eligibility. All benefit eligible employees may request and be granted the use of a leave of absence with pay by utilizing sick or vacation leave or compensatory time in accordance with the appropriate section as provided in this Article.

Section 2. Leave of Absence Without Pay.

- A. A leave agreement must be completed and approved on a form provided by Human Resources Department.
- B. Eligibility. All benefit eligible employees may request and be granted the use of a leave of absence without pay.
- C. Hours Available. Eligible employees may request and may receive the number of hours necessary for the purpose of the leave requested as a leave without pay.
- D. Acceptable Use. A leave of absence without pay may be granted for leaves of the following nature:
 - 1. Medical reasons;
 - 2. To attend an educational institution;
 - 3. To accept employment outside the City, provided, however, that any such employment may not conflict with any other provision contained

within this Agreement;

4. Family leave, in accordance with the provisions of the Family Medical Leave Act (FMLA); or
5. Other valid reasons as determined by the Human Resources Director.

E. Procedure for Requesting.

1. Eligible employees may obtain a leave agreement from the Human Resources Department.
2. Leave agreements must be completed in full, signed by the employee and returned to the Human Resources Department.
3. Leave agreements for medical reasons must be accompanied by a signed statement from the attending physician stating the nature of the illness, the anticipated length of the leave and the diagnosis of the physician.
4. Leave agreements for reasons other than medical purposes must be accompanied by a statement of the anticipated length of the leave, a clear and concise statement of the purpose for the leave and the Human Resources Director may require proof of the need for enrollment in the employee's participation in a program or other purpose for which the leave is requested.
5. All requests for a leave of absence without pay must receive approval prior to the requested leave, provided however, that a leave for emergency medical purposes must be made by the employee or a

representative thereof within twenty-four (24) hours of the commencement of the leave.

F. Conditions Necessary For Approval.

1. Approval shall be contingent on the concurrence of the City Medical Advisor when appropriate and shall require the concurrence of the department head and the Human Resources Director.
2. The employee shall not be required to have exhausted all accrued sick leave, compensatory time and vacation leave in order to receive an unpaid leave of absence.

G. Special Conditions.

1. A leave of absence without pay shall be required in all instances when an employee is unavailable for work unless the employee utilizes accrued sick or vacation leave, or compensatory time, whichever is appropriate.
2. Any absence of an employee without prior approval, a leave of absence or the appropriate use of leave shall be counted as unauthorized leave and may be subject to the appropriate disciplinary action up to and including termination. Absences without approval of three (3) or more consecutive days shall be considered job abandonment and shall be considered a resignation.
3. Any employee who is on a leave of absence without pay shall:
 - a. Pay all, (both employer and employee share), health and other

insurance premiums (provisions for a FMLA may vary);

- b. Not have time spent on a leave credited toward retirement or for seniority purposes; and,
- c. Not accrue sick, vacation or other types of leave.

H. Return to Work.

- 1. Employees shall return to work on the date and at the time specified in the leave agreement. On completion of a leave of absence the employee shall be returned to the position held immediately prior to the leave.

Section 3. Sick Leave

- A. Eligibility. All benefit eligible employees are eligible for sick leave benefits. Employees must be performing assigned duties or on authorized paid leave in order to be eligible to accrue sick leave.

B. Accrual Rate.

- 1. The hourly accrual rate for a 40 hour employee shall be .0462. The number of hours worked in each pay period shall be multiplied by the above listed accrual rate in order to determine the number of sick leave hours accrued in a specific pay period up to a maximum of 3.692 hours per pay period for a forty (40) hour employee. Part time employees working a regular schedule consisting of less than forty (40) hours per week shall accrue up to a maximum of the pro rated share of the

number of hours for which they ~~were hired to~~ work. (Example: 1/2 time employees may accrue up to a maximum of 1.85 hours per pay period and a total maximum accrual of 520 hours.)

2. *An employee may be paid for all accrued sick leave hours in excess of 1040 hours as of December 31 in each calendar year, provided, however, no employee exercising the provision of personal leave days as set forth above may elect to be paid for hours in excess of 1040 hours. Payment for accrued sick leave hours shall be made at a rate of 50% of the employee's base hourly rate of pay (no premium pay) on the first pay day of the year following the year of accrual. Request for payment must be made in writing by the employee to the division head/payroll clerk no later than the first pay period in December.*
3. *Part-time benefit eligible employees working a regular schedule consisting of less than forty (40) hours per week may be paid for all accrued sick leave hours in excess of the pro-rated maximum accrual as calculated in Section 3.B.1. of this article.*

- C. **Accrual and Balance.** The maximum accrual allowance for sick leave shall be one thousand forty (1,040) hours for a full-time forty (40) hour employee. **No minimum balance is required, but employees who fall below a three-day reserve will be notified by their supervisors of that status.**
- D. **Payment.** An employee shall receive compensation for sick leave usage if the employee is utilizing sick leave in compliance with the provisions of paragraph

E of this section. Employees who wish to receive compensation for sick leave shall notify their duly authorized supervisors -- **at pre-established email addresses or time-recording, voice-mail equipped telephone numbers --** of their illnesses **at least one hour** prior to the start of their assigned shifts, ~~or as soon as practical thereafter,~~ **except in extreme extenuating circumstances where personal condition of health or family emergency does not permit**, or prior to leaving the work site. The reimbursement request may be subject to reasonable audit, confirmation, and approval by the duly authorized supervisor. Requests for sick leave usage submitted more than two (2) working days after the employee returns to work may not be honored and claims submitted following termination of employment may not be honored. Sick leave shall be available as it is accrued including during the initial probationary period, but it shall not be allowed in advance of accrual.

E. Acceptable Use. Sick leave may only be utilized by an employee in order to be compensated for absences during an employee's regular or normal work schedule under the following circumstances;

1. Sick leave may be allowed in minimum one quarter-hour increments when an employee is unable to perform duties due to personal sickness or injury, the illness or injury of an immediate family member, as defined in Article 3, K of this Agreement or the need for medical, dental or other routine, diagnostic or remedial treatment by the employee or immediate family member; or

2. Sick leave may be utilized if an employee is exposed to a contagious disease or whose injury may endanger or jeopardize the attendance or welfare of other employees; or
3. Employees who are utilizing sick, vacation or other paid leave as a supplement to temporary total worker's compensation in order to receive a full pay check shall accrue sick leave at the appropriate rate as set forth above for the maximum number of hours for which the employee was hired to work; provided that the amount of pay for the supplemental paid leave and pay from worker's compensation total to an amount of pay equal to the employee's regular or normal pay.
4. Non-Emergency Situations. Non-emergency situations shall be defined as those instances when an employee has occasion to schedule dental or medical appointments, etc., as a matter of no urgency and no hardship will result if the employee waits several days before the appointment. An example is the annual physical examination. The employee shall schedule medical or dental appointments, and/or treatments at a time which does not unduly interfere with job-related duties and shall notify their supervisor as soon as the time of the appointment is known.

F. How/When To Request Use.

1. Non-Emergency Use of Sick Leave.
 - a. Shall be requested at least forty-eight (48) hours in advance of

the anticipated absence.

- b. The employee must request the usage of non-emergency leave in writing on a form provided by management by filing the completed leave request with the employee's supervisor prior to leaving the job site.

2. Emergency Use of Sick Leave.

- a. The employee shall notify ~~their~~ **his or her** supervisor -- **at a pre-established email address or time-recording, voice-mail equipped telephone number --** of the **employee's** unavailability ~~of the employee~~ for work **at least one hour** prior to the start of the work shift ~~or as soon as practical thereafter. ,~~ **except in extreme extenuating circumstances where personal condition of health or family emergency does not permit.**
- b. The employee shall request the use of sick leave prior to leaving the work site in the event the employee becomes ill on the job and, if possible, complete a sick leave request form prior to leaving the job site.
- c. In the case of either 1 or 2 above, the employee must complete and file a sick leave request form with their supervisor within two working days from the date the employee returns to work or the use of accumulated sick leave shall not be allowed.

G. Special Conditions.

1. Employees shall not be charged for sick leave use for:
 - a. medical appointments or therapy scheduled during regularly scheduled working hours authorized by Risk Management as a result of a worker's compensation claim or as authorized by the Human Resources Director.
 - b. Medical consultations required by management under provisions of Article 13 Section 17, Fitness for Duty.
 - c. An employee shall be allowed pay in accordance with the provisions of this article for absence from scheduled time necessary because of quarantine.
2. Employees shall not be compensated for medical appointments or therapy which is scheduled during non-duty work hours.

H. Return to Work. A forty (40) hour employee who utilizes five (5) or more consecutive work days of sick leave shall report to the Department of Human Resources prior to returning to work. The employee shall report to the Department of Human Resources for a return to work permit at some time prior to the normal start time of the employee. Representatives of the Department of Human Resources may require the employee to report to the City Medical Advisor to obtain a release to return to work. Employees ~~may utilize sick leave for any time spent in consultation with the City Medical Advisor.~~ **so cleared to work by the City Medical Advisor will be compensated at their regular**

rate of pay from the time they first reported to Human Resources or their normal start time, whichever is later; employees not cleared, on the other hand, will be continued on personal Sick Leave.

I. Abuse of Sick Leave.

1. Any use or requested use of sick leave for purposes other than those specified in this Article or usage which establishes a consistent or continual unavailability for work shall be considered abuse of sick leave pursuant to the procedures contained in paragraph 2 below.
2. Employees who establish a pattern which gives the appearance of leave abuse or who are suspected of sick leave abuse shall be referred by their supervisor to the Department of Human Resources for review and possible referral to the City Medical Advisor for consultation. The City Human Resources Director or the Medical Advisor may require an employee to provide a statement from a medical doctor showing:
 - a. The date the employee was treated;
 - b. A statement indicating the extent or seriousness of the illness or injury was serious enough to prevent the employee from being available for work;
 - c. Date(s) the employee was unable to work because of the illness or injury; and
 - d. Date the employee may return to work to assume full duties.
3. Failure to provide the medical statement as required above may result

in disciplinary action which may include termination, provided however, that the City's Medical Advisor, for good cause shown, may waive the doctor's statement. For the purpose of this section the doctor's statement must be from a medical doctor as defined in Article 3.

- J. Inter-departmental and Intra-departmental Transfer. An employee who is transferred, promoted, demoted or otherwise reassigned shall be entitled to retain accrued sick leave.
- K. Payment Upon Retirement. An employee retiring under the Kansas Public Employee's Retirement System (KPERs), or the federal social security system may upon request be paid for thirty-five (35%) percent of eligible accrued sick leave up to a maximum payment of four hundred (400) hours for forty hour (40) employees at their respective prevailing rate of pay. For the purposes of this section the Human Resources Director shall define "retirement" as established by KPERs, or the federal social security system.
- L. Personal Leave Day for Perfect Attendance/Payment for Unused Sick Leave.
 - 1. Employees shall be granted one day of personal leave for each four consecutive months of perfect attendance, provided, however, that none of the months may overlap into another month period. The employee may accumulate up to three personal leave days for this purpose annually. Any unused personal leave at the close of each calendar year must be requested by the employee and taken during the period of January 1st through April 30th of the following year. An

extension may be granted with the approval of the department head.

2. An employee may be paid for all accrued sick leave hours in excess of 1040 hours as of December 31 in each calendar year, provided, however, no employee exercising the provision of personal leave days as set forth above may elect to be paid for hours in excess of 1040 hours. Payment for accrued sick leave hours shall be made at a rate of 50% of the employee's base hourly rate of pay (no premium pay), on the first pay day of the year following the year of accrual. *Request for payment must be made in writing by the employee to the division head/payroll clerk no later than the first pay period in December.*
3. *Part-time benefit eligible employees working a regular schedule consisting of less than forty (40) hours per week may be paid for all accrued sick leave hours in excess of the pro-rated maximum accrual as calculated in Section 3.B. of this article.*

M. Non-City Employment Injury and Use of Leaves. Any City employee injured while in the formal employment of an employer other than the City shall reimburse the City for any losses sustained by the City through payment of sick leave benefits or other paid leave usage, provided the other employer is insured, and further provided a Worker's Compensation settlement is consummated between the employee and the other employer. The amount reimbursed shall not exceed the amount of leave paid by the City.

N. Extended Sick Leave.

1. General. All employees who have satisfied their initial probationary period and are benefit eligible shall receive extended sick leave benefits. Extended sick leave benefits may only be used by employees who will not be returning to work due to a diagnosed terminal illness.
2. Amount. Extended sick leave benefits shall consist of five hundred twenty (520) hours of sick leave for full time employees and three hundred ninety (390) hours of sick leave for employees who are not full-time. An employee who returns to work after using all or part of these benefits shall not receive additional extended sick leave benefits.
3. Eligibility and Payment. A terminally ill employee may use extended sick leave benefits based on the normal scheduled hours for that employee's position. The terminally ill employee shall not be paid extended sick leave benefits unless that employee no longer has accrued sick leave or vacation leave available for use. A terminally ill employee who is using extended sick leave benefits shall not be considered an employee in "pay status" as defined in Article 3 of this Agreement.
4. Termination. An employee's receipt and/or usage of extended sick leave benefits shall terminate or be proportionally reduced when the employee receives other disability benefit payments, including, but not limited to KPERS and/or Social Security. An employee receiving extended sick leave benefits shall be obligated to inform the

Department of Human Resources when such disability benefit payments are received.

5. Death. The death of an employee receiving extended sick leave benefits shall cause the benefits to cease. The deceased employee's heirs and/or estate shall not be entitled to either any unused extended sick leave benefits or the continuation of benefit payments.
6. Return to Employment. An employee returning to work shall be required to repay all extended sick leave benefits collected while on extended sick leave either from future leave accruals, by payroll deduction or other cash repayments. The Human Resources Director shall enter into an agreement with the returning employee regarding the method and frequency of repayment.

Section 4. Emergency Leave.

- A. Eligibility. All benefit eligible employees may request and be granted the use of emergency leave.
- B. Hours Available.
 1. Full time employees (40 hour), shall receive three (3) working days with pay of funeral leave and up to three (3) working days with pay for family crisis leave per occurrence.
 2. Part time employees may receive up to the number of hours normally

worked by the part time employee in an average three day period as family crisis or funeral leave.

C. Acceptable Use.

1. Family Crisis Leave. Family Crisis Leave may be used in the event the health or welfare of the employee's immediate family is threatened by an occurrence of a disaster such as fire, flood, tornado, etc., or life threatening emergency health problems of the employee's immediate family as defined in Article 3, K. In addition, the City and the Union agree that the City may require that an employee requesting such usage supply a statement from the attending physician verifying that the health problem is both an emergency and is life threatening.
2. Funeral Leave. Funeral leave may be used in the event of a death in the employee's immediate family, as defined in Article 3, K of this Agreement, in order to make arrangements for or to attend the funeral.

D. Procedure for Requesting.

1. Employees shall request the use of family crisis leave or funeral leave in advance of the date requested for the commencement of the leave unless circumstances make it impossible for an advance request to occur. In all emergency requests the employee must request the use of family crisis leave or funeral leave within twenty-four (24) working hours of returning to work.
2. Eligible employees may obtain a request form from the Department of

Human Resources.

3. Request forms must be completed in full, signed by the employee and returned to the division head of the division wherein the employee is assigned.

E. Conditions Necessary for Approval. Approval shall be contingent on the concurrence of the department head.

F. Special Conditions.

Family Crisis Leave. The number of hours to be granted for family crisis leave shall be determined by the department head to the extent necessary for the employee to deal with the crisis and such determinations shall be subject to the grievance procedure contained within this Agreement.

G. Return to Work. An employee shall return to work on their next regularly scheduled work day following the use of funeral leave or family crisis leave at the time and date agreed upon by the department head and the employee or if the employee does not secure approval for the use of additional accrued leave, shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 5. Vacation. The earning of vacation leave is pre-conditioned by the provisions of this Section relating to maximum carryover and payment.

A. Accrual Rate. Benefit-eligible employees shall earn vacation by pay periods according to the following chart (prorated in relation to the average number of

hours worked per week):

Length of Service	Hours Earned Per Pay Period	Hours Earned Annually
First 4 years	3.696	96
5th - 9th years	4.616	120
10th - 14th years	5.536	144
15th - 19th years	6.364	168
20th - 24th years	7.384	192
25th - 29th years	8.304	216
30th - after	9.232	240

B. Special Conditions.

1. Employees serving on an initial probationary period shall not accrue vacation time, provided, however, that all employees shall be credited with forty-eight (48) hours of vacation leave on successful completion of their initial probation period of six (6) months. The forty-eight (48) hours of vacation leave shall not be credited to any employee who is required to serve an extended probationary period until the employee has successfully completed all required initial probationary time.

2. Employees must be performing assigned duties or on authorized paid leave in order to accrue vacation leave.
3. Employees shall be credited with vacation leave after completion of the initial probationary period, by pay period, at the rate specified above for every hour in which the employee serves in pay status during the pay period. No employee, regardless of the number of hours worked in any pay period, shall accrue vacation leave in excess of the number of hours they normally work or for which they were hired to work.
4. Length of service shall include all time worked for the City of Topeka as a benefit eligible employee without a break in service of one hundred twenty (120) days or more.
5. Employees who are utilizing sick, vacation or other paid leave as a supplement to temporary total Worker's Compensation in order to receive a full or regular pay check shall accrue vacation time at the appropriate rate for the maximum number of hours for which the employee was hired to work; provided that the amount of pay for the supplemental paid leave and pay from Worker's Compensation total to an amount of pay equal to the employee's regular or normal pay.
6. An employee may carry over a maximum of two hundred forty (240) hours of vacation from year to year.
7. An employee who is denied a reasonable time to take vacation leave and when such denial results in the employee's accrual amounting to vacation

hours in excess of the hours allowed in paragraph 6 above, shall be allowed to carry over the excess hours requested and denied. These excess hours shall be utilized in the first quarter of the year following the year in which the employee was denied the use of vacation leave.

8. Any employee who is allowed to carry over excess hours as provided in paragraph 7 above shall be paid for all such excess hours at his/her regular rate of pay if the employee is denied a reasonable opportunity to take such vacation leave during the quarter provided above. The burden of proof that the employee made a good faith effort to utilize the excess hours in the quarter provided shall be on the employee.

C. Acceptable Use. Vacation leave may be allowed in minimum one quarter-hour increments.

D. How and/or When to Request Use.

1. Requests for the use of vacation time shall be made on a "Request for Leave" form.
2. Requests for the use of vacation time shall be made to the employee's immediate supervisor.
3. Requests by forty (40) hour employees for five (5) or more consecutive work days of vacation leave shall be made at least seven (7) work days in advance of the requested leave except for extreme emergency situations. The supervisor shall either approve or deny in writing the vacation request as soon as reasonably possible but no later than two (2) work days after

the day the vacation request is made by the employee.

4. Requests by forty (40) hour employees for the use of less than five (5) consecutive work days of vacation leave shall be made, whenever possible, at least forty-eight (48) hours prior to the requested leave except for extreme emergency situations. As soon as reasonably possible, but no later than twenty-four (24) hours after the request is made by the employee, the supervisor shall either approve or deny in writing on the "Request for Leave" form the vacation request made by the employee.

Requests made within 48 hours may and should be granted if the needs of the Department or Division so permit.

5. Employees shall be granted sixty (60) days, January 1 through March 1, in which to reserve specific dates for vacation leave. Once approved, the vacation dates may not be canceled by the City except under extreme emergency conditions. Division seniority shall prevail in the event two or more employees request to reserve the same vacation dates and the appropriate member of management determines that not all employees may be given vacation leave on the requested date.
6. Approval of vacation leave requests made subsequent to March 1 in any calendar year shall be subject to a "first come--first serve" basis without regard to length of service.

- E. Return to Work. An employee shall return to work on their next regularly scheduled work day following the use of vacation leave at the time and date

agreed upon by the employee and department head or, if the employee does not secure approval for the use of additional accrued leave, the employee shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 6. Voting Leave.

- A. Eligibility. All employees may request and be granted the use of leave for voting.
- B. Hours Available.
 - 1. Eligible employees may request and may receive up to two (2) hours of paid leave for voting.
 - 2. Leave for voting shall only be granted to those employees whose work schedule results in a situation wherein the employee has less than two (2) consecutive hours free from work during the period of time the polling place is open for voting.
 - 3. The total amount of leave for voting shall not exceed the time necessary to amount to two (2) consecutive hours when added to the amount of time from the opening of the polls until the employee's scheduled start time or the end of the employee's shift until the closing of the polls.
- C. Acceptable Use. Leave for voting may only be used for casting a ballot in a primary, special, or general election held in the State.
- D. Procedure for Requesting. Eligible employees may request leave for voting from the department head or designee of the department wherein the employee is

employed.

E. Conditions Necessary for Approval.

1. No more than two (2) hours may be approved for leave for voting if the conditions as outlined in this Article are met.
2. Leave to vote shall be granted to forty (40) hour employees either at the start or the end of the employee's shift. Leave to vote shall be granted during the time the polls are open.

F. Return to Work. An employee who is granted leave to vote shall return to work at the time agreed upon by the department head and the employee or shall be marked as an unauthorized leave and appropriate disciplinary action shall be taken.

Section 7. Personal Leave Day. One annual personal leave day will be granted each full-time member of the bargaining unit. Part-time employees shall receive a prorated share of a personal leave day based on the number of hours they were hired to work in a work week.

A. Personal Leave Defined. A personal leave day for forty (40) hour employees shall be eight (8) consecutive hours and for part time employees shall be the prorated share of eight hours based on the number of hours the part-time employee was hired to work.

B. Special Conditions.

1. In order to receive the personal leave day, a member of the unit must be

employed on January 1 of the calendar year and have successfully completed their initial new hire probationary period.

2. An employee shall be allowed to take a personal leave day on any day of the week without prejudice or discrimination, but subject to personnel needs. The City will make every effort to afford the leave day requested.
 3. A personal leave day is not an earned wage and failure to use the personal leave day shall not be compensable. Any unused personal leave at the close of each calendar year must be requested by the employee and taken during the period of January 1 through April 30. An extension may be granted with approval of the Human Resources Director.
- C. Request for Taking a Personal Leave Day. Employees shall make a request to their immediate supervisor for taking a personal leave day at least two (2) working days in advance of the requested personal leave day.
- D. Approval of a Personal Leave Day. Supervisors shall insure that all approved vacation days receive priority over granting personal leave days. Approval of an employee's request to take a personal leave day shall be at the discretion of the division supervisor and the denial of the employee's first request in a calendar year shall not be subject to grievances. Denial of an employee's second request for taking a personal leave day shall be subject to the grievance procedure.

Section 8. Holiday Leave.

- A. Eligibility. All benefit eligible employees shall be granted holidays pursuant to the

schedule and in compliance with the rules listed below.

B. Definitions. DESIGNATED HOLIDAY shall mean the official holiday as listed in item 3 below or the alternate holiday as provided for in item 4 below, whichever is applicable.

C. Official Holidays

1. New Year's Day -- January 1
2. Martin Luther King's Birthday -- 3rd Monday in January
3. Memorial Day -- Last Monday in May
4. Independence Day -- July 4
5. Labor Day -- First Monday in September
6. Veterans' Day -- November 11
7. Thanksgiving -- Fourth Thursday in November
8. Friday immediately following Thanksgiving
9. Christmas Eve Day -- December 24
10. Christmas Day -- December 25

The Governing Body may designate additional dates as holidays, by resolution, on a temporary schedule, not to exceed one calendar year.

D. Alternate Holidays. Employees shall be given an alternate day off when the official holiday falls on their normal or regularly scheduled day off.

1. The alternate holiday for employees regularly scheduled to work Monday through Friday shall be Friday when the official holiday falls on a Saturday and shall be Monday when the official holiday falls on a Sunday; provided

however, that the Director of Human Resources may designate alternate days other than Monday and Friday as provided in this section.

2. Employees who regularly work a schedule other than Monday through Friday shall be given an alternate day off when the official holiday falls on their regularly scheduled day off. The alternate day off shall be designated by the department or division head in the department where the employee is employed.

E. Holiday Hours to be Observed. All official and/or alternate holidays shall commence at 12:01 AM on the designated or alternate day and shall end at 12:00 PM on the day of the designated or alternate holiday.

F. Compensation for Work on a Holiday.

1. Non-exempt full-time and/or part-time employees required to work on their designated or alternate holiday shall be paid two times their regular base hourly rate for all hours worked in addition to their normal or regular pay for the holiday. Provided, however, that the employee, with the approval of the division head, may elect to receive compensation and/or a vacation credit for a cumulative total of not more than two (2) times the number of hours worked on a designated or alternate holiday.
2. Full-time employees shall receive eight (8) hours of regular holiday pay and part-time essential employees shall receive a prorated share of the eight (8) hours based on the number of hours they were hired to work.
3. Non-Exempt employees who are receiving temporary total Worker's

Compensation shall receive holiday pay in an amount which when added to the amount received from Worker's Compensation shall equate to a full day's pay for the effected employee without charging the employee's other leave accounts.

4. Employees shall receive double time for hours served in an on-call status on a designated holiday.

- G. Special Conditions. An employee must be in pay status on the day before and the day after the designated holiday in order to receive holiday pay. Provided, however, that part-time employees shall be exempted from this condition if they are not regularly scheduled to work the day before or the day after a holiday.

Section 9. Compensatory Leave.

- A. Accrual. Benefit-eligible employees may earn compensatory leave accrual in lieu of hard dollar payment for overtime hours when offered by Management at a rate of one and one half (1-1/2) times the number of hours worked in excess of forty (40) hours in a week.
- B. Maximum Accrual. An employee may accumulate up to a maximum of two hundred forty (240) hours of compensatory time and may carry over two hundred forty (240) hours of compensatory time from one calendar year to the next year.
- C. Acceptable Use. Compensatory leave may be taken on request of the employee with the approval of the immediate supervisor. Compensatory time will only be used upon request of the employee. The employee will not be forced to use or

scheduled to use compensatory time by any supervisor. Use of compensatory time will be permitted within a reasonable period if it does not unduly disrupt the operation of the department/division.

D. How and/or When to Request Use.

1. Request for use of compensatory time shall be made on a "Leave Request" form.
2. Request for use of compensatory time shall be made to the immediate supervisor.
3. Whenever possible, requests for compensatory time shall be made at least forty-eight (48) hours prior to the requested leave except for extreme emergency situations.

E. Special Conditions. An employee shall be paid for all accrued compensatory time at their regular hourly rate of pay, excluding any premium pay, on termination of their services from the City.

F. Return to Work. An employee shall return to work on their next regularly schedule work day following the use of compensatory leave at the time and date agreed on by the department head and the employee or if the employee does not secure approval for the use of additional accrued leave, shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 10. Court Leave.

KAPE and the City recognize two types of court appearances that its employees may be

required to attend. Those are appearances which are duty related and those which are part of civic duty. The parties further recognize two times when the employee must attend those appearances. Those are during duty time and those which are during non-duty time. The following is a summary of compensation or lack of compensation to be received by an employee of the City for attendance at those appearances.

- A. Duty time – Duty related: The employee shall receive regular pay and overtime if applicable. Any money received by the employee from the court as a result of the appearance shall be returned to the City. The employee shall return to work at the completion of the appearance if normal work hours have not expired.
- B. Duty time – Civic Responsibility: The employee shall receive regular pay and return any money received from the court to the City, or may opt to retain the court pay in exchange for their regular pay. The employee shall return to work at the completion of the appearance if normal work hours have not expired.
- C. Non-Duty time – Duty Related: The employee shall receive ~~“show up” pay for two (2) hours plus one (1) hour of travel time, or pay for actual time spent.~~ **one (1) hour travel time and two (2) hours “show up” pay or actual time spent, whichever is greater, for testifying or waiting to be called as a witness, provided, however, that such compensation shall be limited to one morning and one afternoon session per day and to a single travel payment if attendance is continuous, except for a meal break, from one to the other. Appearances immediately before or immediately after and contiguous to a regular shift shall be treated as an extension thereof and not separately**

eligible for either the travel or “show up” allowance. Any pay provided by the court shall be returned to the City.

- D. Non-Duty time – Civic Responsibility: The employee shall receive no pay from the City but shall retain any pay provided by any court, including municipal court.
- E. If an employee is a voluntary plaintiff in a civil matter, a defendant in a non-job related matter, or appears as a voluntary expert witness other than as a part of their job, the employee may request the use of vacation time or leave without pay.

Section 11. Military Leave.

A. Temporary Training Period.

1. General. An employee who is a member of a military reserve organization or national guard unit shall be entitled to a paid leave as hereinafter provided. If such assignment would substantially interfere with execution of duties in the public interest, the employee may be encouraged to request a rescheduling of any such training/assignment. The employee shall provide appropriate documentation of orders to attend any training, citation of the training, and any related information as may be required to fully clarify the absence.
2. Reimbursements. The maximum reimbursement for any military leave shall be the difference between the base pay less special allowances which an employee would normally receive in one pay period and the amount received from the military. There shall be no City reimbursement if the military pay is equal to or greater than City pay. For a typical forty (40) hour employee, for the purpose of

calculating the maximum allocation, the pay period would be a maximum of ten (10) working days of eight (8) hours per day excluding any overtime consideration; provided, however, these maximum amounts shall be less than the full possible allocation in the event the individual is assigned to less training proportionately. Employees shall be reimbursed only for those days they would normally have been assigned to work during the time of the military assignment.

B. Active or Extended Military Assignment.

1. Reimbursement. No City compensation shall be allowed for any persons called to active or extended military service, provided that in the event of a natural disaster or civil disorder within the City limits of Topeka, the Governing Body may authorize City reimbursement for the duration of such active service not to exceed the difference between City and military pay.
2. Military Leave as Leave of Absence without Pay. Employees may have entitlement to a position with the City following completion of a military assignment, pursuant to applicable State and/or Federal laws governing such leave. The absence is considered a leave of absence without pay. Employees will be allowed to continue in employment following completion of such service unless, within thirty (30) days of completion, they opt to resign formally from a position or fail to notify the City of their intention to continue in employment, at which point all obligations with the City shall cease. Benefits do not accrue during this leave of absence without pay. The intent of this provision, unless superseded by State or Federal law, is

not to encourage a different career opportunity. Employees shall provide appropriate documentation of orders and complete a leave agreement.

Section 12. Leave for Political Activity.

- A. Employees choosing to seek election to the office of Mayor or City Council member shall request vacation leave or request a formal leave of absence from their position with the City for a period of time consistent with any campaign.
- B. While on duty, employees shall refrain from active political campaigning of any type including wearing political buttons, distributing campaign materials, or similar activities.
- C. Nothing herein shall be construed to prevent or prohibit City employees from exercising their rights as citizens to express publicly or privately their opinions or to cast their votes.

Section 13. Leave Due to Inclement Weather Emergency Absence. Absence due to an employee's inability to report for scheduled work because of severe inclement weather or conditions caused by severe inclement weather shall be charged to one of the following leave accruals: compensatory time, accrued vacation leave, or leave without pay, provided that an employee may request to use leave without pay rather than paid leave.

Section 14. Administrative Leave. The Human Resources Director may place an employee on administrative leave with or without pay.

Section 15. Union Leave.

- A. ~~Five (5)~~ **Six (6)** members of the bargaining unit, **plus the currently-elected President of Local 4565**, shall be allowed to attend union functions, such as but not limited to, steward school or organizational drives, provided that staffing levels are not unreasonably and unduly affected as determined by Management. Any such time off shall be without pay.
- B. ~~Five (5)~~ **Six (6)** members of the bargaining unit, **plus the currently-elected President of Local 4565**, shall be granted paid time from duty for attending any scheduled negotiation sessions and Management meetings. It is agreed that time off for Union-City joint meetings, including reasonable travel time, is considered time worked for the purpose of calculating continuous seniority.
- C. A pool of forty eight (48) regular hours with pay will be provided each contract year for bargaining unit members to attend State and/or National union meetings.

ARTICLE 11

HEALTH AND SAFETY

Section 1. General Provisions. It is the policy of the City and the Union to cooperate in an effort to continue to improve health and safety matters. The parties agree that it is in the best interest of the City, the Union, and the citizens that equipment should be operated properly and safely and that all reasonable safety precautions and devices should be utilized at all times. If an employee has justifiable reason to believe that their safety and health are in danger due to an alleged unsafe working condition, or alleged unsafe equipment, the employee shall inform their immediate supervisor who shall have the responsibility to determine what action, if any, should be taken. In the event that the threat to the employee's health and safety is immediate in nature, the supervisor shall notify the department or division head or his/her designee, who shall investigate the hazard and make a determination on the safety issue prior to the time the employee may be required to continue the work. In furtherance of this policy, a joint Union-Management Health and Safety Committee shall be established for the City. The joint Health and Safety Committee shall meet on a quarterly basis or upon request of either party and shall be comprised of one (1) KAPE member from each department selected by the Union and two (2) representatives of the employer. Chairmanship of this committee shall alternate between Union and Management representatives. This committee shall consider health and safety matters relating to all employees within the City. Union representation will receive the regular rate of pay for the time spent in the meetings

during their regularly scheduled hours. This committee shall have the responsibility for reporting all health and safety problems to the department or division head or his/her designee. Actions to ensure that health and safety are corrected shall be implemented as expeditiously as possible by the department or division head with advice and consent of the Health and Safety Committee. The department or division head shall provide a written reason for any recommendation of the Health and Safety Committee that is not implemented.

Safety/health rules and regulations shall be recommended by the joint committee to the department/division head or his/her designee who shall have the right to approve, reject or revise rules and regulations. In the event the Health and Safety Committee's recommendation is rejected or revised, the department or division head or his/her designee will meet with the Health and Safety Committee and a member of the Human Resources Department to determine if a policy can be adopted that would meet the needs of both the Health and Safety Committee and department or division. Rules or regulations relating to health and safety shall not be promulgated until they are approved by the Human Resources Director.

The City welcomes suggestions from employees or the Union which offer practical and feasible ways of improving departmental safety. An employee may submit their safety suggestions in the following manner:

- A. Giving it to Management; or
- B. Giving it to a member of the Safety Committee.

Section 2. Biohazards.

Definition: For the purpose of this section *Bloodborne Pathogens* means pathogenic micro-organisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV) and Human Immunodeficiency virus (HIV).

The City and the Union recognize the importance of protecting employees from the potential of exposure in the workplace to bloodborne pathogens and hazardous materials relative to infectious diseases carried in blood, urine, phlegm, feces, and vomit. The City, through the department/division, will make protection kits readily available to employees that work in positions where exposure to bloodborne pathogens and the above listed hazardous materials exist. The kit shall contain the following:

- Disposable gown or coveralls
- Face shield
- Disposable rubber gloves
- Heavy rubber gloves

It shall be the responsibility of the employee to utilize these protective devices furnished by the City. In the event the employee willfully fails to use the furnished protective devices and the employee's injuries were proximately caused by the failure to use the protective devices, Worker's Compensation may be denied.

When possible, employees will be provided a locker to store an extra change of clothes in the event a hazardous material were to come in contact with their clothing.

Section 3. Inoculations.

A. Hepatitis. The City and the Union agree that inoculations for Hepatitis A and B will be provided to employees that have the potential to come into contact with bloodborne pathogens and/or the hazardous materials as listed in Section 2 of this article. Inoculations will be provided for the positions that are identified by the City's medical provider and the Health and Safety Committee. Hepatitis C treatment inoculations will be provided to the bargaining unit employees when Hepatitis C contraction has been confirmed and is work related as determined by the City's medical provider.

The City agrees to provide coverage for the employee's out-of-pocket expenses for the initial/baseline test for members of the employee's immediate household when the employee has been confirmed to have contracted Hepatitis C in the capacity of their job. For the purpose of this Section "family member" shall be defined as a person of the immediate family who permanently resides in the household under the same roof. For an employee to receive the out-of-pocket expense reimbursement the employee must provide the following information to Human Resources:

- An explanation of benefits from the health insurance provider or a receipt from the healthcare provider that includes the date of service, type of service, who received the service, and the cost of the service.
- If a family member does not have health insurance coverage the City will cover the out-of-pocket expense for the initial/baseline blood test.

The employee must provide a receipt from the healthcare provider that

includes the date of service, type of service, who received the service, and the cost of the service.

B. Flu Inoculations. Flu inoculations will be provided at no cost to bargaining unit employees through the Occupational Health Program.

Section 4. Drug Screening. The City and the Union agree that it is a matter of health and safety to conduct drug tests under the stipulations set forth in this section.

A. Definitions.

Applicant - An individual offered employment.

Aliquot - A portion of a specimen used for testing.

Chain-of-Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen which will be analyzed for the presence of drugs.

Confirmatory Test - An analytical procedure which is independent of the initial test to identify the presence of a specific drug or metabolite and which uses a different chemical principle from that of the initial test to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) shall be the accepted standard confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine. A blood test shall be utilized to determine the presence of alcohol.

Confirmed Positive Result - The presence of an illicit substance in the pure form or its metabolites at or above the specified cutoff level identified pursuant to the procedures as specified within the definition of Confirmatory Test as described above.

Director - The Director of the Department of Human Resources or the Director's designee. The designee may be an individual who acts on behalf of the Director to implement and administer these procedures.

Drug - Any illegal or controlled substance, including alcohol, as defined by the Kansas Statutes Annotated.

Drug Screen - A test to determine the presence of drugs or alcohol.

Employee - An individual employed by the City of Topeka.

Initial Test - A screen to eliminate negative urine specimens from further consideration or other preliminary tests to detect the presence of alcohol.

Negative Result - The absence of drugs in the pure form or metabolites in sufficient quantities to be identified by either an initial screen or Confirmatory test or as determined by the Medical Review Officer.

Medical Review Officer - A licensed physician who reviews and interprets positive results of confirmatory tests and evaluates those results together with medical history or any other relevant biomedical information to confirm positive results. This person has knowledge of substance abuse and appropriate medical or forensic training.

B. Policy/Procedure

1. The City of Topeka has a commitment to a drug-free work place.
2. The policy applies to drug screening and education for City employees

suspected of substance abuse, employees required to possess and maintain a commercial driver's license (CDL) and to applicants for employment with the City.

3. Drug screens may screen for alcohol and any substances listed in Schedule I or II of the Kansas Controlled Substance Act. The threshold levels of certain substances are listed below. Samples from applicants and employees shall, in all cases, be screened to identify the following classes or substances:

(tests)	<u>concentration (ng/ml)</u>	
	Initial	Confirmatory
1. Marijuana/cannabinoids (THC);	50 ng/ml	15 ng/ml
2. cocaine metabolites;	300 ng/ml	150 ng/ml
3. opiates;	300 ng/ml	300 ng/ml
4. phencyclidine (PCP);	25 ng/ml	25 ng/ml
5. amphetamines/methamphetamine;	1000 ng/ml	500 ng/ml
6. barbiturates;	300 ng/ml	1000 ng/ml
7. benzodiazepines; and,	300 ng/ml	300 ng/ml
8. alcohol.	.04 mg/dl	.04 mg/dl

Specimens collected pursuant to this policy will be used only to test for those substances specified in these procedures and may not be used to conduct any other analysis or test unless otherwise authorized by law or the individual.

4. Collection sites, laboratories and test methods used to conduct drug screens shall comply with accepted practices within the industry and shall comply with all certification requirements.
5. Individual drug screen records maintained by the Director pursuant to this policy shall be considered confidential by the City and its representatives to the extent it is appropriate and feasible to observe reasonable expectations of privacy on the part of the individual.
6. Notifications of the drug screen requirement shall be included in announcements or advertisements seeking applicants for employment.
7. Employees shall be informed of the City's drug screening policy prior to being subjected to any drug screens.
8. Supervisors or those persons who have responsibility to administer the City's drug screening policies and procedures shall receive training approved by the Director. For the purpose of this policy, "employees who have responsibility for administering the City's drug screening program" means Department Heads and their respective administrative and managerial staff who may have responsibility for advising or notifying applicants or employees, preparing and maintaining forms or proposing disqualification or disciplinary actions pursuant to the Drug Screening Policy.
9. Applicants and employees may be screened under the following circumstances:
 - a. An individual offered employment shall be required to take a drug

- screen as a condition of employment.
 - b. Any employee may be subjected to a drug screen if the division head has reasonable suspicion of drug use by the employee.
 - c. Any employee required by their position to possess and maintain a commercial driver's license (CDL).
10. An applicant or employee required to submit to a drug screen shall be advised of the:
- a. Methods of drug screening which may be used;
 - b. Substances which may be identified;
 - c. Consequences of a refusal to submit to a drug screen or of a confirmed positive result;
 - d. Reasonable efforts to maintain the confidentiality of results and any medical information which may be provided; and
 - e. The right to request that the specimen be split in order for the employee to cause a separate screen to be made with all costs associated thereto to be paid by the employee.
11. An applicant or employee shall be required to sign the drug screening consent forms.
- a. Refusal by the applicant to sign the consent forms shall be considered a refusal to submit to a drug screen as a condition of employment, and will be considered a failure by the applicant to fulfill a condition of employment, resulting in the applicant's immediate disqualification from

- consideration for City employment.
- b. Refusal by the employee to sign the consent forms shall be considered refusal to submit to a drug screen as a condition of employment and shall be considered a failure by the employee to fulfill a condition of employment, resulting in the employee's immediate discharge from City employment.
12. An applicant or employee shall be informed of the drug screening specimen collection location and time. The applicant shall be responsible for reporting to the collection site at the scheduled time.
- a. An employee who is requested to submit to a drug screen shall be given time off with pay for that purpose.
 - b. An employee who is requested to submit to a drug screen shall be provided transportation to the testing site by the supervisor who shall identify the employee for the testing facility.
 - c. Failure by an applicant to report to the collection site at the scheduled time shall be considered refusal to submit to a drug screen as a condition of employment and shall be considered a failure by the applicant to fulfill a condition of employment, resulting in the applicant's immediate disqualification from consideration for City employment.
13. Drug screening results shall be reported in as timely a manner as reasonable and be revealed only to the employee and those persons authorized by the Director as having an established need for the information.

14. An applicant who receives a confirmed positive result shall have the offer of employment withdrawn for a period of two years from the effective date of the disqualification action. In addition, the applicant shall not be certified to vacancies or permitted to take a Civil Service examination for a period of two years.
15. A permanent employee who receives a confirmed "positive" result and who has not previously had a confirmed "positive" result shall be directed to the Employee Assistance Program (EAP) for referral to an appropriate drug assessment and education or treatment program approved by the appropriate EAP.
 - a. An employee will be granted leave to participate in an appropriate and approved education or treatment program pursuant to this article for a period not to exceed an aggregate of 60 working days. Upon recommendation of the program provider, leave may be approved beyond these limits solely at the discretion of the Director if the recommended program warrants such an extension.
 - b. Leave to participate in education or treatment programs, as outlined in paragraph A above, shall be granted with pay to the extent the employee has accrued leave and without pay thereafter.
 - c. The employee shall be required to provide verification to the Director that the employee is participating in an appropriate and approved education and treatment program to receive approved leave.

- d. The department head shall review the job duties required of the employee to determine whether the employee poses a threat to safety or health at the work site while undergoing out-patient or after-care treatment. The department head shall provide this determination to the Director who may assign the employee to a different position for a period of six (6) months. Final approval of such an assignment shall be at the option of the ~~Chief Administrative Officer (CAO)~~ of the City **Manager**.
 - e. Refusal by an employee to enter into an appropriate and approved drug assessment and education or treatment program may be grounds for termination. An employee may appeal their assignment to a specific program to the Director. The Director shall then determine the appropriate program and the employee shall be required as a condition of continued employment to participate in the program determined to be appropriate by the Director.
16. On completion of the recommended education or treatment program, the employee shall be required to provide or release clinical verification to the Director that the employee has successfully completed the recommended education or treatment program.
- a. For the purposes of the City's drug screening program, successfully completing the recommended education or treatment program means the employee achieved and maintained a drug-free state which will

normally be determined by a "negative" result from an authorized drug screen.

- b. All employees who have entered a program as specified in this section shall be required, as a condition of continued employment, to submit to a drug screen once each quarter for a period of eighteen (18) months commencing sixty days after the date of the drug screen. The specific date each quarter on which the drug screen shall be made shall be at the discretion of the Director and shall not require advance notice to the employee.
17. An employee who receives a confirmed "positive" result shall be subject to dismissal as follows.
- a. The employee shall be subject to dismissal if the employee is serving an initial employment probation at the time the Director is notified of a confirmed positive result.
 - b. The employee shall be subject to dismissal if the employee fails to successfully complete an appropriate and approved drug assessment and recommended education and treatment program.
 - c. The employee shall be subject to dismissal if the employee has previously had a confirmed "positive" result within the previous five years.
 - d. The employee shall be subject to dismissal if the employee is classed as a seasonal or temporary employee.

18. This article shall not preclude the Department Head from proposing disciplinary action for other aggravating circumstances that occur in addition to a confirmed "positive" result and which are normally grounds for discipline.
19. Any applicant who intentionally tampers with a sample provided for a drug screen, violates the chain-of-custody or identification procedures or falsifies test results shall have the conditional offer of employment withdrawn and such actions shall be grounds for disqualification for all positions in City government.

Any current employee who intentionally tampers with a sample provided for a drug screen, violates chain-of-custody or identification procedures or falsifies a test result shall be subject to immediate dismissal.
20. If an employee or applicant has reason to believe that technical standards were not adhered to in deriving the applicant's or employee's confirmed "positive" result, the result may be appealed in writing to the Director within fourteen (14) calendar days of receiving written notice of the result.
21. An employee shall be afforded due process in accordance with the grievance procedure within this Agreement if a disciplinary action results from the drug screening process or the employee alleges other violations of this article.
22. Only the Director has the discretion to authorize additional tests by the original or a different laboratory on the same or a new specimen, if the Director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed "positive" result or has other appropriate cause to warrant additional tests. However, the

employee may request and pay any costs associated with an additional drug screen of the original specimen taken for a drug screen by the contracted drug screening facility.

23. The drug screen shall be completed if reasonable suspicion exists that an employee is abusing a drug even if it is determined that the employee is using prescription drugs or medications under the care of a licensed physician. However, in such a case the employee shall be referred to the Medical Review Officer for an evaluation of the employee's ability to perform usual job tasks or whether reasonable accommodations need to be made for the employee's condition which requires the medication.
24. The City recognizes the patterns of behavior that may indicate drug use may also be signs of mental or physical illness. If an employee has a drug screen that involves a physical or mental function and that screen is negative, the employee will be referred to Occupational Health for evaluation for any handicapping condition that may be contributing to the poor work performance.

C. Authority of Supervisors

1. FIRST LINE SUPERVISORS shall have the authority and responsibility to document occurrences which may be determined to constitute reasonable suspicion as provided in the following section of this Article.
2. SECOND LEVEL SUPERVISORS shall have the authority and responsibility to document occurrences or assist the first level supervisor in documenting occurrences which may be determined to constitute reasonable suspicion.

3. DIVISION HEADS shall have the authority, acting in concert with department heads, the City Attorney, and the Director, to determine that reasonable suspicion exists and to require that a drug screen be taken by the employee. In addition, the Division Head shall have the authority to make a determination that an employee shall be removed from their position pending a drug screen if allowing the employee to continue with their duties might pose a threat to the safety or health of the employee, the workforce or the public.

NOTE: ALL DETERMINATIONS REQUIRING A DRUG SCREEN AS A CONDITION OF CONTINUED EMPLOYMENT SHALL BE REVIEWED AND APPROVED BY THE DIRECTOR OF HUMAN RESOURCES OF THE CITY PRIOR TO THE IMPLEMENTATION OF ANY REHABILITATION PROGRAM.

- D. Identifying and Documenting Reasonable Suspicion
 1. Situations Requiring Immediate Action. Situations requiring immediate action (drug screen request) on the part of the supervisor include:
 - a. An on-the-job accident which appears to have been the result of or contributed to by the employee's abuse of a drug;
 - b. An on-the-job incident (e.g., medical emergency) that appears to have been caused by or contributed to by the use of drugs;
 - c. Direct observation by the supervisor, or information reported to and supported by documentation or subsequently verified by the supervisor, that the employee is unable to carry out the

responsibilities of the job, or may be a threat to safety because of suspected drug abuse; and

- d. Physical on-the-job evidence of drug use by the employee.

An on-the-job accident, incident or failure to execute job responsibilities does not necessarily indicate drug abuse. However, if a supervisor observes or learns of any of these situations, and there is reason to believe that drugs may have been involved, the supervisor will proceed with the steps required by this article to request that the employee undergo a drug screen.

In situations requiring immediate action (a drug screen request), the supervisor will first document the incident which led the supervisor to believe the employee may have been impaired due to drug abuse. The documentation shall include a full description of the incident including date, time, people involved, behavior, reactions, and how performance was affected or how safety was threatened.

The supervisor shall continue to document the situation through notification of and confrontation with the employee as provided in this Article. If the employee may be a threat to safety or may cause undue disruption of work activity, the supervisor shall see that the employee remains away from the immediate work area while decisions are made regarding the drug screen request.

The supervisor will then make every effort to confer with the supervisor's immediate superior or management staff before taking action to remove the employee from the work area. However, in an emergency (accident or threat to safety) it may not be possible to

make timely contact with these parties before requiring the employee to leave the work area.

2. Patterns of Deteriorating Performance. When an employee begins to show a pattern of deteriorating job performance, the supervisor shall take a series of steps over a period of time, each of which requires full documentation. Drug abuse can affect an employee's job performance in many ways and supervisors must be aware of them. Supervisors need to document the following trends if they appear and the employee has no reasonable explanation for their behavior.

- a. General Trends:

1. Excessive absenteeism; peculiar excuses for absences;
2. Excessive use of sick leave, particularly for minor illnesses such as colds, flu or stomach problems;
3. Frequent absences after scheduled days off;
4. Excessive tardiness;
5. Long breaks; frequent trips to the bathroom, break area or parking lot and frequent early departures from work;
6. Higher than normal accident rates;
7. Changes in appearance, such as flushed face, red or bleary eyes, carelessness in dress or appearance; hand tremors; and
8. Needle marks on the arms.

- b. Performance Related Trends:

1. Inconsistent work patterns or disruption of work patterns;
2. Decreasing reliability; procrastination; memory gaps;
3. Tendency to neglect details formerly not neglected;
4. Friction with co-workers; placing blame on others;
5. Making consistently bad decisions; missing deadlines;
6. Requesting different job assignments;
7. Seeking loans from co-workers;
8. Wasting office supplies or materials due to errors;
9. Poor service to the public; complaints from the public;
10. Lack of cooperation; confusion;
11. Decreased productivity or quality of work; and
12. Morale problems; unacceptable behavior.

Supervisors should be cognizant that there are obviously other explanations for such trends. Supervisors are not to jump to conclusions, must use good judgment and must follow the procedures as outlined in this Article.

Documentation of patterns of deteriorating work performance is extremely important to the Drug Screening Program. The documentation provides the basis for a requirement that an employee submit to a drug screen. The performance evaluation process may also be used as part of the documentation.

Supervisors must document actual events and observations rather than to rely on hearsay. Documentation will include specific dates, times, people involved, behavior,

reactions, overall performance and a general discussion of the circumstances. The supervisor shall not include medical diagnoses, conclusions about medical conditions or opinions about the causes of the observed behavior.

A division head is not to request that an employee submit to a drug screen based on an isolated situation unless the situation falls within Section A above. Nor is a division head to request that an employee submit to a drug screen without a supervisor having first counseled the employee, as provided in this section, about a pattern of deteriorating job performance. During the counseling sessions, the supervisor is not to diagnose the employee's problem, but is to point out where and how the employee's work performance has deteriorated. No mention of the employee being a drug or alcohol abuser or addicted to drugs or alcohol may be made during these counseling sessions. The supervisor shall be careful not to make statements that could be construed as defamation of character. The supervisor shall provide the employee with suggestions as to how to improve the employee's work performance to a satisfactory level during the counseling sessions. The supervisor is to encourage the employee to self-refer to the Employee Assistance Program (EAP) to deal with any problems that might be causing the situation which is affecting the employee's work performance.

The supervisor must have counseled the employee at least twice in a six (6) month period before the division head requests a drug screen unless such drug screen is required pursuant to Section A above. These counseling sessions must be documented thoroughly.

If an employee's job performance has not improved after two documented counseling sessions and the employee continues to exhibit some of the characteristics outlined above,

the confirming documentation shall be presented to the division head. The supervisor and the division head shall discuss and review the documentation to determine whether the circumstances constitute reasonable suspicion that drug use is the reason for the employee's deteriorating job performance. Factors to consider include the general trends and patterns outlined above and comparisons with the employee's previous work performance.

If the supervisor and the division head agree that the employee's work performance has declined to a degree that further steps must be taken and that no improvement has been shown after counseling sessions, the division head shall consult with the department head, the City Attorney, and the Director to determine whether a drug screen is warranted and shall be required as a continuing condition of employment.

ARTICLE 12

MISCELLANEOUS BENEFITS

Section 1. Uniforms. Uniforms shall be furnished to the employee by the Employer if an employee is required to wear a uniform as a condition of employment. The City agrees to continue to provide uniforms or other articles of wearing apparel as was the policy of each department and/or division of the City as of January 1, 1998. A listing of such uniforms and/or wearing apparel shall be compiled and appended to this Agreement.

Section 2. Protective Devices and Clothing

- A. Clothing & Cleaning Allowance. Any employee who is required as a condition of employment to wear and maintain a uniform or other special clothing shall receive an allocation of clothing, an annual reimbursement for repair and replacement or actual repair and replacement of such uniform or special wearing apparel, at the option of and pursuant to departmental policies. A lack of budgeted funds for the purpose of this provision shall not supersede a departmental policy which may require specific attire and/or uniforms for a given job, classification or type of work. Employees in occupations or capacities requiring non-uniform business clothing shall not be eligible for allowances or reimbursements under this section.
- B. Protective Safety Gear. If an employee is required to wear protective clothing or any type of protective device as a condition of employment, such protective

clothing or device shall be furnished to the employee by the City. The City agrees to provide a boot allowance of ~~ninety (\$90.00) dollars in 2002, 2003, and 2004 annually one hundred and twenty five (\$125) dollars in 2005~~ **one hundred fifty dollars (\$150.00) total per year** toward the purchase of required safety footwear. The need and specification of any type of protective clothing or device required shall be determined by the department head. The cost of cleaning and maintaining the protective clothing or device in proper working condition shall be paid by the City. In the event of loss or damage due to carelessness, the employee shall pay for the replacement. The City agrees to provide safety glasses to all employees who are required to wear such safety glasses. The City agrees to reimburse up to one hundred ~~dollars (\$100) dollars in 2002, 2003, and 2004 annually and fifty (\$150) dollars in 2005~~ **fifty dollars (\$150.00) total per year** toward the purchase of prescription safety glasses ~~in the event the to employees who determines that they desire to obtain prescription safety glasses. them.~~ **The amounts specified in this paragraph are applicable throughout the term of this Agreement.**

Section 3. Health Insurance. The City agrees to make group health insurance available to employees who are eligible as spelled out in the existing provision of the City's group health insurance coverage.

The City agrees to pay the cost of a single membership for benefit eligible full-time employees. It is understood that the employee at their own cost may, at their discretion,

insure eligible dependents. If two employees are concurrently employed by the City and are considered married or common-law spouses, the City will provide two single memberships and it will be the responsibility of the employees to pay the dollar difference for family membership.

The Union agrees to discuss and consider options to the present coverage in continuing efforts to contain and control escalating costs of group insurance. The Union shall be entitled to select up to two (2) members as a representative(s) to the City Employees Benefits Committee. Union representatives will receive the regular rate of pay for the time spent in meetings during their regularly scheduled hours of employment, not to exceed two (2) hours per month. Management may authorize additional time on a case-by-case basis upon written request from the employee representatives.

The City retains the authority to define group health insurance coverage and carriers in order to maintain a cost effective program. The City agrees to notify the Union, in advance, of any benefit change to such health insurance coverage, or carrier.

Section 4. Pension/Retirement. It shall be mandatory for all benefit-eligible employees to participate in the Kansas Public Employees Retirement System (KPERs) retirement and disability program after one (1) year of continuous service with the City.

Section 5. Employee Assistance Programs. The City may require correction of an employee's personal problem as a condition of continued employment and for the purpose of providing assistance to the employee, provided the employee's performance on the job

indicates an undesirable trend or tendency which would lead the employee to harm themselves and/or the City if the unacceptable pattern of behavior were allowed to continue.

Any corrective action under the provisions of this section shall be carried out under the provisions of Article 11, Section 4.

The City and Union agree to cooperate in encouraging employees who are in need of counseling and/or assistance in such areas as alcoholism, drug abuse, financial and/or legal difficulties, family problems, and similar areas to undergo a program directed to their assistance and/or rehabilitation.

Referrals for assistance may be arranged confidentially through the Human Resources Department, Management or through the Union representative.

Section 6. Cafeteria Benefit Plan. This benefit is intended to qualify as a "flexible compensation plan" under Section 125 of the Internal Revenue Code, and it shall be construed and interpreted consistent with the requirements of that section. Any *benefit eligible* employee shall be eligible to participate in the Cafeteria Benefit Plan as defined by the City of Topeka. Benefits will be defined in the plan document. Salary is reduced to pay for these benefits; amounts are not subject to federal or state income taxes or Social Security; they are subject to KPERS contributions. Election is irrevocable during the plan year unless there is a qualifying change in family status **or other exception to the irrevocability requirement as defined in the Flexible Benefits Plan Basic Plan Document.**

Section 7. Deferred Compensation. Any **benefit-eligible** employee ~~who has satisfied an initial probationary period~~ shall be eligible to participate in the Deferred Compensation Plan as defined by the City of Topeka.

Section 8. Employee Development. The purpose of the employee development reimbursement program is to promote improved productivity in City services.

Only benefit-eligible employees may be reimbursed for tuition and textbook expenses for academic or technical courses pursued through recognized educational institutions or relevant professional development seminars as approved by the department head and Human Resources Director using the following rules:

- A. The course must directly relate to the employee's current job duties, or any course including outside-the-major electives required for a degree or certificate from an accredited university or community college into a field in which the employee would have a reasonable expectation of being promoted while employed with the City of Topeka. The employee must receive at least a 2.0 grade point or "C" average in academic courses or the employee must receive a "pass" if the course is only offered on a "pass/fail" basis. An employee must provide a certificate or other proof of completion for technical courses or professional seminars which provide no "grading" system.
- B. An amount not to exceed ~~five hundred~~ **one thousand** dollars ~~(\$500.00)~~ **(\$1,000.00)** may be authorized and reimbursed annually for full-time employees and a prorated share based on the number of hours for which the

part-time employee was hired to work.

- C. An employee must complete the request for tuition reimbursement form as provided by the Human Resources Department and have the concurrence and signature of the appropriate division head, the department head, and the Human Resources Director before the employee may be reimbursed. The approved request form must be received by the Human Resources Department within one (1) month after the beginning date of the course which the employee desires to attend. Evidence of completion with a passing grade of a "C", as provided for in this section, and proof of payment for the course must be received by the Human Resources Department within two (2) months after the completion date of the course in order for the employee to receive reimbursement.
- D. The City will not reimburse employees for non-credit special interest courses completed by examination only, late fee, lab fees, extracurricular fees, textbooks or other course related materials and tuition covered by other sources such as government assistance to a veteran (GI Bills), grants, scholarships, and similar programs.
- E. The department head shall make every effort to budget for the approved reimbursement for academic courses for employees. The department head shall approve courses on a first-come, first-served basis in a non-discriminatory manner within appropriate budget constraints.
- F. An employee attending a course pursuant to these guidelines during working hours may arrange with their supervisor to utilize compensatory time,

vacation time, flex time, or time without pay as scheduling/staffing allows as determined by Management for the time utilized to attend the course(s).

Section 9. Mileage Reimbursement. Use of an employee's private vehicle for City business shall be approved by the appropriate member of Management. The reimbursement for use of a private vehicle shall be at the rate authorized by the City Council for other City employees.

Section 10. Employee Wellness Development Program. In order to encourage policies and practices to enable employees to achieve optimal physical and mental health, the City of Topeka shall offer a physical fitness program to benefit-eligible employees. The program shall provide that all employees shall have full use of the City Wellness Center without charge to the employee.

Section 11. Legal Representation. The City will provide legal representation for bargaining unit members against whom suit is brought in civil cases based on activities alleged to be within the scope of official duties of the bargaining unit members.

Section 12. Professional Organizations and Conferences. The City and KAPE Union agree that it is in the best interest of the department that as many employees as possible participate in professional, educational and training courses whenever the same are available.

Recognizing the budgetary limitations of the department, the decision to send employees to conferences or seminars shall be upon the approval of the department head and the provision that monies are available within the budget.

Section 13. Parking. Reasonable parking shall be provided by the City for on duty personnel.

Section 14. Bonus Programs. The City and the Union agree that all bargaining unit employees will be eligible for City wide incentive bonus programs.

Section 15. Professional License Fees. The City shall pay for all professional license and certification fees that are required by law and/or as part of an employee's employment.

ARTICLE 13

GENERAL PROVISIONS

Section 1. Pledge Against Discrimination and Coercion. The provisions of this Agreement shall be applied equally to all employees without discrimination as to age, ~~marital~~ **familial** status, race, ~~sex,~~ **gender, sexual orientation**, color, creed, religion, national origin, political ~~affiliation~~ **beliefs**, or ~~physical~~ disability that does not affect job performance.

The City agrees not to interfere with the right of employees to become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the City or any City representative against any employee of the Union membership.

There shall be no coercion exercised upon any employee in an attempt to persuade them to join the Union. Likewise there shall be no unlawful discrimination, interference, threats, or restraint exercised upon any non-union employee. The Union recognizes its responsibility as a bargaining agent and agrees to represent all employees within the bargaining unit, without unlawful discrimination, interference, restrain, or coercion whether or not they belong to the Union.

Section 2. Work Rules. Work rules shall be consistent with the provisions of the Agreement. Work rules shall be reasonably and uniformly applied in like circumstances.

Existing work rules pertaining to the performance of work and conduct of employees shall be available in each division for review by employees. One copy of the rules shall be

made available to the Union.

Before existing work rules are changed or new rules established an open hearing shall be held for the purpose of reviewing and receiving input from all affected employees. Notice of the hearing and the proposed work rules shall be posted on each of the division bulletin boards.

When existing work rules are changed or new rules established, they shall be posted prominently on each division bulletin board for a period of fourteen (14) consecutive calendar days before implementation.

In the event an emergency is declared by the City, existing work rules may be changed or suspended without prior notice. Such emergency work rule changes shall only remain in effect during the emergency as declared by the City.

Section 3. Return of City Property. Employees shall return all property belonging to the City upon separation. Such property shall include but not be limited to the following:

- A. Uniforms furnished to the employee by the City;
- B. Any tools, equipment and/or materials belonging to the City;
- C. Any keys that could be used to gain access to City property and all copies made thereof;
- D. Protective devices or clothing furnished by the City.

Failure to return such property may result in the City pursuing civil remedies to recover such property or its value.

Section 4. Performance Evaluations.

- A. The purpose of the employee performance evaluation shall be to inform employees of how well they are performing their work and how they can improve their work performance. Employees' performance evaluation shall be required at the end of every probationary period. After the probationary period, employees shall be evaluated annually (2080 hours). The Department Head may require more frequent evaluations as provided for in Article 4, Section 4 (B). The City shall inform the employee in writing, within fourteen (14) days of the end of the probation period, of their successful completion, or failure to complete the probationary period. Annual evaluations shall be completed within thirty (30) days of the scheduled performance evaluation. Departments will establish the cycle for the annual performance evaluation with notification being made to the employee as to when the performance evaluation cycle will occur. Whenever possible, the performance review shall be conducted by the employee's immediate supervisor. Failure to perform the above cited evaluation shall mean the employee has ~~performed satisfactorily.~~ **been deemed to satisfy the requirements of at least a "Meets Expectations" overall rating.**
- B. The evaluation will be derived from the employee's position description. The position description will contain actual duties and the percentage of time that an employee performs each duty. The performance appraisals shall be

comprised of measurable standards of performance from the position description. The ratings shall be made annually on forms reflecting the performance requirements. Each employee subject to evaluation shall be provided with a copy of his/her position description and a set of performance standards at the beginning of each evaluation period. Performance evaluations shall be confidential and shall be made available only to the employee evaluated, their supervisor or department head, the Human Resources Director, the ~~Chief Administrative Officer~~ **City Manager**, any person designated by the employee, and any individual who may reasonably need access to the performance evaluations as required for legal actions including the resolution of grievances. The employee shall be provided with a copy of the completed evaluation.

- C. Any employee who has received a "Needs Improvement" rating may appeal that evaluation by filing notice of intent with the department head pursuant to the following procedure:
1. On receipt of notice of an appeal, the department head shall, within five (5) working days, select one person to serve as the City's representative to serve on the appeal committee and shall notify the employee filing the appeal of the name of the person selected to serve. The person selected to serve on the appeals committee shall be a benefit eligible employee of the City.
 2. The employee filing the appeal shall, within five (5) working days of

the filing, select one (1) person to serve as their representative to serve on the appeals committee and shall notify the department of the name of the person selected to serve. The person selected to serve shall be a benefit eligible employee of the City.

3. The persons selected pursuant to 1 and 2 above shall meet within five (5) working days of notification of their appointment to select a chairperson to serve on the appeals committee. The person selected as chairperson shall be a permanent employee of the City. In the event the two persons selected by the department head and the employee filing the appeal cannot agree on a neutral chairperson, they shall alternately strike names from the listing provided by the Human Resources Director until only one name remains. The name of the individual remaining after the striking process shall serve as the chairperson of the appeals committee.
4. The appeals committee shall schedule a hearing within five (5) working days of the appointment of the chairperson.
5. The person filing the appeal shall have the right to call as a witness any individual having knowledge of the ability of the employee to perform the job providing that the witness shall have the right to refuse to testify regarding the ability of the employee to perform the job.
6. The supervisor who performed the evaluation shall appear at the

hearing and explain the basis for the evaluation as it was written.

7. The appeals committee shall, within five (5) working days of the hearing, either sustain the performance evaluation or make a determination which is based on the committee majority decision that the performance evaluation warrants a change to be made to the rating. The majority decision shall be supported by written findings. The committee's recommendation shall be forwarded to the Director of Human Resources on the appropriate appeal committee form for review. The Director of Human Resources shall have five (5) working days to complete the review. After the review, the Director of Human Resources will contact the department head to initiate a rating change if recommended by the committee. The majority decision, supported by written findings, shall be provided by the Director of Human Resources to the employee filing the appeal.

Section 5. Personnel Records.

- A. Definition. The term personnel record, as used in this Article, shall mean the records and/or files related to an employee's job with the City, which are maintained in the official personnel file at the Human Resources Department.
- B. Access to Personnel Records. It is agreed that individual personnel records and files shall be considered confidential and the property of the City. It is also agreed that such official personnel records and files or information contained

therein are not available to the general public except upon the written consent of the affected employee. The following provisions shall apply regarding an employee's access to their official personnel record.

1. Each employee shall be allowed to inspect and make copies of their personnel records. A written request to do so shall be directed to the Human Resources Department who will schedule a time for inspection that is convenient for both the employee and the Human Resources Department. A charge may be made in accordance with the adopted fee established by the City in accordance with the Open Records Act for any copies of records made by the employee.
 2. A Union representative may, if the employee wishes, accompany the employee when reviewing their personnel record. Alternatively an individual employee may authorize a Union representative to review and/or copy his/her file. Such authorization shall be in writing, identifying the Union representative authorized to review and/or copy said record(s) and be provided to the Human Resources Department prior to the desired time of review or copying of said record(s).
- C. Removal and Deletion of Information from Record(s). An employee, after inspecting their personnel file, may submit a written request to the Human Resources Department to remove material(s) from the file in the event he/she believes the material(s) to be irrelevant, inaccurate, or obsolete. The Human Resources Director shall either remove the material(s) or inform the employee

why the material(s) should remain in the file. If the employee is not satisfied with the decision, the employee shall be permitted to place a written statement of disagreement in the file.

Section 6. Residency. Employees employed after December 31, 1981, by the City must be bona fide residents of Shawnee County, except at the time of appointment or employment when they need not be residents of Shawnee County, but shall establish residency in Shawnee County within six (6) months after completion of the initial employment probation. Residency shall be maintained within the limits of Shawnee County for the duration of the employee's employment. The ~~Chief Administrative Officer~~ **City Manager** may grant one extension not to exceed six (6) months for the establishment of residency upon the request of an individual employee for good cause shown.

Section 7. Dress Code and Decorum. Non-uniformed employees shall conform to the following dress code:

- A. Male Attire. Male attire that will be acceptable for office duty shall be business suits, dress slacks, short or long sleeve shirts with necktie being optional. Male attire for field work shall be clean jeans of blue or black without stains, holes or patches, and tee shirts of solid colors or polo type shirts of solid colors or stripes without stains, holes, or patches. Tee shirts with non-City logos or screen-prints will not be allowed.
- B. Female Attire. Female attire that will be acceptable for office duty shall be

dressess, skirts or slacks with blouses, sweaters, or shirts or pantsuits. Shorts, halter and midriff tops, spandex type clothes and hair curlers are not acceptable attire. Female attire for field work shall be clean jeans of blue or black without stains, holes or patches, and tee shirts of solid colors or blouses of solid colors or stripes without stains, holes, or patches. Tee shirts with non-City logos or screen-prints will not be allowed.

- C. Management, at their sole discretion, may allow for a less restrictive policy than is set forth in this Section.
- D. On Fridays, all non-uniformed City personnel shall have the option of wearing jeans, without holes, stains or patches and banded tee or sweat shirts. Uniformed employees shall not be affected by this section.
- E. Non-uniformed employees who have no public contact shall be allowed to utilize the "Friday clothing option" at all times.

NOTE: Uniforms for uniformed employees are specified in Article 12, Section 1.

Section 8. Prohibited Acts. Such acts shall be governed by the provisions of K.S.A. 75-4321 et. seq.

Section 9. Personal Business. Conducting personal business while on duty shall be prohibited and any employee who violates this provision is subject to discipline under the provisions of this Agreement.

Section 10. Conflict of Interest. A bargaining unit employee shall not engage in any business, activity or transaction and shall not have a substantial financial or personal interest which would impair proper discharge of official duties, independence of judgment, or any action in the public interest. This standard shall apply to an employee's personal and outside activities including outside employment, investments, property holdings, financial interest, and source of income. Furthermore, this standard shall apply to an employee's actions related to the performance of official duties including acceptance of gifts; favors; action or inaction in inspection or regulation functions; disclosure of confidential information; or granting improper favors, services, promises or things of value. Employees shall immediately notify their supervisor(s) of non-City business or personal activities which may constitute a conflict of interest with their position with the City.

Section 11. Nepotism. The City shall not hire immediate family members when such employment will result in a direct supervisory line between such family members.

Section 12. Multiple City Positions by One Employee. All bargaining unit members shall not hold more than one benefit-eligible full-time position at one time.

Section 13. Solicitation. No peddling, soliciting or selling for charitable or other purposes is allowed on City property during working hours without the expressed approval of the department head.

Section 14. Night Security. It is agreed that Management will provide for all employees working in facilities by themselves on a regularly scheduled shift to be regularly checked to assure their health and safety.

Section 15. Driver's License Requirement. All bargaining unit members that are required to maintain a valid Class C Kansas driver's license or a commercial driver's license (CDL) will be provided up to two (2) hours of on duty time to renew their respective driver's license.

- A. Employees shall be required to notify their supervisor in the event their driver's license is suspended, revoked or otherwise confiscated. Such notification shall be made to the supervisor prior to the start of the next scheduled work period. In no circumstances shall a City employee whose driver's license has been suspended, revoked, or otherwise confiscated, operate a City vehicle of any type prior to notification to the supervisor of the action. Failure to report the action or the operation of a City vehicle prior to notification shall be grounds for immediate disciplinary action up to and including termination from City employment.
- B. 1. An employee who suffers a loss of his/her license for a period of ninety (90) calendar days or less **or becomes uninsurable under the current City insurance policy requirements** shall be assigned to non-driving duties for a period of thirty (30) calendar days. An employee may be assigned to non-driving duties for which the employee is qualified if such assignments are

available for an additional sixty (60) calendar days and will be paid at the pay rate for the position into which they are assigned. Employees may use accrued vacation, personal leave or compensatory time during this sixty (60) calendar day period. If an employee's license is reinstated during this ninety (90) calendar day period **and he/she is otherwise insurable**, the employee shall be reinstated to his/her former position.

2. An employee who suffers the loss of his/her license **or becomes uninsurable under the current City insurance policy requirements** for a period of time greater than ninety (90) calendar days shall be removed from their position and shall be eligible for an additional ninety (90) calendar days to compete for non-driving positions. Employees may use accrued vacation, personal leave or compensatory time during this ninety (90) calendar day period.

Section 16. Fitness for Duty.

A. Eligibility. All employees shall be subject to the fitness for duty requirement.

B. Acceptable Use.

1. Department heads may require employees to report to the Human Resources Director in order to obtain a medical release for duty if the department head has reason to believe that the employee is unable, because of medical reasons, to perform any

or all of the duties assigned to the position in which the employee is employed.

2. A representative of the Human Resources Department may require a referred employee to report to the City Medical Advisor for consultation prior to releasing the employee to return to duty.
3. The City Medical Advisor may require the employee to provide a medical certificate from the employee's regular physician prior to releasing the employee for duty.
4. Employees who have been referred to the Human Resources Director pursuant to the provisions of sub-paragraph 1, 2 or 3, of this paragraph, shall be considered to be in pay status until released to work or notified that they have been found unable to complete the required duties of the position.

C. Alternatives to Returning to Regular Duties.

1. If, in the judgment of the City Medical Advisor, an employee is unable to return to work to perform assigned regular duties and the incapacitation is of a temporary duration, the Medical Advisor will so notify the Human Resources Department and the representative thereof shall work with the employee and the department head or a designee thereof to provide one of the following options for the employee to follow:
 - a. The employee may choose to utilize accrued sick leave

- until such time as the employee is able to return to work;
- b. The employee may choose to request a leave of absence as provided for in this Agreement;
 - c. The Human Resources Director and the department head or designee, may agree to make reasonable accommodations to allow the employee to continue in the employee's regular position;
 - d. The Human Resources Director, the department head or designee of the division wherein the employee is assigned and the employee may agree to a transfer to a vacant position in the division or a voluntary demotion or promotion to a different classification if qualified, which does not require the employee to perform the duties which the employee can no longer perform;
 - e. The Human Resources Director, the department head or designee, of another division in the department or a different department in the City and the employee may agree to a transfer to a different position in a different division or department or a voluntary demotion or promotion to a position in a different classification, if qualified, which does not require the employee to perform the duties which the employee can no longer perform; or

- f. The employer may choose to provide light duty.
2. If, in the judgment of the City Medical Advisor, an employee will not, within the foreseeable future, be able to return to work to perform regular duties, the Advisor will so notify the Human Resources Department and the representative thereof shall work with the employee and the department head or designee to provide an option or the employee may choose to retire, if eligible or the Human Resources Director may choose to lay off the employee pursuant to the provisions of Article 8 of this Agreement.

Section 17. Equal Opportunity. It is the policy of the City to provide all employees an equal opportunity without unlawful discrimination based on age, ~~sex~~, race, religion, creed, color, **gender, sexual orientation, familial status, political beliefs**, national origin or ~~physical~~ disability. This policy applies to all protected groups as required by law.

Section 18. Notification of Potential Liability. Any bargaining unit employee shall be required to provide reasonable and clear written notice of any situation observed by the employee which may cause a liability to the City, notwithstanding the employee's formal job activity area or working schedule. This provision is intended as an employee's responsibility as a preventative mechanism to further ensure financial security for the City and to provide the best and most efficient service to the public. Such notice shall be given promptly through the employee's supervisor or, in immediate danger situations, the employee shall notify

another department supervisor capable of remedying the matter.

Section 19. Use of Interdepartmental Mailboxes. The Union may distribute Union mail through existing Department mailboxes to employees of the bargaining unit.

Section 20. Use of City Facilities. The Union may request the use of City facilities in which to conduct Union business or social functions. Request for the use of the facilities shall be made not less than twenty-four (24) hours before the date of the requested use, shall not interfere with the regular conduct of business, and shall not be unreasonably denied. Any damage or unreasonable cleanup resulting from Union activities in City facilities shall be the responsibility of the Union.

Section 21. Off-Duty Employment.

A. Purpose.

1. To provide for the control of off-duty employment.
2. To facilitate emergency call-back of employees.

B. Procedure. Employees who are employed in jobs other than their City employment will fill out and keep current an Off Duty Employment Form. This form will be submitted to the employee's supervisor. The supervisor will then be responsible for seeing that such information is forwarded to the department head. It is imperative that such information be submitted and kept current, to facilitate contacting an employee at all times, in the event of an emergency.

No City equipment or uniforms will be used during off duty employment.

Section 22. Policies and Rules & Regulations not Contained in this Agreement.

The parties agree that all City policies and programs, as well as the administrative rules and regulations implementing them now in force or herein after enacted in accordance with the Topeka City Code and Personnel Code not in conflict with any Article, Section of any Article, or any language contained in this Agreement, shall apply to all City employees including all employees covered by this Agreement. The City will provide written notice of proposed new policies, programs, and rules or regulations, or material changes to existing policies, programs, and rules or regulations to the Union prior to presentation for public comment. In the event the Union does not agree to a proposed policy, program, rule or regulation which would materially affect a condition of employment, the policy, program, rule or regulation will not apply to employees covered by this Agreement. Any additional benefits and/or rights granted to all City employees by any such policy or program or administrative rules and regulations implementing them will also be granted and applied to employees covered by this Agreement.

ARTICLE 14

INTERDEPARTMENTAL AND INTRA-DEPARTMENTAL EMPLOYEE MOVEMENT

Section 1. Filling of Vacancies. For the purpose of this Article, a vacancy is created when the City increases the work force and/or chooses to fill a vacancy created by a termination, resignation, transfer, promotion, or demotion.

Notice of bargaining unit vacancies shall be posted on bulletin boards in every department/division for a period of at least seven (7) calendar days and such jobs will not be filled until the seven (7) days have expired. Such notice shall state the department, position, classification, shift, work location, assignments, minimum qualifications, and pay rate for the job. Vacancies within the bargaining unit shall be filled by promotion whenever possible; provided however that demotions and lateral transfer within the bargaining unit shall take precedent over promotions.

Any qualified bargaining unit employee, except as identified in Section 2 of this article, may apply for a vacancy within the bargaining unit and shall be given first consideration, provided the employee possesses the minimum qualifications specified within the classification specification. When two or more employees possess substantially equal qualifications, departmental seniority shall determine which employee is selected for the vacancy. City seniority shall be used in the event the employees have equal departmental seniority. Hiring from outside the unit shall occur only when it is determined that no qualified/interested applicants exist within the unit.

Written notification of individuals in the bargaining unit who fill each vacancy shall be

posted no later than five (5) working days after the vacancy is filled. It shall be posted in the same place as specified for the job opening classification.

Section 2. Promotions. For the purposes of this section, promotion shall be defined as the advancement of an employee from their current position in a classification to a vacated or newly created position in another classification with a higher pay grade. All benefit eligible (non-probationary) employees shall be eligible for promotions to a higher classification for which they are qualified or for which a training program may be established. An employee who is serving a special 520-hour probationary period or is at the suspension level of discipline shall not be eligible to apply for a promotion. Under these circumstances eligibility to apply for a promotion shall not be acquired until the special probationary period has been successfully completed or for a period of five hundred twenty (520) hours after the suspension has been served.

All employees receiving a promotion shall be required to serve an interim probationary period as defined in Article 7. An employee who does not successfully complete interim probation and is returned to the employee's former position or a comparable position shall be compensated at the rate earned by the employee prior to the promotion plus any increases granted by the City Council.

An employee promoted to a higher classification will be moved back one step from the step attained at the time of promotion for each grade the employee moves down on the pay matrix, provided that the employee shall not be moved back past Step 3 of the pay matrix. An employee shall move to Step 1 of the appropriate grade when the employee has not

achieved Step 3 at the time of the promotion.

Section 3. Transfers. For the purpose of this section, a transfer shall be defined as an interdepartmental or an intra-departmental movement without change in the employee's classification. An employee shall be entitled to retain the step that was achieved prior to the transfer.

Section 4. Demotions (Involuntary and Voluntary). Employees may be downgraded (demoted) to a classification within a lower pay grade for the following reasons (The following enumerated list of reasons for demotion is not to be taken as an absolute list of all possible justifications for demotion):

A. Involuntary

1. For unsatisfactory performance on the employee's present job;
2. In the event continued performance of the employee's present job will, in the opinion of the Medical Advisor, injure the health of the employee;

B. Voluntary

1. In the event an employee is unable to perform the work assigned to their current classification because of injuries or physical limitations, but are able to do the work of a lower-rated classification, and provided that reasonable accommodations cannot be made for the employee;
2. In the event an employee requests reassignment to an available vacancy, if not

inconsistent with the contractual rights of another employee and when approved by the City;

Procedures for involuntary demotion are governed by the provisions of Article 4 and 7. Procedures for voluntary demotion are governed by the provision of Article 13, Section 16, Article 8, Section 1 9E) and 7. The rate of pay for all demotions is as follows: for every grade that an employee is demoted, an employee is walked up and out on the pay matrix, provided however, that no employee shall move further out on the pay matrix than the employee's years of service plus any additional steps that the City Council has granted.

Section 5. Acting Assignments. All bargaining unit members shall be eligible for acting assignments as set forth below.

- A. Eligibility. All benefit eligible (non-probationary) employees may be placed in an acting assignment by the department head or designee of the division wherein the employee is employed.
- B. Hours Available. Employees may be placed in an acting assignment until the position is filled.
- C. Acceptable Use. Acting assignments may be used to fill a position vacated by an employee, to fill a position of an employee on authorized leave or to temporarily fill a newly created position.
- D. Rate of Pay for Employees on Acting Assignments.
 - 1. Employees placed in an acting assignment for a position in a higher classification shall be paid in the grade of the higher classification and

at the step the employee had attained in their regular position.

2. Employees placed in an acting assignment for a position in the same classification or a classification in the same or lower pay range shall receive their regular rate of pay for all hours worked.

E. Special Conditions.

1. Employees shall continue to accrue seniority in their regular classification while serving in an acting assignment.
2. Employees serving in an acting assignment shall receive all premium pay for the position in which the employee is serving the acting assignment.
3. Department heads or their designee shall determine the employee to serve in an acting assignment based on qualifications and other criteria and such determinations shall not be subject to the grievance procedure in this Agreement.

F. Return to Work.

1. An employee who has served in an acting assignment shall be returned to the employee's regular position at the completion of the acting assignment.
2. Employees shall return to their regular rate of pay, including any salary adjustments, when the employee is returned to the employee's regular position.

Section 6. Out of Class Pay. All bargaining unit employees shall be eligible for out of class pay as set forth below.

- A. Eligibility. All benefit eligible employees may be required to perform duties not contained within the class specifications or job description for the position in which they are currently employed.
- B. Hours Available. All benefit eligible employees may be required to work an unlimited number of hours in an "out of class" status, subject to the provisions of paragraph D of this section.
- C. Acceptable Use.
 - 1. Department heads or their designee shall determine the qualifications and select the individual to perform out of class work.
 - 2. The duration of an out of class assignment shall be governed by the provisions of Section 5 of this Article if the assignment is made for the purpose described within the Acting Assignment section (Section 5) of this Article.
 - 3. "Out of Class" assignments may be made for indefinite periods of time if the assignment is made for the purposes of accomplishing the mission of the department and the employee is not assigned to a vacant position.
- D. Compensation for Out of Class Work.
 - 1. Employees who are assigned duties which are not contained within their classification specifications and such assigned duties fall within the

classification specifications of a different classification in a higher pay grade shall be compensated by using the procedure delineated in Section 2 of this Article titled "Promotions." Work at the higher classification shall be performed for a period of ten (10) consecutive work days prior to becoming eligible for out of class pay. Out of class pay shall be paid for all work days in excess of ten (10) days.

2. If the employee performs duties assigned to a lower classification, the employee shall be compensated at the employee's regular or normal rate of pay.

E. Special Conditions. No employee shall refuse to perform duties assigned by the employee's supervisor or such employee shall be subject to the disciplinary actions contained within this Agreement. However, an employee may grieve a failure to receive out of class pay if the employee believes that assigned duties fall within a higher compensated classification and the employee has performed such duties for more than ten (10) consecutive days.

F. Return to Work. An employee who has been performing out of class duties shall be returned to the employee's regular or normal duties and pay once the out of class assignment is completed.

Section 7. Reclassification. An employee whose position is reclassified to a classification in a higher grade will be placed at the step the employee had attained immediately prior to the reclassification. An employee whose position is reclassified or

reallocated to a lower grade will be placed in the step equal to the number of years in service with the City plus any additional steps granted by the City Council in the grade assigned to the classification into which the position is being reclassified.

Section 8. Reallocation. An employee whose position is reallocated to a classification in a higher grade will be compensated at the higher grade by using the procedure delineated in Section 2 of this Article.

ARTICLE 15

HOURS OF WORK

Section 1. General Provisions. The normal work week for the duration of this Agreement shall be forty (40) hours. Normally, the forty (40) hours will consist of five (5) eight (8) hour days, however, variations to the schedule may be allowed pursuant to departmental operating needs and the best interest of an efficient and effective operation. Shift work may be used where needed, in the areas where there is shift work, pursuant to Section 3 of this Article. While office hours remain standardized, flexible scheduling for particular assignment and staff may be utilized. The basic work week for the duration of this Agreement shall be defined as starting at midnight Friday and ending at 12:01 a.m. on the following Saturday. Any overtime work shall only be allowed if it is specifically assigned by a duly authorized supervisor.

Section 2. Hours of Work/Non-Shift Work. All day-shift personnel will generally work eight (8) hours per day, Monday through Friday, approximately between the hours of 8:00 a.m. and 5:00 p.m.

Section 3. Shift Work.

- A. Day shift and night shift are defined in Article 3 of this Agreement. Starting and ending times for shifts may be established pursuant to the provisions of this Article.

- B. Any department may establish shift work for members of this unit. Shifts shall only be established after good faith negotiations with the Union in an effort to reach agreement on the starting and ending times of such shifts.
- C. Split shifts shall not be established, (i.e., eight (8) hours of work performed over more than nine (9) consecutive hours), without negotiations with the Union as provided for in paragraph B, above.
- D. Departments utilizing shift work as of the first date of this Agreement may retain those shifts subject to future negotiations prior to any change in the starting and/or ending times of those shifts.
- E. Employees, working within the classification wherein shift work is to be performed, shall be allowed to bid for assignment to shift work based on their seniority within the department.

Section 4. Bidding for Shift Assignments. Vacancies on a shift which occur, for any reason, shall be filled by the seniority bidding process from among qualified employees who normally perform the work required.

- A. Bidding for shift assignments will be held semi-annually beginning on June 1 through June 15 and December 1 through December 15 of each year. Results will be posted on departmental bulletin boards by June 30 and December 31 and will become effective at the start of the first full shift in July and January. All employees are eligible to bid if they have completed their initial new hire

probationary period. All probationary employees may be assigned to any shift for training purposes by Management until the probationary period is complete and they are eligible to enter the bidding process. Bargaining unit members who fail to bid shall be assigned by Management to those shift assignments remaining open after the completion of the bidding process.

- B. Shift bidding shall occur with the most senior employee getting shift preference. All seniority determinations shall take place under the provisions of Article 6, Section 3.

Section 5. Advance Posting of Work Schedules.

- A. When applicable, management shall post monthly or bi-weekly schedules at least seven (7) working days in advance of the start of the schedule.
- B. Management shall give employees seven (7) working days' notice of changes in hours of work assignments or days off, except in declared emergency.
- C. Management shall, whenever possible, notify employees of special assignments, such as schools, seminars, in-service training, etc., at least seven (7) working days in advance of the start of such assignment.

Section 6. Trading of Shifts/Days Off. Trading of shifts and/or days off may occur

with approval of Management and mutual agreement between the affected employees. All trading of shifts and/or days off shall be within the same pay period and the trade shall not cause the accrual of overtime solely by virtue of the trade. Requests to trade shifts and/or days off shall be submitted on a form to be provided by the employer, to the employee's immediate supervisor, not less than forty-eight (48) hours prior to the first work day to be traded. The employee who has assumed responsibility for working on a "traded" shift and/or day will be accountable for attendance on that shift and/or day as if it were their "normal" shift or day. If a shift trade involves a holiday, the employee who works on the holiday shall be entitled to the holiday pay.

Section 7. Flex Time. By mutual agreement between the employee and Management, different work times and lunch periods may be agreed upon as a flexible work schedule (flex time). A day shift employee who opts for a flexible work schedule which includes hours of work which end after 6:00 PM shall not be considered a night shift employee and therefore shall not be entitled to shift differential.

Requests to work flex hours or to change flex hour schedules must be submitted in writing at least one (1) week in advance of the proposed effective date to the department head or their designee.

Requests to work flex hour schedules will be approved whenever possible provided that the department head or their designee determines that staffing levels and the effectiveness and efficiency of operations are not unreasonably or unduly affected.

Section 8. Rest/M Meal Periods. All employees shall be allowed a meal period as close to the middle of his/her shift day as possible. Meal periods are subject to departmental rules and regulations.

- A. Except as provided in paragraph B below, all personnel shall be allowed one paid break period of fifteen (15) minutes each morning and afternoon and a lunch period at times agreed between the employee and their supervisor.
- B. The provision above relating to lunch periods shall not apply in the instance where the City provides a paid lunch period to employees. Rest periods are intended to allow employees a brief break from work activities for rest and relaxation. Work breaks are provided on employer-paid time and scheduled by each employee's supervisor. These breaks may not be combined or accumulated to extend an employee's lunch period or to reduce the number of hours an employee is required to work each day. The scheduling of work breaks is dependent on the type of work required of an employee and is subject to departmental rules. Work breaks may be temporarily suspended when such breaks will unreasonably affect City service. Employees not allowed to take their break at the normal time shall be allowed to take the break at an earlier or later time when work load permits.
- C. Reimbursement for Meals. An employee who is required to attend a dinner, lunch or similar function wherein the employee is required to pay for the meal shall be reimbursed for such costs. A department head may authorize payment of meals for an individual or group of individuals who have been

invited to participate in a meeting or an activity which is to the benefit of the City.

Section 9. Overtime. Overtime work shall be offered under the following conditions:

- A. General Policy. The authorization and control of all overtime work is the direct responsibility of the department head. Overtime hours shall be defined as the total hours worked including any in pay status, excluding holiday pay, which exceeds the FLSA limit.
- B. Voluntary Overtime/Call Back.
 - 1. The City shall establish and maintain a voluntary overtime list from which the City shall offer emergency and scheduled overtime in a manner as set forth below; provided, however, that probationary employees shall not be eligible for voluntary overtime except for an extreme emergency, as determined by the department/division head **or designee**, ~~when non-probationary employees are unavailable to work.~~ **or when the voluntary overtime list has been exhausted.** This list shall be used, except for employees on official standby, for scheduling bargaining unit employees for voluntary overtime. Provided, however, an employee may be held over at the end of the employee's shift in order to complete a project, for a period of time not to exceed four (4) hours.
 - 2. Employees may notify the City of their desire to be included on the

voluntary overtime list by filing a written notice of their desire with the appropriate member of management ~~commencing with the effective date of this Agreement.~~ **between June 1 and June 15 and between December 1 and December 15 each year, when new voluntary overtime lists based on seniority will be developed. However, otherwise qualified employees who complete probation may submit written requests to be added to the list at that time. Written requests by employees to remove their names from the list may be submitted at any time.**

3. ~~The overtime shall be offered to the employee with the most department seniority who normally performs the work required and who has accumulated the fewest hours of overtime for the year; provided however, a letter of understanding may be entered into between the City and the Union, which allows for a six month list. No employee, regardless of seniority or overtime hours worked, will be allowed to work~~ **Implementation of the voluntary overtime list will commence with the employee who has the most department seniority and who is qualified to perform the work required and rotate through the least senior employee on a continuing and repeat basis. That is, when there is overtime work to be assigned, the supervisor will start at the beginning of the list or at the point last left off, whichever is appropriate, then move to the next name on the list until someone**

volunteers to work the available overtime. No employee, regardless of seniority, will be allowed to work in a position for which they are not qualified or for which they will not have received adequate rest. Adequate rest, as used herein, shall be defined as not less than eight (8) consecutive hours of duty free time between work periods. Work periods shall not exceed sixteen (16) consecutive hours except during a declared emergency.

4. For the purpose of determining ~~“accumulation” of overtime hours, all hours offered, currently scheduled or rejected shall be counted as equal to all hours offered and worked. Hours which are scheduled and subsequently canceled by management shall be subtracted from the employee’s “accumulation”.~~ **“rotation,”** each legitimate attempted contact which does not result in the employee working the available overtime shall be considered to constitute a rejection of the available overtime and shall ~~be made a part of the employee’s “accumulation”.~~ **result in the employee being rotated to the bottom of the list.**
5. All employees on the voluntary overtime list except those on approved leave on the day the overtime is offered shall be eligible for available overtime. ~~On January 1 of each year the “accumulation” of each employee shall be returned to a zero balance. (The provisions of paragraph 3 above relating to a six month period may apply.)~~ **Employees on approved leave will not be rotated to the bottom of**

the list, but rather retain their positions until their return. However, employees coming back from approved leave must work at least half a shift prior to being eligible for overtime.

6. An employee may refuse voluntary overtime without penalty except as ~~provided for in paragraph 4 of this Section.~~ **for being rotated to the bottom of the list.**
7. When staffing shortages occur due to the unavailability of non-probationary employees the department/division head may assign work to probationary employees for emergency work assignments.
8. **When a particular employee is assigned to a specific defined project, that employee may, because of special expertise, also be offered any overtime required for and associated with that project without regard to the voluntary overtime list; however, in the event such employee is unable to perform the additional work or otherwise turns down such an opportunity, the voluntary overtime list will be applied.**

C. Involuntary Overtime/Call Back. The assignment of involuntary overtime shall be accomplished in the following manner:

1. The City shall establish and maintain an overtime list of all non-probationary employees from which overtime shall be assigned in the event no member listed on the voluntary overtime list is available or willing to work the overtime on a voluntary basis. The list shall contain

the names, in inverse departmental seniority order, of all employees who normally perform the work required.

2. The overtime assignment shall be given to the least senior member who has had adequate rest as defined in Paragraph B, 3 above and the assignment shall be noted on the list. Subsequent assignments shall be given to the next member on the list with the least amount of seniority who has not received an involuntary assignment of overtime until all members have been assigned involuntary overtime and at that time the process shall **re-commence** from the top of the list.
3. After all of the above have been exhausted ~~and staffing becomes limited or short to complete emergency priority work projects~~, the department/division head **or designee** may assign work to probationary employees ~~for emergency priority work assignments~~.
4. **No employee may refuse a call for involuntary overtime work without being subject to disciplinary action. Under certain circumstances of personal hardship, the Employer may choose to excuse an employee from involuntary overtime work, but in that event such employee shall be first on the list when an involuntary overtime situation next arises.**
5. **The Employer shall retain the right to call any employee into work without regard to the involuntary overtime list if the employee's particular skills or qualifications are required to accomplish a task**

or if, due to the nature of an emergency, an unacceptable delay in a reporting time could otherwise be experienced.

- D. For the purposes of this Section, “hold-over” overtime shall be counted as an involuntary overtime assignment. Hold-over shall be defined as the period of time when an employee is required to remain on the job until such time as another employee is found to replace the original employee held over or an employee is required to remain to complete a project.
- E. Voluntary and involuntary overtime offered or assigned within the Police Department shall be offered in blocks of time not to exceed eight (8) hours. The eight (8) hour blocks of time shall be divided into two (2) hour segments.

Section 10. Time and Place for Reporting to Work.

- A. Personnel shall report for duty no later than the beginning of their assigned work schedule.
- B. The shift supervisor will assign the employee’s work station prior to the start of the work day.
- C. An employee anticipating being late shall report that fact to the department at their earliest possible opportunity.
- D. If an employee is not present at the beginning of their assigned work schedule, he or she will be considered late for work (tardy), and so noted by the supervisor. Employees who are required to enter their

shift starting time on a time clock will be permitted to clock in to work fifteen (15) minutes earlier than their assigned work schedule but shall not be permitted to begin work until their assigned work period begins, unless authorized by the employee's supervisor.

Section 11. Clean-up Time. Employees who are engaged in the type of work which necessitates cleaning up prior to a meal shall be granted a five (5) minute personal clean-up period prior to the meal period, and ten (10) minutes at the end of the shift. However, where work conditions dictate, the before meal clean-up period may be extended to ten (10) minutes.

ARTICLE 16

DURATION, TERMINATION AND AMENDMENTS

This Agreement shall be effective beginning January 1, ~~2002~~ ~~2005~~ **2006** and shall remain in full force and effect until December 31, ~~2004~~ ~~2005~~ **2008**. The provisions of this Agreement shall remain binding on the parties during negotiations as in K.S.A. 75-4321 et. seq., for a successor agreement.

The City and KAPE agree that each party may re-open up to three (3) articles throughout the term of this Agreement.

Should any provisions of this Agreement be held unlawful by a court of competent jurisdiction, all other provisions shall remain in force for the duration of the Agreement. Negotiations shall commence at a mutually agreeable time in the event replacement provisions are deemed to be necessary by *the Union* or the *Employer*.

DATED AND ACKNOWLEDGED THIS _____ DAY OF _____ 2006 IN
THE CITY OF TOPEKA, KANSAS, BY:

Mike Osborn
National Representative, AFT, KAPE

Ken Benjamin
Labor Relations Director, COT

David Fish
President, Local 4565

Phil Morrell
Lieutenant, Police Support Operations

Leon Long
Chief Steward, Park Management

Jennifer McLaughlin
Police Records Division Supervisor

Tim McCormick
Chief Steward, Engineering

LuEllen Filby
Accounting Specialist II, Public Works

Duane Morris
Team Member, Traffic Operations

Mike Teply
Acting Director, Public Works

Randy Finson
Team Member, Parks & Recreation

Steve Hitchins
Team Member, Water Pollution Control

Shirelle Canaday
KAPE Team Member, Municipal Court

Maggie Waggoner
Team Member, Police Department

Anthony Jones
KAPE Team Member, Code Compliance

ATTEST:

Iris Walker
City Clerk

Norton N. Bonaparte, Jr.
City Manager

[illegible]

KAPE - Position Listing			
Classification	Pos No	2007 Grade	
ACCOUNTING SPECIALIST I	4,001	C15	
AIRCRAFT MECHANIC I	4,044	C18	
AIRCRAFT MECHANIC II	4,045	C26	
ANIMAL CONTROL OFFICER	3,001	C10	
AQUATICS SPECIALIST	4,038	C19	
ARBORIST I	3,024	C08	
ARBORIST II	3,030	C12	
ARBORIST III	3,028	C15	
ASSOCIATE PLANNER	4,033	C15	
BIOLOGIST	4,002	C22	
CARPENTER	3,002	C14	
CHEMIST	4,004	C21	
CIVIL RIGHTS INVESTIGATOR	4,005	C18	
COMMUNITY RESOURCE SPECIALIST	4,006	C18	
COMPLIANCE INSPECTOR I	4,007	C14	
COMPUTER OPERATOR	4,008	C11	
COURIER/BLDG ATTENDANT	3,040	C03	
ECONOMIC DEV. SPECIALIST	4,009	C26	
EDUCATION SPECIALIST	4,010	C18	
ELECTRICIAN	3,003	C17	
ELECTRONICS TECHNICIAN I	4,011	C16	
ELECTRONICS TECHNICIAN II	4,034	C20	
ENGINEERING TECHNICIAN I	4,012	C14	
ENGINEERING TECHNICIAN II	4,013	C18	
ENVIRONMENTAL TECHNICIAN I	4,014	C20	
ENVIRONMENTAL TECHNICIAN II	4,015	C25	
EQUIPMENT OPERATOR I	3,004	C08	
EQUIPMENT OPERATOR II	3,005	C12	
EQUIPMENT OPERATOR III	3,006	C15	
GRANT-WRITER	4,016	C16	
HORTICULTURIST	4,017	C17	
HVAC SPECIALIST I	3,007	C12	
HVAC SPECIALIST II	3,021	C17	
INVENTORY SPECIALIST	3,008	C07	
LABORATORY TECHNICIAN	4,018	C14	
MAINTENANCE WORKER I	3,009	C03	
MAINTENANCE WORKER II	3,010	C08	
MAINTENANCE WORKER III	3,011	C12	
MASTER MECHANIC	3,012	C16	
NETWORK ENGINEER I	4,046	C22	
NETWORK ENGINEER II	4,047	C28	
OFFICE ASSISTANT I	3,013	C02	
OFFICE ASSISTANT II	3,014	C07	
OFFICE ASSISTANT III	3,015	C12	

KAPE - Position Listing			
Classification	Pos No	2007 Grade	
PARKING CONTROL OFFICER I	3,016	C04	
PARKING CONTROL OFFICER II	3,017	C10	
PLANNER I	4,019	C21	
PLANNER II	4,020	C28	
PLUMBER	3,018	C16	
PROBATION OFFICER I	4,022	C16	
PROCUREMENT OFFICER I	4,042	C17	
PROCUREMENT OFFICER II	4,043	C21	
PROPERTY MAIN INSPECTOR I	4,039	C13	
PROPERTY MAIN INSPECTOR II	4,040	C16	
PROPERTY MAIN INSPECTOR III	4,041	C18	
REAL ESTATE OFFICER	4,023	C27	
RECREATION SPECIALIST I	4,024	C06	
RECREATION SPECIALIST II	4,025	C19	
REHABILITATION SPECIALIST I	4,026	C22	
SAFETY SPECIALIST	4,027	C22	
SECURITY MONITOR	3,041	C03	
SYSTEM DEVELOPER I	4,028	C22	
SYSTEM DEVELOPER II	4,029	C28	
USER SYSTEM CONSULTANT I	4,030	C19	
USER SYSTEM CONSULTANT II	4,031	C23	
WELDER	3,019	C11	
ZOO COMMISSARY SPECIALIST	3,027	C06	
ZOO KEEPER I	3,020	C06	
ZOO KEEPER II	3,025	C09	
ZOO KEEPER III	3,026	C12	
ZOO VET TECH	4,032	C12	

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KAPE - Position Listing		
Classification	Pos No	2007 GRADE
ACCOUNTING SPECIALIST I	4,001	C15
AIRCRAFT MECHANIC I	4,044	C18
AIRCRAFT MECHANIC II	4,045	C26
ANIMAL CONTROL OFFICER	3,001	C10
AQUATICS SPECIALIST	4,038	C19
ARBORIST I	3,024	C08
ARBORIST II	3,030	C12
ARBORIST III	3,028	C15
ASSOCIATE PLANNER	4,033	C15
BIOLOGIST	4,002	C22
CARPENTER	3,002	C14
CHEMIST	4,004	C21
CIVIL RIGHTS INVESTIGATOR	4,005	C18
COMMUNITY RESOURCE SPECIALIST	4,006	C18
COMPLIANCE INSPECTOR I	4,007	C14
COMPUTER OPERATOR	4,008	C11
COURIER/BLDG ATTENDANT	3,040	C03
ECONOMIC DEV. SPECIALIST	4,009	C26
EDUCATION SPECIALIST	4,010	C18
ELECTRICIAN	3,003	C17
ELECTRONICS TECHNICIAN I	4,011	C16
ELECTRONICS TECHNICIAN II	4,034	C20
ENGINEERING TECHNICIAN I	4,012	C14
ENGINEERING TECHNICIAN II	4,013	C18
ENVIRONMENTAL TECHNICIAN I	4,014	C20
ENVIRONMENTAL TECHNICIAN II	4,015	C25
EQUIPMENT OPERATOR I	3,004	C08
EQUIPMENT OPERATOR II	3,005	C12
EQUIPMENT OPERATOR III	3,006	C15
GRANT-WRITER	4,016	C16
HORTICULTURIST	4,017	C17
HVAC SPECIALIST I	3,007	C12
HVAC SPECIALIST II	3,021	C17
INVENTORY SPECIALIST	3,008	C07
LABORATORY TECHNICIAN	4,018	C14
MAINTENANCE WORKER I	3,009	C03
MAINTENANCE WORKER II	3,010	C08
MAINTENANCE WORKER III	3,011	C12
MASTER MECHANIC	3,012	C16
NETWORK ENGINEER I	4,046	C22
NETWORK ENGINEER II	4,047	C28
OFFICE ASSISTANT I	3,013	C02
OFFICE ASSISTANT II	3,014	C07
OFFICE ASSISTANT III	3,015	C12
PARKING CONTROL OFFICER I	3,016	C04
PARKING CONTROL OFFICER II	3,017	C10
PLANNER I	4,019	C21
PLANNER II	4,020	C28
PLUMBER	3,018	C16
PROBATION OFFICER I	4,022	C16
PROCUREMENT OFFICER I	4,042	C17
PROCUREMENT OFFICER II	4,043	C21
PROPERTY MAIN INSPECTOR I	4,039	C13
PROPERTY MAIN INSPECTOR II	4,040	C16
PROPERTY MAIN INSPECTOR III	4,041	C18
REAL ESTATE OFFICER	4,023	C27

AIRCRAFT MECHANIC I	4,044	C18
AIRCRAFT MECHANIC II	4,045	C26
RECREATION SPECIALIST I	4,024	C06
RECREATION SPECIALIST II	4,025	C19
REHABILITATION SPECIALIST I	4,026	C22
SAFETY SPECIALIST	4,027	C22
SECURITY MONITOR	3,041	C03
SYSTEM DEVELOPER I	4,028	C22
SYSTEM DEVELOPER II	4,029	C28
USER SYSTEM CONSULTANT I	4,030	C19
USER SYSTEM CONSULTANT II	4,031	C23
WELDER	3,019	C11
ZOO COMMISSARY SPECIALIST	3,027	C06
ZOO KEEPER I	3,020	C06
ZOO KEEPER II	3,025	C09
ZOO KEEPER III	3,026	C12
ZOO VET TECH	4,032	C12
Summary of Contract Adjustments		

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ARTICLE 1

RECOGNITION AND UNION SECURITY

Section 1. Preamble. This Agreement is entered into between the City of Topeka, Kansas, hereinafter referred to as the City, and the Technical and Fiscal Staff and Clerical, Service, and Maintenance employees (“employees”) represented by the Kansas Association of Public Employees (KAPE), AFT, AFL-CIO, Local 4565, hereinafter referred to as the Union. This Agreement constitutes the implementation of the provisions of K.S.A. 1975, Supp. 75-4321 et seq., as amended, in order to provide for orderly and constructive employment relations in the public interest, in the interest of the employees hereby covered, and in the interest of the City.

The parties agree that there shall be no discrimination because of race, disability, creed, gender, sexual orientation, familial status, color, age, nationality, religion, political beliefs, or affiliation or non-affiliation with any labor organization. The City and the Union agree that the provisions of the Agreement shall apply to all employees covered by the Agreement without discrimination.

It is the purpose of this Agreement to maintain a harmonious relationship between the City and the Union, to provide for equitable and peaceful adjustment of differences which may have arisen and to establish wages, hours and other conditions of employment.

The City and the Union recognize that it is in the best interest of both parties and the public that all dealings between them continue to be characterized by mutual responsibility and respect. To insure that this relationship continues and improves, the City and the

Union, and their respective representatives at all levels, will apply the terms of this Agreement fairly in accordance with its intent and meaning and consistent with the Union's status as the exclusive bargaining representative of all employees in the bargaining unit.

Section 2. Employees Covered. This Agreement shall be restricted to the employees within the collective bargaining unit as defined in the State of Kansas Public Employee Relations Board Case 75-UDC-3-1996.

Section 3. Employee Rights. The employees shall have the right to form, join and participate in the activities of the Union, for the purpose of meeting and conferring with the City with respect to grievances and conditions of employment. In accordance with existing state laws, the employees also shall have the right to refuse to join or participate in the activities of the Union.

Section 4. Bargaining Unit. The City recognizes the Union as the authorized representative of all benefit eligible employees in the following classifications.

Accounting Specialist I	Aircraft Mechanic I and II
Animal Control Officer	Aquatics Specialist
Arborist I, II, and III	Associate Planner
Biologist	Carpenter
Chemist	Civil Rights Investigator
Community Resource Specialist	Compliance Inspector I
Computer Operator	Courier/Building Attendant

Economic Development Specialist	Education Specialist
Electrician	Electronics Technician I and II
Engineering Technician I and II	Environmental Technician I and II
Equipment Operator I, II, and III	Grantwriter
Horticulturalist	HVAC Specialist I and II
Human Relations Specialist	Inventory Specialist
Laboratory Technician	Maintenance Worker I, II, and III
Master Mechanic	Network Engineer I and II
Office Assistant I, II, and III	Parking Control Officer I and II
Planner I and II	Plumber
Probation Officer I	Procurement Officer I and II
Property Maintenance Inspector I, II, III	Real Estate Officer
Recreation Specialist I and II	Rehabilitation Specialist
Safety Specialist	Security Monitor
System Developer I and II	User System Consultant I and II
Welder	Zoo Commissary Specialist
Zoo Keeper I, II, and III	Zoo Vet Tech

The City agrees to advise the Union in advance of the elimination of any of the above classifications or the creation of new classifications within the bargaining unit. The City agrees to meet and confer with the Union regarding the terms and conditions of employment of the affected employees prior to taking either of the above referenced listed personnel actions.

Section 5. Union Dues Deductions. The City agrees to deduct the Union membership assessments, dues, and/or representation fee once each month from the pay of those employees who personally request in writing that such deductions be made. The written authorization for the above deduction shall be delivered and received in the office of the Financial Director no later than thirty (30) days prior to the date that the deduction is to be made. The amounts to be deducted shall be certified to the City by the official Treasurer of the Union. The aggregate deductions of all employees shall be remitted together with an itemized statement to the official Treasurer of the Union by the end of the succeeding month after such deductions are made by the City. An itemized statement shall consist of a listing of every employee for which current Union deductions are withheld.

The above shall not limit the right of any employee, who after one hundred and eighty (180) days from the date of his/her initial authorization, directs a written request thirty (30) days prior to cancellation to the Director of Financial Services and Union President stating he/she no longer desires deductions for Union membership assessments, dues, and/or representation fees.

All other qualifying deductions shall be deducted from the employee's pay before the Union check-off is deducted. The City is not responsible for the union dues deduction in the event sufficient wages do not remain once other qualifying deductions are made. The City shall not deduct dues when an employee is receiving any type of non-paid leave.

An employee's authorization shall automatically be canceled upon termination of employment or following any placement in a classification outside of the bargaining unit.

The Union will indemnify and save harmless the City from any and all claims, demands, suits and other forms of liability resulting from the Union's use of funds collected by the City for the purpose of complying with the above provisions.

Section 6. Orientation of New Employees. The City shall provide each new employee with a copy of the collective bargaining agreement then in force. Management will cooperate in permitting the newly hired employee to attend a private on-the-job orientation session of approximately fifteen (15) minutes with his/her steward during the new employee's first two (2) weeks of work. In order to facilitate participation in the union orientation portion of the employee's city orientation, the City will inform KAPE of the date, time, and location of all orientation sessions one week in advance. Within that notification, the City will provide the names of all employees scheduled to attend and their position titles.

Section 7. Visits by Union Representatives. Non-employee union representatives will be permitted to come on the premises of the City for the purpose of investigating grievances, discussing alleged violations of the Memorandum of Agreement and fulfilling their exclusive representative obligation to the members of the appropriate unit, provided they report to the Department Head and give the following information:

- A. The name of the employee to be visited.
- B. The approximate time needed for the visit.

The Department Head will determine whether the employee's duties are such that the employee is available at the designated time to talk to the Union representative. If the

Department Head determines that the employee's duties are such that the employee can not be released at that time, the Union representative will be told when the employee will be available to talk to the non-employee Union representative.

Section 8. Steward Procedures. The City and KAPE recognize that it is in the best interests of the City and the bargaining unit members to provide trained individuals to assist the members in resolving problems in the workplace. It is therefore agreed that the following procedures shall be followed in order to provide assistance to the members.

The Union shall provide a listing of all official Union stewards to the Human Resources Director. Any change in the status of a Union steward or the replacement of an official Union steward shall be provided to the Human Resources Director after a change has been made.

The function of stewards is to represent and/or serve as witnesses for bargaining unit members in disciplinary meetings which the member reasonably believes will culminate in disciplinary actions, assisting members in making determinations relative to the grievability of issues, drafting grievances and in presenting grievances and grievance cases to management. Each steward will be allowed reasonable time during working hours, without loss of pay or leave, for the purposes of representing members and discussing grievances or potential grievances in the appropriate area represented by the steward. Reasonable time means not more than three (3) hours per week unless additional time is granted by management.

In addition to the above responsibilities, the function of the chief steward is to represent KAPE officials and to give advice and assistance to line stewards. The chief steward shall observe the same guidelines as the line steward.

Any time spent by a line steward or the chief steward participating in any type of investigation or meeting called by management shall not be counted as a portion of the time granted to the steward to perform his/her duties.

It is agreed that the time during working hours granted to the steward pursuant to this agreement shall not be used for discussing any matters connected with the operation of KAPE, the collection of dues or assessments, the solicitation of memberships, campaigning for elective office in KAPE or the distribution of KAPE literature unless such literature pertains to the resolution of grievances.

Notification by Stewards of the Need to Leave the Work Site.

1. To attend a meeting called by management.

A steward shall inform his/her supervisor that he/she is leaving his/her work site to attend a meeting called by management to represent a member of the unit. The steward's supervisor may contact the management member calling the meeting in order to reschedule the meeting in the event the conditions existing at the time of the meeting make it impossible for the steward to be in attendance at the meeting. The supervisor shall inform the steward of the rescheduling of the meeting if the meeting is canceled and subsequently rescheduled. Time spent in such meetings shall not be counted as a portion of the weekly time allotted to the Union steward.

2. To meet with a member regarding a grievance or potential grievance.

The steward shall, prior to leaving the work site, request permission of his/her supervisor to leave the work site to discuss a grievance matter with a unit member. The supervisor may deny the request to leave the work site at the requested time if the supervisor has good cause for such denial. The supervisor shall inform the steward of the time when the steward may be excused.

The steward shall contact the employee's supervisor and inform the supervisor of the name of the employee with whom the steward needs to meet and the anticipated duration of the meeting. The supervisor will make the employee available to the steward unless conditions existing at the time preclude the release of the employee from duties. In such an event, the supervisor shall advise the steward of the time when the employee shall be available to meet with the steward. The steward shall promptly return to the work site upon completion of the meeting.

Section 9. Bulletin Boards. The City agrees to provide adequate space on existing departmental bulletin boards, not to exceed one-half of total space, for use by the Union. All notices shall be posted by the President of the Local Union and his/her designee, signed and dated and shall relate to the matters listed below:

- A. Union recreational and/or social affairs;
- B. Union appointments;

- C. Union elections and results;
- D. Union meetings;
- E. Ruling of policies of the Union or other Labor organizations with which the Union is affiliated;
- F. Reports of Union standing committees;
- G. Official Union publications;
- H. Any other material authorized by the City and the President of the Local Union and his/her designee.

No material detrimental to the City or the Union, (e.g. political, denunciatory, inflammatory or derogatory) shall be posted. The bulletin board's Union designated space shall be the responsibility of and shall be maintained in a neat and orderly appearance by the Local Union President and his/her designee. All items shall be removed in a timely fashion. The cost of posting said materials shall be borne by the Union.

Section 10. Distribution of the Memorandum of Agreement. The City will provide to the Union one copy of this agreement for each employee in the appropriate unit within one week after receiving the reproduced copies. Stewards will be authorized to distribute copies of the Memorandum of Agreement to employees of each appropriate unit in all areas. Employees may request a copy of the Memorandum of Agreement from management.

The Union agrees to reimburse the City one-half (1/2) of the cost of producing copies of the Memorandum of Agreement.

ARTICLE 2

MANAGEMENT RIGHTS

The parties to this Agreement recognize that specific areas of responsibility must be reserved to the City if the public service mission of the City is to function effectively and efficiently. Nothing in this Agreement shall be construed to restrict, limit or impair the rights, powers and authority of the City as granted to it under the laws of the State of Kansas. Unless specifically modified by any subsection of this Agreement, the City reserves the rights, powers and authority including, but not limited to, the following:

- A. Direct the work of its employees;
- B. Hire, promote, demote, transfer, assign, retain, and recall employees in positions with the City of Topeka;
- C. Discipline, suspend, demote and/or discharge employees for just cause;
- D. Maintain effectiveness, productivity and efficiency of governmental operations;
- E. Relieve employees from duties because of lack of work or other legitimate reasons;
- F. Take actions as may be necessary to carry out the mission of the City in emergencies as declared by the City Council or Administration;
- G. Determine the methods, means, and personnel by which operations are to be carried on.

The provisions of this Article shall not be used for the purpose of undermining the Union.

ARTICLE 3

DEFINITIONS

- A. Benefit-eligible shall be defined as a full time or part time budgeted position which is approved for benefit eligibility on relevant personnel schedules. A benefit-eligible position scheduled for less than full-time shall be eligible for benefits on a pro-rated schedule. A benefit-eligible position shall have access to the City's full benefit program as stated in this Agreement.
- B. Break of service shall be defined as any time an employee is voluntarily or involuntarily separated from the City for a period exceeding one hundred twenty (120) days.
- C. Classification shall be defined as the categories into which employees are grouped which are sufficiently alike in duties and responsibilities to be called by the same descriptive title, to be accorded the same pay scale, and to require substantially and relatively similar knowledge, skills, and abilities.
- D. Comparable Position shall be defined as a position within the same or a different classification which has the same or similar minimum qualifications, job duties and is within the same pay grade.
- E. Compensatory Time shall be defined as payment in hours in lieu of dollars for hours in pay status above the Fair Labor Standards Act (FLSA) limit. Compensatory payment in hours shall be at the rate of one-and-one-half (1 1/2) hours for each one

(1) hour worked or in pay status. Compensatory time payment shall be at the option of the employee.

- F. Doctor or Physician shall be defined as a medical doctor who is in good standing with the American Medical Association, the State of Kansas and the Kansas Medical Association.
- G. Full-time Employee shall be defined as one who works a minimum of 40 hours per work week on a regular and continuing basis.
- H. Hire Date shall be defined as the date the employee was hired into City service. Any breaks in service over one hundred twenty (120) days shall cause an individual to be classified as a new hire.
- I. Holiday shall be defined as a day wherein an employee is released from duty with full pay for the day. Holidays are listed within Article 10, Section 10 of this Agreement.
- J. Holiday Pay shall be defined as the pay for hours equal to the number of hours regularly scheduled if the day had not been declared a holiday as defined by Article 10, Section 10 of this Agreement.
- K. Immediate Family shall be defined as one's spouse, child, son-in-law, daughter-in-law, step-child, parent, step-parent, spouse's parent or step-parent, sibling, step-sibling, grandparent, spouse's grandparent, step-grandparent, grandchild, uncle, aunt, or a member of the immediate household permanently residing under the same roof.

- L. Layoff shall be defined as temporary termination of an employee, as provided for in Article 8 of this Agreement which is due to a shortage of funds, lack of work, or abolishment of a position.
- M. Management shall mean the Department Head or person(s) designated by the Department Head to perform a function on behalf of the Department Head.
- N. Non-immediate Family shall be defined as any relative not specifically designated in the Immediate Family definition.
- O. Over-time Work Hours shall be defined as the total hours worked including any in pay status, except for hours actually worked on a holiday, which exceed the FLSA limit.
- P. Part-time Employee shall be defined as one who works less than 40 hours per work week.
- Q. Pay Status shall be defined as any time an employee is receiving compensation from the City either for services rendered or on an approved leave with pay. Eligibility for benefits generally is contingent on being in a pay status.
- R. Probation Period shall be defined as a period of time during which supervisors may assess the work of an individual in order to determine the ability of the employee to continue employment in the position.
 - 1. Initial probationary period shall apply to a new hire in the City and shall constitute a period of time of not less than 1040 hours which may be extended for an additional 520 hours if the employee is rated unsatisfactory by the supervisor upon completion of the 1040 hour period. An employee who experiences a break in continuous employment with the City of more

than one hundred twenty (120) days shall be considered to be a new hire if re-employed by the City. An employee who does not successfully complete initial probation shall be considered a termination for just cause.

2. Interim probation shall apply to all City employees when they are promoted, demoted, voluntarily transferred, or reclassified and shall constitute a period of time of not less than 1040 work hours which may be extended for an additional period of 520 hours by Management.
 3. Performance evaluation probation shall mean a period of at least 520 hours during which an employee is given an opportunity to improve his/her performance in order to remain within a specific position. Performance evaluation probation shall commence only after a special evaluation has been called pursuant to Article 4, Section 4 and the employee has received proper notice.
- S. Promotion shall be defined as the advancement of an employee from his/her current position in one classification to a vacated or new position in another classification which is assigned to a higher pay grade.
- T. Re-allocation of a position shall mean a change in the classification of a position resulting from the permanent assignment of duties of a different classification.
- U. Re-classification of a position shall mean a change in the classification of a position resulting from the determination that position has been improperly classified.
- V. Review date shall be defined as the date of hire of an employee or the date of the employee's last promotion.

- W. Seniority shall be defined as the number of days, months and years an employee has been employed in:
1. The City of Topeka (City seniority);
 2. A specific department of the City (departmental seniority); or
 3. A specific division of the City (divisional seniority).
- Y. Serious Illness shall be defined as a condition which requires hospitalization and/or continuous professional medical care and shall be determined by the attending physician, unless otherwise specifically addressed in this Agreement.
- Z. Shift Differential shall be defined as premium pay over and above base pay for work performed on a night shift or under other conditions as specified in Article 9 of this Agreement.
- AA. Shift Work shall be defined as any established work hours which continue on a regularly scheduled basis.
1. Day Shift shall be defined as any regularly scheduled work hours which fall between the hours of 6:00 AM and 6:00 PM.
 2. Night Shift shall be defined as any regularly scheduled work hours when any of the scheduled work hours are between the hours of 6:00 PM and 6:00 AM.
- BB. Termination shall be defined as a complete separation from City employment resulting from discharge, resignation, retirement, or death.
- CC. Temporary Duties shall be defined as those assigned on an interim basis, normally for no longer than a six-month time period, but with exceptions to be made when the needs of the department or division so require.

ARTICLE 4

DISCIPLINE & DISCHARGE

Section 1. Policy. The City reserves the right to, with just cause, discharge, suspend or otherwise discipline employees for violations of City and/or departmental rules and regulations. All disciplinary and corrective actions shall be subject to the provisions of the grievance procedure contained in this Agreement. The seriousness of an offense will often vary with the circumstances prevailing at the time of the occurrence and the motives which prompted the offense. Related and mitigating factors shall be considered when determining the appropriate action to be taken. The disciplinary process involves four steps of progressive discipline for infractions of a similar nature and which are of a nature not serious enough to constitute just cause for immediate suspension or discharge. The progressive steps are:

First Offense.....	Documented Verbal Warning
Second Offense.....	Written Warning
Third Offense.....	Suspension
Fourth Offense.....	Termination

Section 2. Procedure. The progressive disciplinary system listed above is intended to serve as warning to the employee that he/she needs to improve in the listed area and that repeated incidents may result in suspension or termination. The steps of progressive

discipline are intended as a guideline for the application of discipline but the City may apply any level of discipline commensurate with the seriousness of the offense committed.

- A. Disciplinary actions not considered serious enough for immediate suspension or termination shall be removed from an employee's file on completion of two years of continuous service free from additional disciplinary actions for violations of a similar nature. An employee may file a written request with the Director of Human Resources for the removal of disciplinary actions serious enough to warrant an immediate suspension after three (3) years of continuous service free from additional violations of a similar nature. The Director of Human Resources shall consider the overall work record of the employee and the seriousness of the offense for which the employee was suspended in any determination relative to the removal of such disciplinary actions. All items removed from the employee's personnel file shall be given to the employee. Union representatives may assist employees in this process, provided Management retains the authority to remove items from an employee's personnel file without such request.
- B. The City shall have the right to discipline employees up to and including termination; provided, however, that all actions to terminate employees shall require the approval of the Human Resources Director of the City. The City may place the employee to be terminated on administrative leave with or without pay pending the resolution of an appeal filed under the provisions of Article 5 of this Agreement.

C. Offenses not normally considered serious enough to warrant immediate suspension or termination:

1. destruction or loss of City property;
2. improperly using or obtaining leave time;
3. tardiness;
4. absence without permission or proper notice;
5. interference with the regular conduct of City business;
6. using City vehicles, property or equipment for personal use;
7. consistent or continual unavailability for work;
8. engaging in habits that interfere with the individual's or any other employee's performance on the job;
9. violations of any work rule governing a management's right or Administrative Rule and Regulation which governs a mandatory subject not contained within this Agreement.

The above list does not constitute a complete and total listing of offenses but is for illustrative purposes only.

D. Examples of offenses which may constitute sufficient and just cause for immediate suspension or termination are as follows. This listing shall not be construed to constitute the entire list of such offenses but is solely for the purpose of illustration. The City reserves the right to determine that any violation of rules and/or regulations may constitute just cause for immediate suspension or termination depending on the circumstances relating to the offense.

1. dishonesty in any form or degree;
2. theft of property belonging to the City;
3. knowingly making false statements in matters relative to employment;
4. insubordination;
5. unreasonable and abusive treatment of a client, citizen or other individual in the community or on the City payroll;
6. violation of the City's No Harassment or Discrimination policy;
7. solicitation or acceptance of money or anything of value to influence decisions in public matters or as a reward for such decisions;
8. possession of any type of firearm, explosive or concealed weapon without specific authority;
9. possession, sale, consumption or being under the influence of any alcoholic, narcotic or other non-prescription substance while on the work site, except to the extent governed by the City Substance Abuse Policy;
10. other violations of a similar nature.

Section 3. Representation for Disciplinary Proceedings. An employee may request and shall be permitted to have a representative from the Union present if a bargaining unit member is to receive a corrective or disciplinary action or the member is to be questioned about a matter and the member reasonably believes that such questioning may result in a disciplinary or corrective action which may be intended to be a part of the employee's official personnel record. For the purpose of this Article, "Representative" shall mean an

officially designated Union steward or other paid representative of the Kansas Association of Public Employees. Except in an extreme emergency, employees will be notified forty-eight (48) hours prior to any meeting that may result in disciplinary or corrective action being taken or any time a member is to be questioned for the purpose of disciplinary or corrective action. At the time of notification the employee will be informed of the nature of the meeting.

Where an employee seeks Union representation at the meeting, the employee is responsible for contacting a steward. The employee may voluntarily choose to waive both the forty-eight (48) hour wait time before the meeting and accompaniment by a Union representative, but only after being advised of the right to each and signing a written understanding -- to be kept on file -- to that effect. The Waiver Form shall state:

I understand that I am or may be the recipient of a disciplinary or corrective action. I further understand that I have the right to a 48-hour notification before any disciplinary meeting may occur and to have a Union steward, whom I may obtain by calling 235-0262, present to assist me at that meeting.

I voluntarily choose to waive _____ (1) the 48-hour notification period but not Union representation; _____ (2) Union representation but not the 48-hour wait requirement; or _____ (3) both the 48-hour notification and accompaniment by a Union steward.

_____	_____	_____
Employee	Date	Supervisor

All disciplinary actions shall be administered as promptly as possible. The selection of a representative will be at the discretion of the employee receiving the disciplinary action but shall be limited to the most readily available steward, or paid member of the Union. A representative shall be allowed to participate in the disciplinary process and will be in pay

status only if the representative is on duty and within his/her normal work hours. The City shall schedule all investigative or disciplinary meetings at a time so as not to deny the employee representation and the employee shall be considered in pay status for any and all such meetings called by the City.

Section 4. Performance Related Corrective Actions. Each employee of the City shall be evaluated at least annually as provided in these rules and regulations. The evaluation and any special evaluations shall be used as the basis for all performance based corrective actions. While a prior documented abuse of Sick Leave, as described in Article 10, Section 3, paragraph I.1, shall in addition to the measures set out in that subsequent paragraph I.2 be appropriate for listing in the performance evaluation as a need for behavioral modification, Sick Leave utilization itself shall not otherwise be a component of an employee's overall rating. All non-probationary evaluations, either performance or special, will be subject to the appeals process set forth in Article 13, Section 4C.

A. Corrective actions - as used in this section, corrective actions shall include:

1. special performance probation
2. demotion
3. termination

B. Special evaluations -

1. The City may cause a special evaluation to be conducted for any employee when the management determines that such employee's performance is "less than satisfactory" with respect to any or all of the

duties, tasks, and/or responsibilities which have previously been presented to the employee in writing.

2. The special evaluation document shall set forth the specific areas, (duties/tasks/responsibilities) in which the employee is expected to improve during the special evaluation period.
3. Special evaluations shall be performed in five hundred twenty (520) continuous work hour intervals which period shall be considered an opportunity for the employee to improve his/her performance to an acceptable level. Management shall identify the areas of improvement necessary to correct the employee's performance.
4. The employee shall be considered to be on a probationary status during the five hundred twenty (520) continuous work hour period following a special evaluation in which his/her performance ranks "less than satisfactory." The employee shall be given a second special evaluation on the completion of the five hundred twenty (520) continuous work hour probationary period. In the event that an employee's performance has not improved, as reflected by the second special evaluation, management, with the concurrence of the Director of Human Resources, may take the appropriate action of:
 - (a) demote the employee to a position of lesser responsibilities within his/her expected abilities;

- (b) extend the special probationary period for another five hundred twenty (520) hours; or,
- (c) terminate the services of the employee.

ARTICLE 5

GRIEVANCE PROCEDURE

Section 1. Definitions.

- A. Grievance shall be defined as any matter(s) involving an alleged violation, misinterpretation, or misapplication of this Agreement or of a traditional work practice. Such matter(s) shall be exclusively resolved in accordance with the procedure herein provided.
- B. Grievant shall be defined as the party filing the grievance. For purposes of this Agreement, the party may be an aggrieved employee or Union acting on behalf of an aggrieved employee/employees.
- C. Days shall be defined as calendar days commencing with the day following the filing of the grievance.
- D. Department Head shall be defined as the director of a department.
- E. Immediate Supervisor shall be defined as the individual responsible for the performance evaluation of the employee.

Section 2. Employee Representation. KAPE shall be the exclusive representative of all the employees in the bargaining unit for the purposes of the resolution of grievances. Except as provided in Section 5, A, Step 1, below, an employee may have an appropriate representative present to represent him/her at any step of the grievance process if the employee so desires. If the employee is to be represented, the employee shall be

represented by a designated KAPE representative, (KAPE staff member or officially designated steward), an attorney of the employee's choosing at the employee's expense, or an individual who does not hold him or herself out as a representative of any other organization. If the employee chooses not to be represented by KAPE, KAPE shall be notified of the grievance and permitted to participate in all grievance resolution proceedings as an interested party to the interpretation of the agreement. If KAPE does not actively participate in the grievance process, the decision or the resolution of such a grievance will only impact the aggrieved employee's situation and will not set precedent for future grievance resolution and/or contract interpretations. Any employee electing to forego KAPE representation shall be responsible for all costs incurred in the grievance process.

Section 3. Failure to Respond. In the event the grieving party fails to respond within the prescribed time sequences, the matter shall be considered resolved on the basis of management's last determination. In the event management does not respond within prescribed time sequences, the grievant shall have the right to proceed to the next step of the grievance procedure. The parties may, at any step of the grievance procedure, agree to extend the time limitations specified in this article.

Section 4. Grievance Forms. All grievances shall be filed on a form to be provided by the Department of Human Resources and incomplete forms shall be returned to the grieving employee for completion. Forms so returned shall be considered as timely filed if the form would have otherwise been timely and the form is returned to the proper management representative within twenty-four (24) hours of rejection.

Section 5. Procedure. The City and the Union agree to the following exclusive procedure of presenting and adjusting grievances and complaints, as defined above, which must be processed in accordance with the following steps, time limits and conditions:

A. STEPS:

STEP 1: The aggrieved employee who believes that a violation, as set forth above, has occurred shall first, within seven (7) days of the incident giving rise to the "grievance" or within seven (7) days of first having knowledge of the incident, informally discuss the "grievance" with the employee's immediate supervisor outside of the bargaining unit.

STEP 2: In the event the grievant believes that the solution offered by his/her immediate supervisor does not resolve the "grievance," the grievant may, within seven (7) days, reduce the matter to writing for presentation to the immediate supervisor. The supervisor shall verify the completeness of the grievance and either signify acceptance or return the form to the grievant with instructions regarding the appropriate information needed to complete the form. Once the immediate supervisor has accepted the correctly completed form he/she will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form. The supervisor shall have seven (7) days in which to investigate the matter, prepare a written response and provide the response to the grievant by hand delivering the response to the grievant or by placing a copy in the U.S. Postal

Service certified mail addressed to the grievant and simultaneously providing a copy to the Union.

STEP 3: In the event the grievant believes that the written response provided by the supervisor as specified in Step Two, does not resolve the matter, the grievant may, within seven (7) days of receipt of the written response, file his/her grievance with the next higher level of supervision. The next level supervisor accepting the grievance will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form. The supervisor receiving a Step Three grievance shall have seven (7) days to investigate the matter and provide a written response to the grievant. Written responses shall be delivered in the manner as described in Step Two of this procedure. (This procedure must be followed up the chain of command until the grievance is addressed by the department head).

STEP 4: In the event the grievant believes that the written response of the department head does not resolve the matter, the grievant may, within seven (7) days of receipt of the response, file his/her grievance with the Department of Human Resources. The Director of Human Resources or his/her designee accepting the grievance will sign and date the form, indicating receipt, and the employee shall be given a copy of the signed and dated form. The Director of Human Resources shall investigate, shall, unless sustaining the grievance, conduct an informal hearing giving all parties an

opportunity to express their positions and shall, within fourteen (14) days, deliver a written resolution as provided in Step Two of this procedure.

STEP 5: Following receipt of the Director of Human Resources' determination in the matter, the grievant or the union shall have up to seven (7) calendar days to either accept the determination or issue a notice of intent to arbitrate. The notice of intent to arbitrate shall be in writing and shall be filed with the Department of Human Resources.

- a. The Director of Human Resources shall request a roster of arbitrators from the Federal Mediation and Conciliation Service. The request shall state that the roster will consist of regional arbitrators. The parties shall either agree on the arbitrator or shall engage in the alternate striking procedure to select the arbitrator.
- b. The costs associated with fees and expenses of the arbitrator shall be shared equally by the parties. The grievant shall be responsible for the grievant's share of the arbitration costs in the event the grievant chooses not to use KAPE as their representative.
- c. The arbitrator shall conduct a hearing into the grievance at a time, place and date mutually agreed on by the appropriate parties. In the event the parties cannot, within seven (7) days of the notification of the arbitrator, agree on a time, place and date for the hearing, the arbitrator shall issue a notice of hearing listing the time, place and date for the hearing.

- d. All documentary evidence and a list of witnesses shall be presented to the opposing party prior to the commencement of the hearing. Acceptance of additional evidence presented to the arbitrator which was not submitted in advance to the opposing party or testimony from a witness not listed in advance shall be admitted at the sole discretion of the arbitrator. The arbitrator shall honor any request for a continuance of the hearing made by a party not provided evidence or advised of a witness prior to the hearing, in the event the arbitrator determines to admit such evidence or testimony.
- e. The arbitrator, after hearing all evidence and testimony, shall enter an order resolving the grievance. Such order shall indicate findings, conclusions and a resolution and shall grant the relief deemed appropriate by the arbitrator. This order shall be final and binding on the parties.

B. Expedited Grievance Procedure. In the event of a termination, the grievant or the Union may pass Step 1, 2 and 3 and file the grievance directly with the Director of Human Resource as indicated in Step 4. All arbitration procedures shall be taken in accordance with the provisions of Step 5 of this Section.

Section 6. Investigation of Grievance(s). No more than two employees of the City (the aggrieved employee(s) and/or the Union representative(s)) shall be granted on-duty

time off with pay to investigate grievances and to facilitate conferences and discussions with City supervisors and/or administrators relating to the resolution of a specific grievance.

Section 7. Grievance Meetings. All parties shall be afforded an equal opportunity to present facts or arguments pertaining to the matter(s) under consideration in all meetings conducted under the auspices of this procedure.

ARTICLE 6

SENIORITY

Section 1. Definition. The City shall give full consideration to seniority in all matters relating to promotions, transfers, demotions, reductions in force, layoffs, recall, vacations, and any other action so specified in this Agreement. Seniority shall be applied according to the provisions of this Agreement. Seniority shall be defined as the total length of uninterrupted service accumulated by an employee in each of the following categories:

- A. City Seniority: The total length of uninterrupted service following initial date of hire with the City.
- B. Division Seniority: The total length of uninterrupted service following the date of assignment to the specific division where the employee is currently employed.
- C. Department Seniority: The total length of uninterrupted service following the date of assignment to the specific department where the employee is currently employed.
- D. Classification Seniority: The total length of uninterrupted service following the date of assignment to a specific job classification within a specific division of the City.

Employees shall accrue seniority for time spent on involuntary Military Leave or leave as a result of an on-the-job injury or as provided elsewhere in this Agreement.

Section 2. Loss of Seniority. An employee's seniority accumulation shall cease if the employee:

- A. Is discharged for just cause (unless reversed through the grievance or other legal procedure);
- B. Retires; or
- C. Quits or resigns.
 - 1. Any employee who voluntarily resigns on good terms from the City and returns to work within one hundred twenty (120) days shall receive credit for all City seniority previously accrued (less any time away from work in a non-pay status). Any employee who does not receive direct compensation from the City during the above mentioned one hundred twenty (120) day period shall not accrue seniority during that time. Divisional and classification seniority shall commence on the date the employee returns to work.
 - 2. Employees who leave the service of the City and are re-hired within two years will be given their previous seniority (less any time away from work in a non-pay status) after eighteen (18) months of continuous employment.

Section 3. Seniority List. Each division head shall maintain an up-to-date seniority list of all employees which shall contain the name of each employee, date of hire, date of entry in the division, and date of entry in the classification.

Every six (6) months the City shall update and post the seniority lists on the official bulletin boards and submit a copy to the Union. The City and the Union shall be allowed thirty (30) days to notify one another of any errors they find in the seniority lists as posted.

In the event two (2) or more employees have the same Classification Seniority, then Divisional Seniority shall determine the most senior employee. If employees have the same Classification and Division Seniority, then City Seniority shall determine the most senior employee. If employees have the same Classification, Division and City Seniority, then they will draw numbers to determine who has the greater seniority.

Section 4. Seniority of an Initial Hire Probationary Employee. An initial probationary employee shall have no seniority until the completion of the probationary period. On the successful completion of the initial probationary period the employee will accrue seniority from the date of hire.

ARTICLE 7

PROBATIONARY STATUS

Section 1. Purpose. Probation is an integral part of the selection/screening process and shall be utilized for closely observing the performance of the employee, for informing the employee of his/her ability to perform the duties/tasks/responsibilities of the position and for replacing or reassigning an employee whose performance does not meet the required performance standards.

Section 2. Initial Probation. Initial probationary period shall mean the probationary period served by an employee on a new hire with the City as defined in Article 3. The initial probationary period shall be at least six (6) months in duration, except that such probationary period may be extended for up to a maximum of three (3) months at the request of a division head and with the approval of the Director of Human Resources for performance related issues. During the initial probationary period the new hire shall not be permitted to bid on other positions outside of their department/division until after their probation is completed. Upon the successful completion of their initial probationary periods, regardless of when that occurs during the contract term and whether or not step increases have otherwise been generally authorized for City employees, new hires shall be moved from step 1 to step 2 of the applicable pay matrix.

Section 3. Interim Probationary Period. Interim probation shall mean a probationary period for promotion, reallocation, voluntary transfer, or demotion as defined in Article 3. The Interim probationary period shall be at least six (6) months in duration.

Section 4. Performance Evaluations During Initial and Interim Probationary Period. Employees shall receive an oral evaluation of their performance at mid point of the initial or interim probationary period three (3) months and the required written evaluation prior to the completion of the six months. The evaluation of performance shall be based on standards established by the employee and City as those standards relate to the major duties and responsibilities as listed on the position description.

Section 5. Removal During Probationary Period.

- A. Initial: A department head may remove an employee from a position at any time and for any reason during the initial probationary period. An employee failing to successfully complete his/her initial probationary period shall be considered to be "terminated" for just cause.
- B. Promotion, Transfer, or Reallocation: An employee who does not successfully complete an interim probationary period resulting from a promotion, voluntary transfer, or reallocation shall be returned to their former position provided that the position remains vacant at the time the employee is determined not able to complete the probationary period. The City shall provide written reasons to the employee stating the basis for the failure of the

employee to successfully complete the probationary period. The written reasons shall be provided to the employee at the time the employee is notified of his/her failure to complete the probation. If the former position of the employee has been filled, the employee shall be placed in a comparable position within the department where they were formerly employed if such a vacant comparable position exists within the department. The employee shall be placed in the next available comparable position within City employment if no position exists in the department.

- C. Demotion: An employee who does not successfully complete an interim probationary period resulting from a demotion may be terminated from City employment for just cause.

Section 6. Rights of Employee During Probationary Period.

- A. Initial: The employee may not use the grievance procedure for failure to make initial probationary period.
- B. Interim: The employee may grieve their failure to successfully complete the interim probationary period.

ARTICLE 8

REDUCTIONS IN FORCE

Section 1. Reduction in Force: Lay Off

- A. General. A Reduction in Force is defined as a reduction in the work force due to a shortage of funds, lack of work, abolishment of a position, or other material change in duties or organizational structure. All reductions in force shall be considered to be short term reductions until the employee is returned to duty or all provisions of this Article are exhausted. The provisions of this Article are intended to protect a benefit-eligible employee's tenure and benefits.
- B. Order of Separation.
1. Management shall first designate the division(s) and classification(s) where the reduction in force will occur. Temporary employees shall be laid off first, followed by benefit eligible employees.
 2. The order of lay-off for regular, benefit-eligible employees will occur in the inverse order of their seniority in the classification.
 3. An employee who has been laid off shall have his/her name entered on a re-employment list at the time of lay-off and shall remain on the list for a period of three (3) years unless the employee chooses to waive the right to recall.

- C. Required Notice. Employees who are to be laid off shall be given formal written notice at least thirty (30) days in advance of the date of the layoff or at the option of the employer, they shall be given four(4) weeks of salary in lieu of the required notice. The Union shall be given a copy of the layoff notice.
- D. Layoff Options. The Department Head and/or the Union may recommend alternative cutback areas (to any anticipated layoff of employees) to the Director of Human Resources of the City. The City and the Union may enter into an agreement to minimize the effect of general layoffs by:
1. Reducing the total number of working hours of employees;
 2. Reducing the level of payment to current classification;
 3. A rotation layoff system; or
 4. Other variations which may cause minimal impact on services rendered to the public.
- E. Bumping. Bumping may occur at the time the employer notifies an employee of his/her pending lay-off. An employee shall notify the City within fourteen (14) days of receiving the lay-off notice of his/her desire to exercise bumping rights. Bumping rights may be exercised by an employee into:
1. any position in a different section of a department which is in the same classification as the classification in which the employee is employed and which is occupied by an employee with less City seniority;
 2. any position in a different section in the same or lower classification which was previously held by the employee within the past three (3)

years regardless of the department in which the work was performed and the employee occupying the position has less City seniority;

3. Any position in the bargaining unit in any classification for which the employee meets the particular position description criteria and the employee occupying the position has less City seniority;
4. any new position created by the City regardless of the classification, when the employee meets the minimum qualifications for the classification.

F. Recall.

1. An employee who has been laid off and whose name appears on the re-employment list shall be given the first available vacancy in the same or similar position the employee last held regardless of the department in which the vacancy exists. The employee with the most City seniority in the classification to be recalled shall be given the position in the event there are two or more employees on the recall list.
2. An employee's name may be removed from the re-employment eligibility list for any of the following reasons:
 - a. Expiration. If the time limit for recall expires.
 - b. Waiver. An employee may elect to waive the right to recall by signing a waiver form provided by the City. Employees who waive their right to recall shall immediately become eligible to receive severance pay.

c. Forfeiture. Employees forfeit the right to recall if they:

- (1) Refuse a job in a position that is not more than two pay grades below their position at the time of lay off;
- (2) Fail to notify the City of their intent to accept recall within five (5) calendar days of work notice;
- (3) Out placement assistance by the City results in an offer of comparable employment with an employer other than the City;
- (4) Fail to answer written inquiries from the City's Department of Human Resources; or
- (5) Fail to advise the City of a change of address and/or telephone number within a reasonable period of time of the change.

G. Reinstatement

1. Wages. When an employee is recalled he/she shall be paid at the pay grade assigned to the classification into which the position falls and at the step the employee had attained at the time of lay-off plus any adjustments to which they would have been entitled had the lay-off not occurred. If recalled to a lower position, employees shall receive compensation at the pay grade for the classification into which the position falls and at the step which the employee had attained prior to the lay-off.

2. Benefits

- a. Vacation. When employees on lay-off are recalled within the time limits provided in this Article, they will commence to accrue vacation and shall be credited with any vacation time not paid at the time of layoff.
- b. Sick Leave. Any sick leave accumulated and not utilized at the time of lay off will be reinstated at the time of recall.
- c. Seniority. Employees shall be credited with seniority earned prior to the layoff.

H. Employee Benefits During Lay Off

- 1. Vacation Time. An employee on lay off may elect to be paid for any vacation and/or compensatory time which the employee accrued prior to the lay off, or the employee may choose to “bank” his/her vacation and/or compensatory time until the employee is recalled or the employee otherwise notifies the City of the decision to receive pay for the accrued hours. An employee shall be paid for accrued vacation and/or compensatory time at the base rate of pay of the employee at the time of lay-off. Vacation time does not accrue during the separation.
- 2. Group Insurance. An employee who is laid off may elect to continue group insurance for eighteen (18) months. Timely payment of premiums will be the responsibility of the employee.

3. Other Benefits. Additional benefits (holiday, health coverage, retirement contribution or other insurance) will neither accrue nor be paid while an employee is laid off.
- I. Grievance. Lay off and demotions necessitated by the conditions listed in this Article shall not be subject to grievance except to contest the order of separation among affected employees.

Section 2. Severance Pay

- A. General. The purpose of the severance pay policy is to provide temporary relief to employees who have been laid off or to employees whose job has been eliminated through reallocation or reorganization. Severance pay shall be paid as follows:
 1. On a weekly basis following each week of lay-off until the employee has exhausted the number of weeks of severance to which he/she is entitled pursuant to the schedule in Paragraph B of this Section; or
 2. An employee voluntarily waives the right to recall, as described in (F)(2b);
- B. Severance Pay. Employees eligible to receive severance pay shall be compensated at the rate of one (1) week's salary for each complete year of service, as of the date of separation. However, in no case shall severance pay exceed one (1) year's salary. Severance pay shall be calculated using the employee's regular base hourly wage and shall not include any premium payments for overtime, longevity, etc.

ARTICLE 9

WAGES

Section 1. Pay Period. Employees shall be paid on every other Friday, except that employees shall be paid on the preceding work day when a pay day falls on a holiday unless technologically unfeasible.

Section 2. Wages. The Union and the City hereby agree to continue the pay matrix and plan now existing which are appended hereto and specifically made a part of this Agreement.

The pay matrix shall be increased by two and one-tenth percent (2.1%) at all levels and steps as of January 1, 2006 and eligible employees shall be granted step increases on the anniversaries of their hire dates.

The pay matrix shall be further increased by two percent (2.0%) at all levels and steps as of January 1, 2007 and eligible employees shall be granted step increases on the 2007 anniversaries of their hire dates. In addition, employees who are not step-eligible due to being at their top level but receive an overall annual performance evaluation for 2006 of "Meets Expectations" or better shall be given a one-time lump sum bonus of two hundred fifty dollars (\$250.00), payable with the first pay period following that January 2007 rating.

The pay matrix shall be further increased by three and one-half percent (3.5%) at all levels and steps on January 1, 2008 and employees who are otherwise eligible and receive an overall annual performance evaluation for 2007 of "Meets Expectations" or better shall be granted step increases on the 2008 anniversaries of their hire dates. In addition, employees

who are not so eligible due to being at their top level but receive an overall annual performance evaluation for 2007 of "Meets Expectations" or better shall be given a one-time lump sum bonus of two hundred fifty dollars (\$250.00), payable with the first pay period following that January 2008 rating.

Section 3. Shift Differential.

- A. Day shift workers shall be paid shift differential for all hours worked between the hours of 6:00 PM and 6:00 AM.
- B. Night shift workers shall be paid shift differential for all hours worked.
- C. The shift differential shall be fifty cents (\$0.50) per hour.

Section 4. On-Call Pay.

- A. On-call is defined as a period of time, outside of an employee's regularly scheduled duty time, when the employee is officially notified of the possible recall to work. Only non-probationary employees shall be required to serve in "on-call" status.
- B. Official notification of an on-call status shall require notification by the appropriate person either in person, by phone, or by memorandum. Employees shall be given a minimum of twelve (12) hours of notification of being placed on on-call duty except for emergency situations. Any failure by an employee officially placed on on-call duty to respond, may result in removal from on-call duty.

- C. Any employee officially on on-call shall be entitled to two (2) hours of pay for every day they are on on-call and three (3) hours per day on weekends and holidays. On-call pay shall be considered as actual hours worked for F.L.S.A.
- D. A designated on-call employee shall not be entitled to receive on-call pay for the day(s) they were called to work pursuant to the conditions outlined in Subsection E below.
- E. Employees who are serving on official on-call who are called back to work shall be given a minimum of three (3) hours call back pay or the actual number of hours worked, whichever is greater; provided, however, that only one minimum call time allowance shall be provided per twenty-four (24) hours on-call period.

An employee shall only be paid for actual hours worked on subsequent calls in a twenty-four (24) hour period. The end of call back time occurs when an employee officially leaves the work site.
- F. When any employee is selected to be on-call, the employee may be provided a City vehicle, while on-call, for the purpose of driving to and from work and/or responding to a call. The privilege of driving to and from work while selected to be on-call shall not be construed to be a taxable benefit.
- G. No employee shall be required to serve in on-call status for any two (2) consecutive holidays. Christmas Eve and Christmas Day shall be considered one holiday for purposes of this Article.

Section 5. Call Back. The City may call an off duty employee to return to duty in the event conditions necessitate such call back. Employees shall make themselves available for duty as soon as possible, upon such notification, unless they are incapable of reporting to their assigned place of duty.

- A. Call back procedure. Call back to duty shall be accomplished from the voluntary call back list whenever possible and from the involuntary overtime list after the voluntary list has been exhausted. All call back shall be accomplished as set forth in Article 15, Section 9.
- B. Call back pay. All employees covered by this Agreement who are called back to work prior to their normal starting time shall receive their normal rate of pay plus any premium pay as provided for in this Agreement. Any employee called back to work shall receive a minimum of three (3) hours call back pay or the actual number of hours worked, whichever is greater. Except in cases of emergencies, work schedules will not be changed to avoid the payment of overtime by utilization of the call back procedure.
- C. Work at Home. In the event an employee is called at home to perform work that may be accomplished there, he or she shall be compensated by the payment of one (1) hour of call back pay for the first call received and fifteen (15) minutes, or the actual time worked, whichever is greater, for each ensuing call during the same contiguous off-duty period ending with the employee's next regular reporting time.

Section 6. Hazardous Duty Pay. A committee shall be established to review the nature of the duties assigned to each classification in this unit and to identify those duties of a particularly hazardous nature. The committee shall be comprised of equal numbers of members (not to exceed six (6) in total) appointed by the City and the Union. The committee shall be responsible for reporting their findings back to the negotiating team of the City and the Union who shall utilize that information in the development of a contract subsection addressing hazardous duty pay.

Section 7. Overtime Compensation.

- A. Employees who are in pay status in excess of 40 hours in a work week shall be paid one and one-half (1 1/2) times their regular pay for all such excess hours, or, at the option of the employee, subject to concurrence by the employer, they shall be given compensatory time off at a rate of one and one-half (1 1/2) hours for each such excess hour. Use of compensatory time will be permitted within a reasonable period if it does not unduly disrupt the operations of the Department/Division. Use of compensatory time may only be at the employee's request and not forced or scheduled by any supervisor.
- B. An employee may accumulate up to a maximum of two hundred forty (240) hours of compensatory time and may carry over an equal amount of compensatory time from one calendar year to another.

Section 8. Classification/Pay Grades/Unit Placement.

- A. Establishment of New Job Classifications. The City and the Union herein agree that the City may, from time to time, establish new job classifications consisting of duties similar to those currently being performed by bargaining unit members or create a new level of classification within an existing classification "career ladder" which is currently placed within the appropriate bargaining unit. In such an event the City shall notify the Union of the intent to take the action and shall then meet with the Union representatives to determine compensation levels for the new "classification".

Any new classification and determined pay grade shall automatically be included within the bargaining unit and the Memorandum of Agreement existing at that time shall be considered amended to include the new classification. All rights under the Memorandum of Agreement shall be automatically extended to employees hired into the new classification.

- B. Unit Placement of Newly Created Job Classifications. The City agrees to submit a listing to the Union of any classification created by the City after the effective date of the Agreement for consideration of bargaining unit placement. The listing shall include job or position descriptions and classification specifications. The Union shall be granted a period of thirty (30) days from receipt of the proposed classification in which the Union may notify the City of its belief that such classification should appropriately be placed within the established bargaining unit governed by this Agreement. The parties shall

meet to seek agreement of the placement of the classification within the Unit. Any dispute concerning placement of a new classification within the established Unit shall be submitted to the Kansas Public Employees Relations Board (PERB) as set forth in the provisions of K.S.A. 75-4321 et. seq. Nothing in this section shall be construed as a prohibition to filling the position during the dispute resolution procedure undertaken by the PERB; provided the thirty (30) day period as set forth above has passed.

- C. Job/Classification Reviews. The City may redefine, consolidate and/or otherwise modify or create the classifications and recognized job classifications pursuant to the provisions of Article 9 of this Agreement. An employee may request a review of his/her classification placement and/or position description by filing a written request with the supervisor/department head. In the event the employee does not believe the appropriate consideration has been given to their request, or the supervisor/department head disagrees with the employee's request or fails to forward the request to the Human Resources Department, the employee shall have the right to forward their request directly to the Human Resources Department. All reclassification and re-allocation requests presented by the department head or employee to the Human Resources Department shall be made in compliance with the policy and procedures in effect for the calendar year. The Human Resources Director shall cause such a review to be made within thirty

(30) days of the request and shall provide the written results to the department head and employee.

Section 9. WPC Optimization Project.

An optimization project has been initiated within the Water Pollution Control, Street and Water Divisions. Employees of these divisions shall be eligible to share in the incentive pay program. The City and KAPE have entered into a Memorandum of Understanding (MOU) defining the criteria for the incentive pay program. Any changes to the MOU shall be negotiated with KAPE.

ARTICLE 10

ABSENCE FROM DUTY

Section 1. Leave of Absence With Pay.

Eligibility. All benefit eligible employees may request and be granted the use of a leave of absence with pay by utilizing sick or vacation leave or compensatory time in accordance with the appropriate section as provided in this Article.

Section 2. Leave of Absence Without Pay.

- A. A leave agreement must be completed and approved on a form provided by Human Resources Department.
- B. Eligibility. All benefit eligible employees may request and be granted the use of a leave of absence without pay.
- C. Hours Available. Eligible employees may request and may receive the number of hours necessary for the purpose of the leave requested as a leave without pay.
- D. Acceptable Use. A leave of absence without pay may be granted for leaves of the following nature:
 - 1. Medical reasons;
 - 2. To attend an educational institution;

3. To accept employment outside the City, provided, however, that any such employment may not conflict with any other provision contained within this Agreement;
4. Family leave, in accordance with the provisions of the Family and Medical Leave Act (FMLA); or
5. Other valid reasons as determined by the Human Resources Director.

E. Procedure for Requesting.

1. Eligible employees may obtain a leave agreement from the Human Resources Department.
2. Leave agreements must be completed in full, signed by the employee and returned to the Human Resources Department.
3. Leave agreements for medical reasons must be accompanied by a signed statement from the attending physician stating the nature of the illness, the anticipated length of the leave and the diagnosis of the physician.
4. Leave agreements for reasons other than medical purposes must be accompanied by a statement of the anticipated length of the leave, a clear and concise statement of the purpose for the leave and the Human Resources Director may require proof of the need for enrollment in the employee's participation in a program or other purpose for which the leave is requested.

5. All requests for a leave of absence without pay must receive approval prior to the requested leave, provided however, that a leave for emergency medical purposes must be made by the employee or a representative thereof within twenty-four (24) hours of the commencement of the leave.

F. Conditions Necessary For Approval.

1. Approval shall be contingent on the concurrence of the City Medical Advisor when appropriate and shall require the concurrence of the department head and the Human Resources Director.
2. The employee shall not be required to have exhausted all accrued sick leave, compensatory time and vacation leave in order to receive an unpaid leave of absence.

G. Special Conditions.

1. A leave of absence without pay shall be required in all instances when an employee is unavailable for work unless the employee utilizes accrued sick or vacation leave, or compensatory time, whichever is appropriate.
2. Any absence of an employee without prior approval, a leave of absence or the appropriate use of leave shall be counted as unauthorized leave and may be subject to the appropriate disciplinary action up to and including termination. Absences without approval of three (3) or more

consecutive days shall be considered job abandonment and shall be considered a resignation.

3. Any employee who is on a leave of absence without pay shall:

- a. Pay all, (both employer and employee share), health and other insurance premiums (provisions for a FMLA may vary);
- b. Not have time spent on a leave credited toward retirement or for seniority purposes; and,
- c. Not accrue sick, vacation or other types of leave.

H. Return to Work.

- 1. Employees shall return to work on the date and at the time specified in the leave agreement. On completion of a leave of absence the employee shall be returned to the position held immediately prior to the leave.

Section 3. Sick Leave

A. Eligibility. All benefit eligible employees are eligible for sick leave benefits. Employees must be performing assigned duties or on authorized paid leave in order to be eligible to accrue sick leave.

B. Accrual Rate.

- 1. The hourly accrual rate for a 40 hour employee shall be .0462. The number of hours worked in each pay period shall be multiplied by the above listed accrual rate in order to determine the number of sick leave

hours accrued in a specific pay period up to a maximum of 3.692 hours per pay period for a forty (40) hour employee. Part time employees working a regular schedule consisting of less than forty (40) hours per week shall accrue up to a maximum of the pro rated share of the number of hours for which they work. (Example: 1/2 time employees may accrue up to a maximum of 1.85 hours per pay period and a total maximum accrual of 520 hours.)

2. An employee may be paid for all accrued sick leave hours in excess of 1040 hours as of December 31 in each calendar year, provided, however, no employee exercising the provision of personal leave days as set forth above may elect to be paid for hours in excess of 1040 hours. Payment for accrued sick leave hours shall be made at a rate of 50% of the employee's base hourly rate of pay (no premium pay) on the first pay day of the year following the year of accrual. Request for payment must be made in writing by the employee to the division head/payroll clerk no later than the first pay period in December.
3. Part-time benefit eligible employees working a regular schedule consisting of less than forty (40) hours per week may be paid for all accrued sick leave hours in excess of the pro-rated maximum accrual as calculated in Section 3.B.1. of this article.

- C. Accrual and Balance. The maximum accrual allowance for sick leave shall be one thousand forty (1,040) hours for a full-time forty (40) hour employee. No

minimum balance is required, but employees who fall below a three-day reserve will be notified by their supervisors of that status.

- D. Payment. An employee shall receive compensation for sick leave usage if the employee is utilizing sick leave in compliance with the provisions of paragraph E of this section. Employees who wish to receive compensation for sick leave shall notify their duly authorized supervisors -- at pre-established email addresses or time-recording, voice-mail equipped telephone numbers -- of their illnesses at least one hour prior to the start of their assigned shifts, except in extreme extenuating circumstances where personal condition of health or family emergency does not permit, or prior to leaving the work site. The reimbursement request may be subject to reasonable audit, confirmation, and approval by the duly authorized supervisor. Requests for sick leave usage submitted more than two (2) working days after the employee returns to work may not be honored and claims submitted following termination of employment may not be honored. Sick leave shall be available as it is accrued including during the initial probationary period, but it shall not be allowed in advance of accrual.
- E. Acceptable Use. Sick leave may only be utilized by an employee in order to be compensated for absences during an employee's regular or normal work schedule under the following circumstances;
1. Sick leave may be allowed in minimum one quarter-hour increments when an employee is unable to perform duties due to personal sickness

or injury, the illness or injury of an immediate family member, as defined in Article 3, K of this Agreement or the need for medical, dental or other routine, diagnostic or remedial treatment by the employee or immediate family member; or

2. Sick leave may be utilized if an employee is exposed to a contagious disease or whose injury may endanger or jeopardize the attendance or welfare of other employees; or
3. Employees who are utilizing sick, vacation or other paid leave as a supplement to temporary total worker's compensation in order to receive a full pay check shall accrue sick leave at the appropriate rate as set forth above for the maximum number of hours for which the employee was hired to work; provided that the amount of pay for the supplemental paid leave and pay from worker's compensation total to an amount of pay equal to the employee's regular or normal pay.
4. Non-Emergency Situations. Non-emergency situations shall be defined as those instances when an employee has occasion to schedule dental or medical appointments, etc., as a matter of no urgency and no hardship will result if the employee waits several days before the appointment. An example is the annual physical examination. The employee shall schedule medical or dental appointments, and/or treatments at a time which does not unduly interfere with job-related

duties and shall notify their supervisor as soon as the time of the appointment is known.

F. How/When To Request Use.

1. Non-Emergency Use of Sick Leave.

- a. Shall be requested at least forty-eight (48) hours in advance of the anticipated absence.
- b. The employee must request the usage of non-emergency leave in writing on a form provided by management by filing the completed leave request with the employee's supervisor prior to leaving the job site.

2. Emergency Use of Sick Leave.

- a. The employee shall notify his or her supervisor -- at a pre-established email address or time-recording, voice-mail equipped telephone number -- of the employee's unavailability for work at least one hour prior to the start of the work shift, except in extreme extenuating circumstances where personal condition of health or family emergency does not permit.
- b. The employee shall request the use of sick leave prior to leaving the work site in the event the employee becomes ill on the job and, if possible, complete a sick leave request form prior to leaving the job site.

- c. In the case of either 1 or 2 above, the employee must complete and file a sick leave request form with their supervisor within two working days from the date the employee returns to work or the use of accumulated sick leave shall not be allowed.

G. Special Conditions.

- 1. Employees shall not be charged for sick leave use for:
 - a. medical appointments or therapy scheduled during regularly scheduled working hours authorized by Risk Management as a result of a worker's compensation claim or as authorized by the Human Resources Director.
 - b. Medical consultations required by management under provisions of Article 13 Section 17, Fitness for Duty.
 - c. An employee shall be allowed pay in accordance with the provisions of this article for absence from scheduled time necessary because of quarantine.
- 2. Employees shall not be compensated for medical appointments or therapy which is scheduled during non-duty work hours.

- H. Return to Work. A forty (40) hour employee who utilizes five (5) or more consecutive work days of sick leave shall report to the Department of Human Resources prior to returning to work. The employee shall report to the Department of Human Resources for a return to work permit at some time prior to the normal start time of the employee. Representatives of the Department

of Human Resources may require the employee to report to the City Medical Advisor to obtain a release to return to work. Employees so cleared to work by the City Medical Advisor will be compensated at their regular rate of pay from the time they first reported to Human Resources or their normal start time, whichever is later; employees not cleared, on the other hand, will be continued on personal Sick Leave.

I. Abuse of Sick Leave.

1. Any use or requested use of sick leave for purposes other than those specified in this Article or usage which establishes a consistent or continual unavailability for work shall be considered abuse of sick leave pursuant to the procedures contained in paragraph 2 below.
2. Employees who establish a pattern which gives the appearance of leave abuse or who are suspected of sick leave abuse shall be referred by their supervisor to the Department of Human Resources for review and possible referral to the City Medical Advisor for consultation. The City Human Resources Director or the Medical Advisor may require an employee to provide a statement from a medical doctor showing:
 - a. The date the employee was treated;
 - b. A statement indicating the extent or seriousness of the illness or injury was serious enough to prevent the employee from being available for work;

- c. Date(s) the employee was unable to work because of the illness or injury; and
 - d. Date the employee may return to work to assume full duties.
- 3. Failure to provide the medical statement as required above may result in disciplinary action which may include termination, provided however, that the City's Medical Advisor, for good cause shown, may waive the doctor's statement. For the purpose of this section the doctor's statement must be from a medical doctor as defined in Article 3.
- J. Inter-departmental and Intra-departmental Transfer. An employee who is transferred, promoted, demoted or otherwise reassigned shall be entitled to retain accrued sick leave.
- K. Payment Upon Retirement. An employee retiring under the Kansas Public Employee's Retirement System (KPERs), or the federal social security system may upon request be paid for thirty-five (35%) percent of eligible accrued sick leave up to a maximum payment of four hundred (400) hours for forty hour (40) employees at their respective prevailing rate of pay. For the purposes of this section the Human Resources Director shall define "retirement" as established by KPERs, or the federal social security system.
- L. Personal Leave Day for Perfect Attendance/Payment for Unused Sick Leave.
 - 1. Employees shall be granted one day of personal leave for each four consecutive months of perfect attendance, provided, however, that none of the months may overlap into another month period. The

employee may accumulate up to three personal leave days for this purpose annually. Any unused personal leave at the close of each calendar year must be requested by the employee and taken during the period of January 1st through April 30th of the following year. An extension may be granted with the approval of the department head.

2. An employee may be paid for all accrued sick leave hours in excess of 1040 hours as of December 31 in each calendar year, provided, however, no employee exercising the provision of personal leave days as set forth above may elect to be paid for hours in excess of 1040 hours. Payment for accrued sick leave hours shall be made at a rate of 50% of the employee's base hourly rate of pay (no premium pay), on the first pay day of the year following the year of accrual. Request for payment must be made in writing by the employee to the division head/payroll clerk no later than the first pay period in December.
3. Part-time benefit eligible employees working a regular schedule consisting of less than forty (40) hours per week may be paid for all accrued sick leave hours in excess of the pro-rated maximum accrual as calculated in Section 3.B. of this article.

- M. Non-City Employment Injury and Use of Leaves. Any City employee injured while in the formal employment of an employer other than the City shall reimburse the City for any losses sustained by the City through payment of sick leave benefits or other paid leave usage, provided the other employer is

insured, and further provided a Worker's Compensation settlement is consummated between the employee and the other employer. The amount reimbursed shall not exceed the amount of leave paid by the City.

N. Extended Sick Leave.

1. General. All employees who have satisfied their initial probationary period and are benefit eligible shall receive extended sick leave benefits. Extended sick leave benefits may only be used by employees who will not be returning to work due to a diagnosed terminal illness.
2. Amount. Extended sick leave benefits shall consist of five hundred twenty (520) hours of sick leave for full time employees and three hundred ninety (390) hours of sick leave for employees who are not full-time. An employee who returns to work after using all or part of these benefits shall not receive additional extended sick leave benefits.
3. Eligibility and Payment. A terminally ill employee may use extended sick leave benefits based on the normal scheduled hours for that employee's position. The terminally ill employee shall not be paid extended sick leave benefits unless that employee no longer has accrued sick leave or vacation leave available for use. A terminally ill employee who is using extended sick leave benefits shall not be considered an employee in "pay status" as defined in Article 3 of this Agreement.

4. Termination. An employee's receipt and/or usage of extended sick leave benefits shall terminate or be proportionally reduced when the employee receives other disability benefit payments, including, but not limited to KPERS and/or Social Security. An employee receiving extended sick leave benefits shall be obligated to inform the Department of Human Resources when such disability benefit payments are received.
5. Death. The death of an employee receiving extended sick leave benefits shall cause the benefits to cease. The deceased employee's heirs and/or estate shall not be entitled to either any unused extended sick leave benefits or the continuation of benefit payments.
6. Return to Employment. An employee returning to work shall be required to repay all extended sick leave benefits collected while on extended sick leave either from future leave accruals, by payroll deduction or other cash repayments. The Human Resources Director shall enter into an agreement with the returning employee regarding the method and frequency of repayment.

Section 4. Emergency Leave.

- A. Eligibility. All benefit eligible employees may request and be granted the use of emergency leave.

B. Hours Available.

1. Full time employees (40 hour), shall receive three (3) working days with pay of funeral leave and up to three (3) working days with pay for family crisis leave per occurrence.
2. Part time employees may receive up to the number of hours normally worked by the part time employee in an average three day period as family crisis or funeral leave.

C. Acceptable Use.

1. Family Crisis Leave. Family Crisis Leave may be used in the event the health or welfare of the employee's immediate family is threatened by an occurrence of a disaster such as fire, flood, tornado, etc., or life threatening emergency health problems of the employee's immediate family as defined in Article 3, K. In addition, the City and the Union agree that the City may require that an employee requesting such usage supply a statement from the attending physician verifying that the health problem is both an emergency and is life threatening.
2. Funeral Leave. Funeral leave may be used in the event of a death in the employee's immediate family, as defined in Article 3, K of this Agreement, in order to make arrangements for or to attend the funeral.

D. Procedure for Requesting.

1. Employees shall request the use of family crisis leave or funeral leave in advance of the date requested for the commencement of the leave

unless circumstances make it impossible for an advance request to occur. In all emergency requests the employee must request the use of family crisis leave or funeral leave within twenty-four (24) working hours of returning to work.

2. Eligible employees may obtain a request form from the Department of Human Resources.
3. Request forms must be completed in full, signed by the employee and returned to the division head of the division wherein the employee is assigned.

E. Conditions Necessary for Approval. Approval shall be contingent on the concurrence of the department head.

F. Special Conditions.

Family Crisis Leave. The number of hours to be granted for family crisis leave shall be determined by the department head to the extent necessary for the employee to deal with the crisis and such determinations shall be subject to the grievance procedure contained within this Agreement.

G. Return to Work. An employee shall return to work on their next regularly scheduled work day following the use of funeral leave or family crisis leave at the time and date agreed upon by the department head and the employee or if the employee does not secure approval for the use of additional accrued leave, shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 5. Vacation. The earning of vacation leave is pre-conditioned by the provisions of this Section relating to maximum carryover and payment.

- A. Accrual Rate. Benefit-eligible employees shall earn vacation by pay periods according to the following chart (prorated in relation to the average number of hours worked per week):

Length of Service	Hours Earned Per Pay Period	Hours Earned Annually
First 4 years	3.696	96
5th - 9th years	4.616	120
10th - 14th years	5.536	144
15th - 19th years	6.364	168
20th - 24th years	7.384	192
25th - 29th years	8.304	216
30th – after	9.232	240

- B. Special Conditions.

- Employees serving on an initial probationary period shall not accrue vacation time, provided, however, that all employees shall be credited with

forty-eight (48) hours of vacation leave on successful completion of their initial probation period of six (6) months. The forty-eight (48) hours of vacation leave shall not be credited to any employee who is required to serve an extended probationary period until the employee has successfully completed all required initial probationary time.

2. Employees must be performing assigned duties or on authorized paid leave in order to accrue vacation leave.
3. Employees shall be credited with vacation leave after completion of the initial probationary period, by pay period, at the rate specified above for every hour in which the employee serves in pay status during the pay period. No employee, regardless of the number of hours worked in any pay period, shall accrue vacation leave in excess of the number of hours they normally work or for which they were hired to work.
4. Length of service shall include all time worked for the City of Topeka as a benefit eligible employee without a break in service of one hundred twenty (120) days or more.
5. Employees who are utilizing sick, vacation or other paid leave as a supplement to temporary total Worker's Compensation in order to receive a full or regular pay check shall accrue vacation time at the appropriate rate for the maximum number of hours for which the employee was hired to work; provided that the amount of pay for the supplemental paid leave and

pay from Worker's Compensation total to an amount of pay equal to the employee's regular or normal pay.

6. An employee may carry over a maximum of two hundred forty (240) hours of vacation from year to year.
 7. An employee who is denied a reasonable time to take vacation leave and when such denial results in the employee's accrual amounting to vacation hours in excess of the hours allowed in paragraph 6 above shall be allowed to carry over the excess hours requested and denied. These excess hours shall be utilized in the first quarter of the year following the year in which the employee was denied the use of vacation leave.
 8. Any employee who is allowed to carry over excess hours as provided in paragraph 7 above shall be paid for all such excess hours at his/her regular rate of pay if the employee is denied a reasonable opportunity to take such vacation leave during the quarter provided above. The burden of proof that the employee made a good faith effort to utilize the excess hours in the quarter provided shall be on the employee.
- C. Acceptable Use. Vacation leave may be allowed in minimum one quarter-hour increments.
- D. How and/or When to Request Use.
1. Requests for the use of vacation time shall be made on a "Request for Leave" form.

2. Requests for the use of vacation time shall be made to the employee's immediate supervisor.
3. Requests by forty (40) hour employees for five (5) or more consecutive work days of vacation leave shall be made at least seven (7) work days in advance of the requested leave except for extreme emergency situations. The supervisor shall either approve or deny in writing the vacation request as soon as reasonably possible but no later than two (2) work days after the day the vacation request is made by the employee.
4. Requests by forty (40) hour employees for the use of less than five (5) consecutive work days of vacation leave shall be made, whenever possible, at least forty-eight (48) hours prior to the requested leave except for extreme emergency situations. As soon as reasonably possible, but no later than twenty-four (24) hours after the request is made by the employee, the supervisor shall either approve or deny in writing on the "Request for Leave" form the vacation request made by the employee. Requests made within 48 hours may and should be granted if the needs of the Department or Division so permit.
5. Employees shall be granted sixty (60) days, January 1 through March 1, in which to reserve specific dates for vacation leave. Once approved, the vacation dates may not be canceled by the City except under extreme emergency conditions. Division seniority shall prevail in the event two or more employees request to reserve the same vacation dates and the

appropriate member of management determines that not all employees may be given vacation leave on the requested date.

6. Approval of vacation leave requests made subsequent to March 1 in any calendar year shall be subject to a "first come--first serve" basis without regard to length of service.
- E. Return to Work. An employee shall return to work on their next regularly scheduled work day following the use of vacation leave at the time and date agreed upon by the employee and department head or, if the employee does not secure approval for the use of additional accrued leave, the employee shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 6. Voting Leave.

- A. Eligibility. All employees may request and be granted the use of leave for voting.
- B. Hours Available.
1. Eligible employees may request and may receive up to two (2) hours of paid leave for voting.
 2. Leave for voting shall only be granted to those employees whose work schedule results in a situation wherein the employee has less than two (2) consecutive hours free from work during the period of time the polling place is open for voting.

3. The total amount of leave for voting shall not exceed the time necessary to amount to two (2) consecutive hours when added to the amount of time from the opening of the polls until the employee's scheduled start time or the end of the employee's shift until the closing of the polls.
- C. Acceptable Use. Leave for voting may only be used for casting a ballot in a primary, special, or general election held in the State.
- D. Procedure for Requesting. Eligible employees may request leave for voting from the department head or designee of the department wherein the employee is employed.
- E. Conditions Necessary for Approval.
 1. No more than two (2) hours may be approved for leave for voting if the conditions as outlined in this Article are met.
 2. Leave to vote shall be granted to forty (40) hour employees either at the start or the end of the employee's shift. Leave to vote shall be granted during the time the polls are open.
- F. Return to Work. An employee who is granted leave to vote shall return to work at the time agreed upon by the department head and the employee or shall be marked as an unauthorized leave and appropriate disciplinary action shall be taken.

Section 7. Personal Leave Day. One annual personal leave day will be granted each full-time member of the bargaining unit. Part-time employees shall receive a prorated share

of a personal leave day based on the number of hours they were hired to work in a work week.

- A. Personal Leave Defined. A personal leave day for forty (40) hour employees shall be eight (8) consecutive hours and for part time employees shall be the prorated share of eight hours based on the number of hours the part-time employee was hired to work.
- B. Special Conditions.
 - 1. In order to receive the personal leave day, a member of the unit must be employed on January 1 of the calendar year and have successfully completed their initial new hire probationary period.
 - 2. An employee shall be allowed to take a personal leave day on any day of the week without prejudice or discrimination, but subject to personnel needs. The City will make every effort to afford the leave day requested.
 - 3. A personal leave day is not an earned wage and failure to use the personal leave day shall not be compensable. Any unused personal leave at the close of each calendar year must be requested by the employee and taken during the period of January 1 through April 30. An extension may be granted with approval of the Human Resources Director.
- C. Request for Taking a Personal Leave Day. Employees shall make a request to their immediate supervisor for taking a personal leave day at least two (2) working days in advance of the requested personal leave day.

- D. Approval of a Personal Leave Day. Supervisors shall insure that all approved vacation days receive priority over granting personal leave days. Approval of an employee's request to take a personal leave day shall be at the discretion of the division supervisor and the denial of the employee's first request in a calendar year shall not be subject to grievances. Denial of an employee's second request for taking a personal leave day shall be subject to the grievance procedure.

Section 8. Holiday Leave.

- A. Eligibility. All benefit eligible employees shall be granted holidays pursuant to the schedule and in compliance with the rules listed below.
- B. Definitions. DESIGNATED HOLIDAY shall mean the official holiday as listed in item 3 below or the alternate holiday as provided for in item 4 below, whichever is applicable.
- C. Official Holidays
1. New Year's Day -- January 1
 2. Martin Luther King's Birthday -- 3rd Monday in January
 3. Memorial Day -- Last Monday in May
 4. Independence Day -- July 4
 5. Labor Day -- First Monday in September
 6. Veterans' Day -- November 11
 7. Thanksgiving -- Fourth Thursday in November
 8. Friday immediately following Thanksgiving

9. Christmas Eve Day -- December 24

10. Christmas Day -- December 25

The Governing Body may designate additional dates as holidays, by resolution, on a temporary schedule, not to exceed one calendar year.

D. Alternate Holidays. Employees shall be given an alternate day off when the official holiday falls on their normal or regularly scheduled day off.

1. The alternate holiday for employees regularly scheduled to work Monday through Friday shall be Friday when the official holiday falls on a Saturday and shall be Monday when the official holiday falls on a Sunday; provided however, that the Director of Human Resources may designate alternate days other than Monday and Friday as provided in this section.

2. Employees who regularly work a schedule other than Monday through Friday shall be given an alternate day off when the official holiday falls on their regularly scheduled day off. The alternate day off shall be designated by the department or division head in the department where the employee is employed.

E. Holiday Hours to be Observed. All official and/or alternate holidays shall commence at 12:01 AM on the designated or alternate day and shall end at 12:00 PM on the day of the designated or alternate holiday.

F. Compensation for Work on a Holiday.

1. Non-exempt full-time and/or part-time employees required to work on their designated or alternate holiday shall be paid two times their regular base

hourly rate for all hours worked in addition to their normal or regular pay for the holiday. Provided, however, that the employee, with the approval of the division head, may elect to receive compensation and/or a vacation credit for a cumulative total of not more than two (2) times the number of hours worked on a designated or alternate holiday.

2. Full-time employees shall receive eight (8) hours of regular holiday pay and part-time essential employees shall receive a prorated share of the eight (8) hours based on the number of hours they were hired to work.
 3. Non-Exempt employees who are receiving temporary total Worker's Compensation shall receive holiday pay in an amount which when added to the amount received from Worker's Compensation shall equate to a full day's pay for the effected employee without charging the employee's other leave accounts.
 4. Employees shall receive double time for hours served in an on-call status on a designated holiday.
- G. Special Conditions. An employee must be in pay status on the day before and the day after the designated holiday in order to receive holiday pay, provided, however, that part-time employees shall be exempted from this condition if they are not regularly scheduled to work the day before or the day after a holiday.

Section 9. Compensatory Leave.

- A. Accrual. Benefit-eligible employees may earn compensatory leave accrual in lieu of hard dollar payment for overtime hours when offered by Management at a rate of one and one half (1-1/2) times the number of hours worked in excess of forty (40) hours in a week.
- B. Maximum Accrual. An employee may accumulate up to a maximum of two hundred forty (240) hours of compensatory time and may carry over two hundred forty (240) hours of compensatory time from one calendar year to the next year.
- C. Acceptable Use. Compensatory leave may be taken on request of the employee with the approval of the immediate supervisor. Compensatory time will only be used upon request of the employee. The employee will not be forced to use or scheduled to use compensatory time by any supervisor. Use of compensatory time will be permitted within a reasonable period if it does not unduly disrupt the operation of the department/division.
- D. How and/or When to Request Use.
 - 1. Request for use of compensatory time shall be made on a "Leave Request" form.
 - 2. Request for use of compensatory time shall be made to the immediate supervisor.
 - 3. Whenever possible, requests for compensatory time shall be made at least forty-eight (48) hours prior to the requested leave except for extreme emergency situations.

- E. Special Conditions. An employee shall be paid for all accrued compensatory time at their regular hourly rate of pay, excluding any premium pay, on termination of their services from the City.
- F. Return to Work. An employee shall return to work on their next regularly schedule work day following the use of compensatory leave at the time and date agreed on by the department head and the employee or if the employee does not secure approval for the use of additional accrued leave, shall be placed on unauthorized leave and shall be subject to all disciplinary actions associated therewith.

Section 10. Court Leave.

KAPE and the City recognize two types of court appearances that its employees may be required to attend. Those are appearances which are duty related and those which are part of civic duty. The parties further recognize two times when the employee must attend those appearances. Those are during duty time and those which are during non-duty time. The following is a summary of compensation or lack of compensation to be received by an employee of the City for attendance at those appearances.

- A. Duty time – Duty related: The employee shall receive regular pay and overtime if applicable. Any money received by the employee from the court as a result of the appearance shall be returned to the City. The employee shall return to work at the completion of the appearance if normal work hours have not expired.
- B. Duty time – Civic Responsibility: The employee shall receive regular pay and return any money received from the court to the City, or may opt to retain the court

pay in exchange for their regular pay. The employee shall return to work at the completion of the appearance if normal work hours have not expired.

- C. Non-Duty time – Duty Related: The employee shall receive one (1) hour travel time and two (2) hours “show up” pay or actual time spent, whichever is greater, for testifying or waiting to be called as a witness, provided, however, that such compensation shall be limited to one morning and one afternoon session per day and to a single travel payment if attendance is continuous, except for a meal break, from one to the other. Appearances immediately before or immediately after and contiguous to a regular shift shall be treated as an extension thereof and not separately eligible for either the travel or “show up” allowance. Any pay provided by the court shall be returned to the City.
- D. Non-Duty time – Civic Responsibility: The employee shall receive no pay from the City but shall retain any pay provided by any court, including municipal court.
- E. Non-covered Appearances: If an employee is a voluntary plaintiff in a civil matter, a defendant in a non-job related matter, or appears as a voluntary expert witness other than as a part of their job, the employee may request the use of vacation time or leave without pay.

Section 11. Military Leave.

A. Temporary Training Period.

- 1. General. An employee who is a member of a military reserve organization or national guard unit shall be entitled to a paid leave as hereinafter provided. If

such assignment would substantially interfere with execution of duties in the public interest, the employee may be encouraged to request a rescheduling of any such training/assignment. The employee shall provide appropriate documentation of orders to attend any training, citation of the training, and any related information as may be required to fully clarify the absence.

2. Reimbursements. The maximum reimbursement for any military leave shall be the difference between the base pay less special allowances which an employee would normally receive in one pay period and the amount received from the military. There shall be no City reimbursement if the military pay is equal to or greater than City pay. For a typical forty (40) hour employee, for the purpose of calculating the maximum allocation, the pay period would be a maximum of ten (10) working days of eight (8) hours per day excluding any overtime consideration; provided, however, these maximum amounts shall be less than the full possible allocation in the event the individual is assigned to less training proportionately. Employees shall be reimbursed only for those days they would normally have been assigned to work during the time of the military assignment.

B. Active or Extended Military Assignment.

1. Reimbursement. No City compensation shall be allowed for any persons called to active or extended military service, provided that in the event of a natural disaster or civil disorder within the City limits of Topeka, the Governing Body may authorize City reimbursement for the duration of such active service not to exceed the difference between City and military pay.

2. Military Leave as Leave of Absence without Pay. Employees may have entitlement to a position with the City following completion of a military assignment, pursuant to applicable State and/or Federal laws governing such leave. The absence is considered a leave of absence without pay. Employees will be allowed to continue in employment following completion of such service unless, within thirty (30) days of completion, they opt to resign formally from a position or fail to notify the City of their intention to continue in employment, at which point all obligations with the City shall cease. Benefits do not accrue during this leave of absence without pay. The intent of this provision, unless superseded by State or Federal law, is not to encourage a different career opportunity. Employees shall provide appropriate documentation of orders and complete a leave agreement.

Section 12. Leave for Political Activity.

- A. Employees choosing to seek election to the office of Mayor or City Council member shall request vacation leave or request a formal leave of absence from their position with the City for a period of time consistent with any campaign.
- B. While on duty, employees shall refrain from active political campaigning of any type including wearing political buttons, distributing campaign materials, or similar activities.
- C. Nothing herein shall be construed to prevent or prohibit City employees from exercising their rights as citizens to express publicly or privately their opinions or to cast their votes.

Section 13. Leave Due to Inclement Weather Emergency Absence. Absence due to an employee's inability to report for scheduled work because of severe inclement weather or conditions caused by severe inclement weather shall be charged to one of the following leave accruals: compensatory time, accrued vacation leave, or leave without pay, provided that an employee may request to use leave without pay rather than paid leave.

Section 14. Administrative Leave. The Human Resources Director may place an employee on administrative leave with or without pay.

Section 15. Union Leave.

- A. Six (6) members of the bargaining unit, plus the currently-elected President of Local 4565, shall be allowed to attend union functions, such as but not limited to, steward school or organizational drives, provided that staffing levels are not unreasonably and unduly affected as determined by Management. Any such time off shall be without pay.
- B. Six (6) members of the bargaining unit, plus the currently-elected President of Local 4565, shall be granted paid time from duty for attending any scheduled negotiation sessions and Management meetings. It is agreed that time off for Union-City joint meetings, including reasonable travel time, is considered time worked for the purpose of calculating continuous seniority.
- C. A pool of forty eight (48) regular hours with pay will be provided each contract year for bargaining unit members to attend State and/or National union meetings.

ARTICLE 11

HEALTH AND SAFETY

Section 1. General Provisions. It is the policy of the City and the Union to cooperate in an effort to continue to improve health and safety matters. The parties agree that it is in the best interest of the City, the Union, and the citizens that equipment should be operated properly and safely and that all reasonable safety precautions and devices should be utilized at all times. If an employee has justifiable reason to believe that their safety and health are in danger due to an alleged unsafe working condition, or alleged unsafe equipment, the employee shall inform their immediate supervisor who shall have the responsibility to determine what action, if any, should be taken. In the event that the threat to the employee's health and safety is immediate in nature, the supervisor shall notify the department or division head or his/her designee, who shall investigate the hazard and make a determination on the safety issue prior to the time the employee may be required to continue the work. In furtherance of this policy, a joint Union-Management Health and Safety Committee shall be established for the City. The joint Health and Safety Committee shall meet on a quarterly basis or upon request of either party and shall be comprised of one (1) KAPE member from each department selected by the Union and two (2) representatives of the employer. Chairmanship of this committee shall alternate between Union and Management representatives. This committee shall consider health and safety matters relating to all employees within the City. Union representation will receive the regular rate of pay for the time spent in the meetings

during their regularly scheduled hours. This committee shall have the responsibility for reporting all health and safety problems to the department or division head or his/her designee. Actions to ensure that health and safety are corrected shall be implemented as expeditiously as possible by the department or division head with advice and consent of the Health and Safety Committee. The department or division head shall provide a written reason for any recommendation of the Health and Safety Committee that is not implemented.

Safety/health rules and regulations shall be recommended by the joint committee to the department/division head or his/her designee who shall have the right to approve, reject or revise rules and regulations. In the event the Health and Safety Committee's recommendation is rejected or revised, the department or division head or his/her designee will meet with the Health and Safety Committee and a member of the Human Resources Department to determine if a policy can be adopted that would meet the needs of both the Health and Safety Committee and department or division. Rules or regulations relating to health and safety shall not be promulgated until they are approved by the Human Resources Director.

The City welcomes suggestions from employees or the Union which offer practical and feasible ways of improving departmental safety. An employee may submit their safety suggestions in the following manner:

- A. Giving it to Management; or
- B. Giving it to a member of the Safety Committee.

Section 2. Biohazards.

Definition: For the purpose of this section Bloodborne Pathogens means pathogenic micro-organisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV) and Human Immunodeficiency virus (HIV).

The City and the Union recognize the importance of protecting employees from the potential of exposure in the workplace to bloodborne pathogens and hazardous materials relative to infectious diseases carried in blood, urine, phlegm, feces, and vomit. The City, through the department/division, will make protection kits readily available to employees that work in positions where exposure to bloodborne pathogens and the above listed hazardous materials exist. The kit shall contain the following:

- Disposable gown or coveralls
- Face shield
- Disposable rubber gloves
- Heavy rubber gloves

It shall be the responsibility of the employee to utilize these protective devices furnished by the City. In the event the employee willfully fails to use the furnished protective devices and the employee's injuries were proximately caused by the failure to use the protective devices, Worker's Compensation may be denied.

When possible, employees will be provided a locker to store an extra change of clothes in the event a hazardous material were to come in contact with their clothing.

Section 3. Inoculations.

A. Hepatitis. The City and the Union agree that inoculations for Hepatitis A and B will be provided to employees that have the potential to come into contact with bloodborne pathogens and/or the hazardous materials as listed in Section 2 of this article. Inoculations will be provided for the positions that are identified by the City's medical provider and the Health and Safety Committee. Hepatitis C treatment inoculations will be provided to the bargaining unit employees when Hepatitis C contraction has been confirmed and is work related as determined by the City's medical provider.

The City agrees to provide coverage for the employee's out-of-pocket expenses for the initial/baseline test for members of the employee's immediate household when the employee has been confirmed to have contracted Hepatitis C in the capacity of their job. For the purpose of this Section "family member" shall be defined as a person of the immediate family who permanently resides in the household under the same roof. For an employee to receive the out-of-pocket expense reimbursement the employee must provide the following information to Human Resources:

- An explanation of benefits from the health insurance provider or a receipt from the healthcare provider that includes the date of service, type of service, who received the service, and the cost of the service.
- If a family member does not have health insurance coverage the City will cover the out-of-pocket expense for the initial/baseline blood test.

The employee must provide a receipt from the healthcare provider that includes the date of service, type of service, who received the service, and the cost of the service.

- B. Flu Inoculations. Flu inoculations will be provided at no cost to bargaining unit employees through the Occupational Health Program.

Section 4. Drug Screening. The City and the Union agree that it is a matter of health and safety to conduct drug tests under the stipulations set forth in this section.

A. Definitions.

Applicant - An individual offered employment.

Aliquot - A portion of a specimen used for testing.

Chain-of-Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen which will be analyzed for the presence of drugs.

Confirmatory Test - An analytical procedure which is independent of the initial test to identify the presence of a specific drug or metabolite and which uses a different chemical principle from that of the initial test to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) shall be the accepted standard confirmation method for cocaine, marijuana, opiates, amphetamines and

phencyclidine. A blood test shall be utilized to determine the presence of alcohol.

Confirmed Positive Result - The presence of an illicit substance in the pure form or its metabolites at or above the specified cutoff level identified pursuant to the procedures as specified within the definition of Confirmatory Test as described above.

Director - The Director of the Department of Human Resources or the Director's designee. The designee may be an individual who acts on behalf of the Director to implement and administer these procedures.

Drug - Any illegal or controlled substance, including alcohol, as defined by the Kansas Statutes Annotated.

Drug Screen - A test to determine the presence of drugs or alcohol.

Employee - An individual employed by the City of Topeka.

Initial Test - A screen to eliminate negative urine specimens from further consideration or other preliminary tests to detect the presence of alcohol.

Negative Result - The absence of drugs in the pure form or metabolites in sufficient quantities to be identified by either an initial screen or Confirmatory test or as determined by the Medical Review Officer.

Medical Review Officer - A licensed physician who reviews and interprets positive results of confirmatory tests and evaluates those results together with medical history or any other relevant biomedical information to confirm positive results. This person has knowledge of substance abuse and appropriate medical or forensic training.

B. Policy/Procedure

1. The City of Topeka has a commitment to a drug-free work place.
2. The policy applies to drug screening and education for City employees suspected of substance abuse, employees required to possess and maintain a commercial driver's license (CDL) and to applicants for employment with the City.
3. Drug screens may screen for alcohol and any substances listed in Schedule I or II of the Kansas Controlled Substance Act. The threshold levels of certain substances are listed below. Samples from applicants and employees shall, in all cases, be screened to identify the following classes or substances:

<u>tests</u>		<u>concentration (ng/ml)</u>	
		Initial	Confirmatory
1.	Marijuana/cannabinoids (THC);	50 ng/ml	15 ng/ml
2.	cocaine metabolites;	300 ng/ml	150 ng/ml
3.	opiates;	300 ng/ml	300 ng/ml
4.	phencyclidine (PCP);	25 ng/ml	25 ng/ml
5.	amphetamines/methamphetamine;	1000 ng/ml	500 ng/ml
6.	barbiturates;	300 ng/ml	1000 ng/ml
7.	benzodiazepines; and,	300 ng/ml	300 ng/ml
8.	alcohol.	.04 mg/dl	.04 mg/dl

Specimens collected pursuant to this policy will be used only to test for those substances specified in these procedures and may not be used to conduct any other analysis or test unless otherwise authorized by law or the individual.

4. Collection sites, laboratories and test methods used to conduct drug screens shall comply with accepted practices within the industry and shall comply with all certification requirements.
5. Individual drug screen records maintained by the Director pursuant to this policy shall be considered confidential by the City and its representatives to the extent it is appropriate and feasible to observe reasonable expectations of privacy on the part of the individual.
6. Notifications of the drug screen requirement shall be included in announcements or advertisements seeking applicants for employment.
7. Employees shall be informed of the City's drug screening policy prior to being subjected to any drug screens.
8. Supervisors or those persons who have responsibility to administer the City's drug screening policies and procedures shall receive training approved by the Director. For the purpose of this policy, "employees who have responsibility for administering the City's drug screening program" means Department Heads and their respective administrative and managerial staff who may have responsibility for advising or notifying applicants or employees, preparing and maintaining forms or proposing disqualification or disciplinary actions pursuant to the Drug Screening Policy.

9. Applicants and employees may be screened under the following circumstances:
 - a. An individual offered employment shall be required to take a drug screen as a condition of employment.
 - b. Any employee may be subjected to a drug screen if the division head has reasonable suspicion of drug use by the employee.
 - c. Any employee required by their position to possess and maintain a commercial driver's license (CDL).
10. An applicant or employee required to submit to a drug screen shall be advised of the:
 - a. Methods of drug screening which may be used;
 - b. Substances which may be identified;
 - c. Consequences of a refusal to submit to a drug screen or of a confirmed positive result;
 - d. Reasonable efforts to maintain the confidentiality of results and any medical information which may be provided; and
 - e. The right to request that the specimen be split in order for the employee to cause a separate screen to be made with all costs associated thereto to be paid by the employee.
11. An applicant or employee shall be required to sign the drug screening consent forms.

- a. Refusal by the applicant to sign the consent forms shall be considered a refusal to submit to a drug screen as a condition of employment, and will be considered a failure by the applicant to fulfill a condition of employment, resulting in the applicant's immediate disqualification from consideration for City employment.
 - b. Refusal by the employee to sign the consent forms shall be considered refusal to submit to a drug screen as a condition of employment and shall be considered a failure by the employee to fulfill a condition of employment, resulting in the employee's immediate discharge from City employment.
- 12. An applicant or employee shall be informed of the drug screening specimen collection location and time. The applicant shall be responsible for reporting to the collection site at the scheduled time.
 - a. An employee who is requested to submit to a drug screen shall be given time off with pay for that purpose.
 - b. An employee who is requested to submit to a drug screen shall be provided transportation to the testing site by the supervisor who shall identify the employee for the testing facility.
 - c. Failure by an applicant to report to the collection site at the scheduled time shall be considered refusal to submit to a drug screen as a condition of employment and shall be considered a failure by the

applicant to fulfill a condition of employment, resulting in the applicant's immediate disqualification from consideration for City employment.

13. Drug screening results shall be reported in as timely a manner as reasonable and be revealed only to the employee and those persons authorized by the Director as having an established need for the information.
14. An applicant who receives a confirmed positive result shall have the offer of employment withdrawn for a period of two years from the effective date of the disqualification action. In addition, the applicant shall not be certified to vacancies or permitted to take a Civil Service examination for a period of two years.
15. A permanent employee who receives a confirmed "positive" result and who has not previously had a confirmed "positive" result shall be directed to the Employee Assistance Program (EAP) for referral to an appropriate drug assessment and education or treatment program approved by the appropriate EAP.
 - a. An employee will be granted leave to participate in an appropriate and approved education or treatment program pursuant to this article for a period not to exceed an aggregate of 60 working days. Upon recommendation of the program provider, leave may be approved beyond these limits solely at the discretion of the Director if the recommended program warrants such an extension.

- b. Leave to participate in education or treatment programs, as outlined in paragraph A above, shall be granted with pay to the extent the employee has accrued leave and without pay thereafter.
 - c. The employee shall be required to provide verification to the Director that the employee is participating in an appropriate and approved education and treatment program to receive approved leave.
 - d. The department head shall review the job duties required of the employee to determine whether the employee poses a threat to safety or health at the work site while undergoing out-patient or after-care treatment. The department head shall provide this determination to the Director who may assign the employee to a different position for a period of six (6) months. Final approval of such an assignment shall be at the option of the City Manager.
 - e. Refusal by an employee to enter into an appropriate and approved drug assessment and education or treatment program may be grounds for termination. An employee may appeal their assignment to a specific program to the Director. The Director shall then determine the appropriate program and the employee shall be required as a condition of continued employment to participate in the program determined to be appropriate by the Director.
16. On completion of the recommended education or treatment program, the employee shall be required to provide or release clinical verification to the

Director that the employee has successfully completed the recommended education or treatment program.

- a. For the purposes of the City's drug screening program, successfully completing the recommended education or treatment program means the employee achieved and maintained a drug-free state which will normally be determined by a "negative" result from an authorized drug screen.
 - b. All employees who have entered a program as specified in this section shall be required, as a condition of continued employment, to submit to a drug screen once each quarter for a period of eighteen (18) months commencing sixty days after the date of the drug screen. The specific date each quarter on which the drug screen shall be made shall be at the discretion of the Director and shall not require advance notice to the employee.
17. An employee who receives a confirmed "positive" result shall be subject to dismissal as follows.
- a. The employee shall be subject to dismissal if the employee is serving an initial employment probation at the time the Director is notified of a confirmed positive result.
 - b. The employee shall be subject to dismissal if the employee fails to successfully complete an appropriate and approved drug assessment and recommended education and treatment program.

- c. The employee shall be subject to dismissal if the employee has previously had a confirmed "positive" result within the previous five years.
 - d. The employee shall be subject to dismissal if the employee is classed as a seasonal or temporary employee.
- 18. This article shall not preclude the Department Head from proposing disciplinary action for other aggravating circumstances that occur in addition to a confirmed "positive" result and which are normally grounds for discipline.
- 19. Any applicant who intentionally tampers with a sample provided for a drug screen, violates the chain-of-custody or identification procedures or falsifies test results shall have the conditional offer of employment withdrawn and such actions shall be grounds for disqualification for all positions in City government.

Any current employee who intentionally tampers with a sample provided for a drug screen, violates chain-of-custody or identification procedures or falsifies a test result shall be subject to immediate dismissal.
- 20. If an employee or applicant has reason to believe that technical standards were not adhered to in deriving the applicant's or employee's confirmed "positive" result, the result may be appealed in writing to the Director within fourteen (14) calendar days of receiving written notice of the result.
- 21. An employee shall be afforded due process in accordance with the grievance procedure within this Agreement if a disciplinary action results from the drug screening process or the employee alleges other violations of this article.

22. Only the Director has the discretion to authorize additional tests by the original or a different laboratory on the same or a new specimen, if the Director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed "positive" result or has other appropriate cause to warrant additional tests. However, the employee may request and pay any costs associated with an additional drug screen of the original specimen taken for a drug screen by the contracted drug screening facility.
23. The drug screen shall be completed if reasonable suspicion exists that an employee is abusing a drug even if it is determined that the employee is using prescription drugs or medications under the care of a licensed physician. However, in such a case the employee shall be referred to the Medical Review Officer for an evaluation of the employee's ability to perform usual job tasks or whether reasonable accommodations need to be made for the employee's condition which requires the medication.
24. The City recognizes the patterns of behavior that may indicate drug use may also be signs of mental or physical illness. If an employee has a drug screen that involves a physical or mental function and that screen is negative, the employee will be referred to Occupational Health for evaluation for any handicapping condition that may be contributing to the poor work performance.

C. Authority of Supervisors

1. FIRST LINE SUPERVISORS shall have the authority and responsibility to document occurrences which may be determined to constitute reasonable suspicion as provided in the following section of this Article.
2. SECOND LEVEL SUPERVISORS shall have the authority and responsibility to document occurrences or assist the first level supervisor in documenting occurrences which may be determined to constitute reasonable suspicion.
3. DIVISION HEADS shall have the authority, acting in concert with department heads, the City Attorney, and the Director, to determine that reasonable suspicion exists and to require that a drug screen be taken by the employee. In addition, the Division Head shall have the authority to make a determination that an employee shall be removed from their position pending a drug screen if allowing the employee to continue with their duties might pose a threat to the safety or health of the employee, the workforce or the public.

NOTE: ALL DETERMINATIONS REQUIRING A DRUG SCREEN AS A CONDITION OF CONTINUED EMPLOYMENT SHALL BE REVIEWED AND APPROVED BY THE DIRECTOR OF HUMAN RESOURCES OF THE CITY PRIOR TO THE IMPLEMENTATION OF ANY REHABILITATION PROGRAM.

D. Identifying and Documenting Reasonable Suspicion

1. Situations Requiring Immediate Action. Situations requiring immediate action (drug screen request) on the part of the supervisor include:

- a. An on-the-job accident which appears to have been the result of or contributed to by the employee's abuse of a drug;
- b. An on-the-job incident (e.g., medical emergency) that appears to have been caused by or contributed to by the use of drugs;
- c. Direct observation by the supervisor, or information reported to and supported by documentation or subsequently verified by the supervisor, that the employee is unable to carry out the responsibilities of the job, or may be a threat to safety because of suspected drug abuse; and
- d. Physical on-the-job evidence of drug use by the employee.

An on-the-job accident, incident or failure to execute job responsibilities does not necessarily indicate drug abuse. However, if a supervisor observes or learns of any of these situations, and there is reason to believe that drugs may have been involved, the supervisor will proceed with the steps required by this article to request that the employee undergo a drug screen.

In situations requiring immediate action (a drug screen request), the supervisor will first document the incident which led the supervisor to believe the employee may have been impaired due to drug abuse. The documentation shall include a full description of the incident including date, time, people involved, behavior, reactions, and how performance was affected or how safety was threatened.

The supervisor shall continue to document the situation through notification of and confrontation with the employee as provided in this Article. If the employee may be a threat to safety or may cause undue disruption of work activity, the supervisor shall see that the employee remains away from the immediate work area while decisions are made regarding the drug screen request.

The supervisor will then make every effort to confer with the supervisor's immediate superior or management staff before taking action to remove the employee from the work area. However, in an emergency (accident or threat to safety) it may not be possible to make timely contact with these parties before requiring the employee to leave the work area.

2. Patterns of Deteriorating Performance. When an employee begins to show a pattern of deteriorating job performance, the supervisor shall take a series of steps over a period of time, each of which requires full documentation. Drug abuse can affect an employee's job performance in many ways and supervisors must be aware of them. Supervisors need to document the following trends if they appear and the employee has no reasonable explanation for their behavior.

- a. General Trends:

1. Excessive absenteeism; peculiar excuses for absences;
2. Excessive use of sick leave, particularly for minor illnesses such as colds, flu or stomach problems;
3. Frequent absences after scheduled days off;
4. Excessive tardiness;

5. Long breaks; frequent trips to the bathroom, break area or parking lot and frequent early departures from work;
6. Higher than normal accident rates;
7. Changes in appearance, such as flushed face, red or bleary eyes, carelessness in dress or appearance; hand tremors; and
8. Needle marks on the arms.

b. Performance Related Trends:

1. Inconsistent work patterns or disruption of work patterns;
2. Decreasing reliability; procrastination; memory gaps;
3. Tendency to neglect details formerly not neglected;
4. Friction with co-workers; placing blame on others;
5. Making consistently bad decisions; missing deadlines;
6. Requesting different job assignments;
7. Seeking loans from co-workers;
8. Wasting office supplies or materials due to errors;
9. Poor service to the public; complaints from the public;
10. Lack of cooperation; confusion;
11. Decreased productivity or quality of work; and
12. Morale problems; unacceptable behavior.

Supervisors should be cognizant that there are obviously other explanations for such trends. Supervisors are not to jump to conclusions, must use good judgment and must follow the procedures as outlined in this Article.

Documentation of patterns of deteriorating work performance is extremely important to the Drug Screening Program. The documentation provides the basis for a requirement that an employee submit to a drug screen. The performance evaluation process may also be used as part of the documentation.

Supervisors must document actual events and observations rather than to rely on hearsay. Documentation will include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances. The supervisor shall not include medical diagnoses, conclusions about medical conditions or opinions about the causes of the observed behavior.

A division head is not to request that an employee submit to a drug screen based on an isolated situation unless the situation falls within Section A above. Nor is a division head to request that an employee submit to a drug screen without a supervisor having first counseled the employee, as provided in this section, about a pattern of deteriorating job performance. During the counseling sessions, the supervisor is not to diagnose the employee's problem, but is to point out where and how the employee's work performance has deteriorated. No mention of the employee being a drug or alcohol abuser or addicted to drugs or alcohol may be made during these counseling sessions. The supervisor shall be careful not to make statements that could be construed as defamation of character. The supervisor shall provide the employee with suggestions as to how to improve the employee's

work performance to a satisfactory level during the counseling sessions. The supervisor is to encourage the employee to self-refer to the Employee Assistance Program (EAP) to deal with any problems that might be causing the situation which is affecting the employee's work performance.

The supervisor must have counseled the employee at least twice in a six (6) month period before the division head requests a drug screen unless such drug screen is required pursuant to Section A above. These counseling sessions must be documented thoroughly.

If an employee's job performance has not improved after two documented counseling sessions and the employee continues to exhibit some of the characteristics outlined above, the confirming documentation shall be presented to the division head. The supervisor and the division head shall discuss and review the documentation to determine whether the circumstances constitute reasonable suspicion that drug use is the reason for the employee's deteriorating job performance. Factors to consider include the general trends and patterns outlined above and comparisons with the employee's previous work performance.

If the supervisor and the division head agree that the employee's work performance has declined to a degree that further steps must be taken and that no improvement has been shown after counseling sessions, the division head shall consult with the department head, the City Attorney, and the Director to determine whether a drug screen is warranted and shall be required as a continuing condition of employment.

ARTICLE 12

MISCELLANEOUS BENEFITS

Section 1. Uniforms. Uniforms shall be furnished to the employee by the Employer if an employee is required to wear a uniform as a condition of employment. The City agrees to continue to provide uniforms or other articles of wearing apparel as was the policy of each department and/or division of the City as of January 1, 1998. A listing of such uniforms and/or wearing apparel shall be compiled and appended to this Agreement.

Section 2. Protective Devices and Clothing

- A. Clothing & Cleaning Allowance. Any employee who is required as a condition of employment to wear and maintain a uniform or other special clothing shall receive an allocation of clothing, an annual reimbursement for repair and replacement or actual repair and replacement of such uniform or special wearing apparel, at the option of and pursuant to departmental policies. A lack of budgeted funds for the purpose of this provision shall not supersede a departmental policy which may require specific attire and/or uniforms for a given job, classification or type of work. Employees in occupations or capacities requiring non-uniform business clothing shall not be eligible for allowances or reimbursements under this section.
- B. Protective Safety Gear. If an employee is required to wear protective clothing or any type of protective device as a condition of employment, such

protective clothing or device shall be furnished to the employee by the City. The City agrees to provide a boot allowance of one hundred fifty dollars (\$150.00) total per year toward the purchase of required safety footwear. The need and specification of any type of protective clothing or device required shall be determined by the department head. The cost of cleaning and maintaining the protective clothing or device in proper working condition shall be paid by the City. In the event of loss or damage due to carelessness, the employee shall pay for the replacement. The City agrees to provide safety glasses to all employees who are required to wear such safety glasses. The City agrees to reimburse up to one hundred fifty dollars (\$150.00) total per year toward the purchase of prescription safety glasses to employees who desire to obtain them. The amounts specified in this paragraph are applicable throughout the term of this Agreement.

Section 3. Health Insurance. The City agrees to make group health insurance available to employees who are eligible as spelled out in the existing provision of the City's group health insurance coverage.

The City agrees to pay the cost of a single membership for benefit eligible full-time employees. It is understood that the employee at their own cost may, at their discretion, insure eligible dependents. If two employees are concurrently employed by the City and are considered married or common-law spouses, the City will provide two single memberships and it will be the responsibility of the employees to pay the dollar difference for family membership.

The Union agrees to discuss and consider options to the present coverage in continuing efforts to contain and control escalating costs of group insurance. The Union shall be entitled to select up to two (2) members as a representative(s) to the City Employees Benefits Committee. Union representatives will receive the regular rate of pay for the time spent in meetings during their regularly scheduled hours of employment, not to exceed two (2) hours per month. Management may authorize additional time on a case-by-case basis upon written request from the employee representatives.

The City retains the authority to define group health insurance coverage and carriers in order to maintain a cost effective program. The City agrees to notify the Union, in advance, of any benefit change to such health insurance coverage, or carrier.

Section 4. Pension/Retirement. It shall be mandatory for all benefit-eligible employees to participate in the Kansas Public Employees Retirement System (KPERs) retirement and disability program after one (1) year of continuous service with the City.

Section 5. Employee Assistance Programs. The City may require correction of an employee's personal problem as a condition of continued employment and for the purpose of providing assistance to the employee, provided the employee's performance on the job indicates an undesirable trend or tendency which would lead the employee to harm themselves and/or the City if the unacceptable pattern of behavior were allowed to continue. Any corrective action under the provisions of this section shall be carried out under the provisions of Article 11, Section 4.

The City and Union agree to cooperate in encouraging employees who are in need of counseling and/or assistance in such areas as alcoholism, drug abuse, financial and/or legal difficulties, family problems, and similar areas to undergo a program directed to their assistance and/or rehabilitation.

Referrals for assistance may be arranged confidentially through the Human Resources Department, Management or through the Union representative.

Section 6. Cafeteria Benefit Plan. This benefit is intended to qualify as a "flexible compensation plan" under Section 125 of the Internal Revenue Code, and it shall be construed and interpreted consistent with the requirements of that section. Any benefit eligible employee shall be eligible to participate in the Cafeteria Benefit Plan as defined by the City of Topeka. Benefits will be defined in the plan document. Salary is reduced to pay for these benefits; amounts are not subject to federal or state income taxes or Social Security; they are subject to KPERS contributions. Election is irrevocable during the plan year unless there is a qualifying change in status or other exception to the irrevocability requirement as defined in the Flexible Benefits Plan Basic Plan Document.

Section 7. Deferred Compensation. Any benefit-eligible employee shall be eligible to participate in the Deferred Compensation Plan as defined by the City of Topeka.

Section 8. Employee Development. The purpose of the employee development reimbursement program is to promote improved productivity in City services.

Only benefit-eligible employees may be reimbursed for tuition expenses for academic or technical courses pursued through recognized educational institutions or relevant professional development seminars as approved by the department head and Human Resources Director using the following rules:

- A. The course must directly relate to the employee's current job duties, or any course including outside-the-major electives required for a degree or certificate from an accredited university or community college into a field in which the employee would have a reasonable expectation of being promoted while employed with the City of Topeka. The employee must receive at least a 2.0 grade point or "C" average in academic courses or the employee must receive a "pass" if the course is only offered on a "pass/fail" basis. An employee must provide a certificate or other proof of completion for technical courses or professional seminars which provide no "grading" system.
- B. An amount not to exceed one thousand dollars (\$1,000.00) may be authorized and reimbursed annually for full-time employees and a prorated share based on the number of hours for which the part-time employee was hired to work.
- C. An employee must complete the request for tuition reimbursement form as provided by the Human Resources Department and have the concurrence and signature of the appropriate division head, the department head, and the Human Resources Director before the employee may be reimbursed. The approved request form must be received by the Human Resources

Department within one (1) month after the beginning date of the course which the employee desires to attend. Evidence of completion with a passing grade of a "C", as provided for in this section, and proof of payment for the course must be received by the Human Resources Department within two (2) months after the completion date of the course in order for the employee to receive reimbursement.

- D. The City will not reimburse employees for non-credit special interest courses completed by examination only, late fee, lab fees, extracurricular fees, textbooks or other course related materials and tuition covered by other sources such as government assistance to a veteran (GI Bills), grants, scholarships, and similar programs.
- E. The department head shall make every effort to budget for the approved reimbursement for academic courses for employees. The department head shall approve courses on a first-come, first-served basis in a non-discriminatory manner within appropriate budget constraints.
- F. An employee attending a course pursuant to these guidelines during working hours may arrange with their supervisor to utilize compensatory time, vacation time, flex time, or time without pay as scheduling/staffing allows as determined by Management for the time utilized to attend the course(s).

Section 9. Mileage Reimbursement. Use of an employee's private vehicle for City business shall be approved by the appropriate member of Management. The

reimbursement for use of a private vehicle shall be at the rate authorized by the City Council for other City employees.

Section 10. Employee Wellness Development Program. In order to encourage policies and practices to enable employees to achieve optimal physical and mental health, the City of Topeka shall offer a physical fitness program to benefit-eligible employees. The program shall provide that all employees shall have full use of the City Wellness Center without charge to the employee.

Section 11. Legal Representation. The City will provide legal representation for bargaining unit members against whom suit is brought in civil cases based on activities alleged to be within the scope of official duties of the bargaining unit members.

Section 12. Professional Organizations and Conferences. The City and KAPE Union agree that it is in the best interest of the department that as many employees as possible participate in professional, educational and training courses whenever the same are available.

Recognizing the budgetary limitations of the department, the decision to send employees to conferences or seminars shall be upon the approval of the department head and the provision that monies are available within the budget.

Section 13. Parking. Reasonable parking shall be provided by the City for on duty personnel.

Section 14. Bonus Programs. The City and the Union agree that all bargaining unit employees will be eligible for City wide incentive bonus programs.

Section 15. Professional License Fees. The City shall pay for all professional license and certification fees that are required by law and/or as part of an employee's employment.

ARTICLE 13

GENERAL PROVISIONS

Section 1. Pledge Against Discrimination and Coercion. The provisions of this Agreement shall be applied equally to all employees without discrimination as to age, familial status, race, gender, sexual orientation, color, creed, religion, national origin, political beliefs, or disability that does not affect job performance.

The City agrees not to interfere with the right of employees to become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the City or any City representative against any employee of the Union membership.

There shall be no coercion exercised upon any employee in an attempt to persuade them to join the Union. Likewise there shall be no unlawful discrimination, interference, threats, or restraint exercised upon any non-union employee. The Union recognizes its responsibility as a bargaining agent and agrees to represent all employees within the bargaining unit, without unlawful discrimination, interference, restraint, or coercion whether or not they belong to the Union.

Section 2. Work Rules. Work rules shall be consistent with the provisions of the Agreement. Work rules shall be reasonably and uniformly applied in like circumstances.

Existing work rules pertaining to the performance of work and conduct of employees shall be available in each division for review by employees. One copy of the rules shall be made available to the Union.

Before existing work rules are changed or new rules established an open hearing shall be held for the purpose of reviewing and receiving input from all affected employees. Notice of the hearing and the proposed work rules shall be posted on each of the division bulletin boards.

When existing work rules are changed or new rules established, they shall be posted prominently on each division bulletin board for a period of fourteen (14) consecutive calendar days before implementation.

In the event an emergency is declared by the City, existing work rules may be changed or suspended without prior notice. Such emergency work rule changes shall only remain in effect during the emergency as declared by the City.

Section 3. Return of City Property. Employees shall return all property belonging to the City upon separation. Such property shall include but not be limited to the following:

- A. Uniforms furnished to the employee by the City;
- B. Any tools, equipment and/or materials belonging to the City;
- C. Any keys that could be used to gain access to City property and all copies made thereof;
- D. Protective devices or clothing furnished by the City.

Failure to return such property may result in the City pursuing civil remedies to recover such property or its value.

Section 4. Performance Evaluations.

- A. The purpose of the employee performance evaluation shall be to inform employees of how well they are performing their work and how they can improve their work performance. Employees' performance evaluation shall be required at the end of every probationary period. After the probationary period, employees shall be evaluated annually (2080 hours). The Department Head may require more frequent evaluations as provided for in Article 4, Section 4 (B). The City shall inform the employee in writing, within fourteen (14) days of the end of the probation period, of their successful completion, or failure to complete the probationary period. Annual evaluations shall be completed within thirty (30) days of the scheduled performance evaluation. Departments will establish the cycle for the annual performance evaluation with notification being made to the employee as to when the performance evaluation cycle will occur. Whenever possible, the performance review shall be conducted by the employee's immediate supervisor. Failure to perform the above cited evaluation shall mean the employee has been deemed to satisfy the requirements of at least a "Meets Expectations" overall rating.
- B. The evaluation will be derived from the employee's position description. The position description will contain actual duties and the percentage of time that an employee performs each duty. The performance appraisals shall be comprised of measurable standards of performance from the position

description. The ratings shall be made annually on forms reflecting the performance requirements. Each employee subject to evaluation shall be provided with a copy of his/her position description and a set of performance standards at the beginning of each evaluation period. Performance evaluations shall be confidential and shall be made available only to the employee evaluated, their supervisor or department head, the Human Resources Director, the City Manager, any person designated by the employee, and any individual who may reasonably need access to the performance evaluations as required for legal actions including the resolution of grievances. The employee shall be provided with a copy of the completed evaluation.

- C. Any employee who has received a “Needs Improvement” rating may appeal that evaluation by filing notice of intent with the department head pursuant to the following procedure:
1. On receipt of notice of an appeal, the department head shall, within five (5) working days, select one person to serve as the City’s representative to serve on the appeal committee and shall notify the employee filing the appeal of the name of the person selected to serve. The person selected to serve on the appeals committee shall be a benefit eligible employee of the City.
 2. The employee filing the appeal shall, within five (5) working days of the filing, select one (1) person to serve as their representative to

serve on the appeals committee and shall notify the department of the name of the person selected to serve. The person selected to serve shall be a benefit eligible employee of the City.

3. The persons selected pursuant to 1 and 2 above shall meet within five (5) working days of notification of their appointment to select a chairperson to serve on the appeals committee. The person selected as chairperson shall be a permanent employee of the City. In the event the two persons selected by the department head and the employee filing the appeal cannot agree on a neutral chairperson, they shall alternately strike names from the listing provided by the Human Resources Director until only one name remains. The name of the individual remaining after the striking process shall serve as the chairperson of the appeals committee.
4. The appeals committee shall schedule a hearing within five (5) working days of the appointment of the chairperson.
5. The person filing the appeal shall have the right to call as a witness any individual having knowledge of the ability of the employee to perform the job providing that the witness shall have the right to refuse to testify regarding the ability of the employee to perform the job.
6. The supervisor who performed the evaluation shall appear at the hearing and explain the basis for the evaluation as it was written.

7. The appeals committee shall, within five (5) working days of the hearing, either sustain the performance evaluation or make a determination which is based on the committee majority decision that the performance evaluation warrants a change to be made to the rating. The majority decision shall be supported by written findings. The committee's recommendation shall be forwarded to the Director of Human Resources on the appropriate appeal committee form for review. The Director of Human Resources shall have five (5) working days to complete the review. After the review, the Director of Human Resources will contact the department head to initiate a rating change if recommended by the committee. The majority decision, supported by written findings, shall be provided by the Director of Human Resources to the employee filing the appeal.

Section 5. Personnel Records.

- A. Definition. The term personnel record, as used in this Article, shall mean the records and/or files related to an employee's job with the City, which are maintained in the official personnel file at the Human Resources Department.
- B. Access to Personnel Records. It is agreed that individual personnel records and files shall be considered confidential and the property of the City. It is also agreed that such official personnel records and files or information contained therein are not available to the general public except upon the written consent

of the affected employee. The following provisions shall apply regarding an employee's access to their official personnel record.

1. Each employee shall be allowed to inspect and make copies of their personnel records. A written request to do so shall be directed to the Human Resources Department who will schedule a time for inspection that is convenient for both the employee and the Human Resources Department. A charge may be made in accordance with the adopted fee established by the City in accordance with the Open Records Act for any copies of records made by the employee.
 2. A Union representative may, if the employee wishes, accompany the employee when reviewing their personnel record. Alternatively an individual employee may authorize a Union representative to review and/or copy his/her file. Such authorization shall be in writing, identifying the Union representative authorized to review and/or copy said record(s) and be provided to the Human Resources Department prior to the desired time of review or copying of said record(s).
- C. Removal and Deletion of Information from Record(s). An employee, after inspecting their personnel file, may submit a written request to the Human Resources Department to remove material(s) from the file in the event he/she believes the material(s) to be irrelevant, inaccurate, or obsolete. The Human Resources Director shall either remove the material(s) or inform the employee why the material(s) should remain in the file. If the employee is not satisfied

with the decision, the employee shall be permitted to place a written statement of disagreement in the file.

Section 6. Residency. Employees employed after December 31, 1981, by the City must be bona fide residents of Shawnee County, except at the time of appointment or employment when they need not be residents of Shawnee County, but shall establish residency in Shawnee County within six (6) months after completion of the initial employment probation. Residency shall be maintained within the limits of Shawnee County for the duration of the employee's employment. The City Manager may grant one extension not to exceed six (6) months for the establishment of residency upon the request of an individual employee for good cause shown.

Section 7. Dress Code and Decorum. Non-uniformed employees shall conform to the following dress code:

- A. Male Attire. Male attire that will be acceptable for office duty shall be business suits, dress slacks, short or long sleeve shirts with necktie being optional. Male attire for field work shall be clean jeans of blue or black without stains, holes or patches, and tee shirts of solid colors or polo type shirts of solid colors or stripes without stains, holes, or patches. Tee shirts with non-City logos or screen-prints will not be allowed.
- B. Female Attire. Female attire that will be acceptable for office duty shall be dresses, skirts or slacks with blouses, sweaters, or shirts or pantsuits. Shorts,

halter and midriff tops, spandex type clothes and hair curlers are not acceptable attire. Female attire for field work shall be clean jeans of blue or black without stains, holes or patches, and tee shirts of solid colors or blouses of solid colors or stripes without stains, holes, or patches. Tee shirts with non-City logos or screen-prints will not be allowed.

- C. Management, at their sole discretion, may allow for a less restrictive policy than is set forth in this Section.
- D. On Fridays, all non-uniformed City personnel shall have the option of wearing jeans, without holes, stains or patches and banded tee or sweat shirts. Uniformed employees shall not be affected by this section.
- E. Non-uniformed employees who have no public contact shall be allowed to utilize the "Friday clothing option" at all times.

NOTE: Uniforms for uniformed employees are specified in Article 12, Section 1.

Section 8. Prohibited Acts. Such acts shall be governed by the provisions of K.S.A. 75-4321 et. seq.

Section 9. Personal Business. Conducting personal business while on duty shall be prohibited and any employee who violates this provision is subject to discipline under the provisions of this Agreement.

Section 10. Conflict of Interest. A bargaining unit employee shall not engage in any business, activity or transaction and shall not have a substantial financial or personal interest which would impair proper discharge of official duties, independence of judgment, or any action in the public interest. This standard shall apply to an employee's personal and outside activities including outside employment, investments, property holdings, financial interest, and source of income. Furthermore, this standard shall apply to an employee's actions related to the performance of official duties including acceptance of gifts; favors; action or inaction in inspection or regulation functions; disclosure of confidential information; or granting improper favors, services, promises or things of value. Employees shall immediately notify their supervisor(s) of non-City business or personal activities which may constitute a conflict of interest with their position with the City.

Section 11. Nepotism. The City shall not hire immediate family members when such employment will result in a direct supervisory line between such family members.

Section 12. Multiple City Positions by One Employee. All bargaining unit members shall not hold more than one benefit-eligible full-time position at one time.

Section 13. Solicitation. No peddling, soliciting or selling for charitable or other purposes is allowed on City property during working hours without the expressed approval of the department head.

Section 14. Night Security. It is agreed that Management will provide for all employees working in facilities by themselves on a regularly scheduled shift to be regularly checked to assure their health and safety.

Section 15. Driver's License Requirement. All bargaining unit members that are required to maintain a valid Class C Kansas driver's license or a commercial driver's license (CDL) will be provided up to two (2) hours of on duty time to renew their respective driver's license.

- A. Employees shall be required to notify their supervisor in the event their driver's license is suspended, revoked or otherwise confiscated. Such notification shall be made to the supervisor prior to the start of the next scheduled work period. In no circumstances shall a City employee whose driver's license has been suspended, revoked, or otherwise confiscated, operate a City vehicle of any type prior to notification to the supervisor of the action. Failure to report the action or the operation of a City vehicle prior to notification shall be grounds for immediate disciplinary action up to and including termination from City employment.
- B. 1. An employee who suffers a loss of his/her license for a period of ninety (90) calendar days or less or becomes uninsurable under the current City insurance policy requirements shall be assigned to non-driving duties for a period of thirty (30) calendar days. An employee may be assigned to non-driving duties for which the employee is qualified if such assignments are

available for an additional sixty (60) calendar days and will be paid at the pay rate for the position into which they are assigned. Employees may use accrued vacation, personal leave or compensatory time during this sixty (60) calendar day period. If an employee's license is reinstated during this ninety (90) calendar day period and he/she is otherwise insurable, the employee shall be reinstated to his/her former position.

2. An employee who suffers the loss of his/her license or becomes uninsurable under the current City insurance policy requirements for a period of time greater than ninety (90) calendar days shall be removed from their position and shall be eligible for an additional ninety (90) calendar days to compete for non-driving positions. Employees may use accrued vacation, personal leave or compensatory time during this ninety (90) calendar day period.

Section 16. Fitness for Duty.

A. Eligibility. All employees shall be subject to the fitness for duty requirement.

B. Acceptable Use.

1. Department heads may require employees to report to the Human Resources Director in order to obtain a medical release for duty if the department head has reason to believe that the employee is unable, because of medical reasons, to perform any

or all of the duties assigned to the position in which the employee is employed.

2. A representative of the Human Resources Department may require a referred employee to report to the City Medical Advisor for consultation prior to releasing the employee to return to duty.
3. The City Medical Advisor may require the employee to provide a medical certificate from the employee's regular physician prior to releasing the employee for duty.
4. Employees who have been referred to the Human Resources Director pursuant to the provisions of sub-paragraph 1, 2 or 3, of this paragraph, shall be considered to be in pay status until released to work or notified that they have been found unable to complete the required duties of the position.

C. Alternatives to Returning to Regular Duties.

1. If, in the judgment of the City Medical Advisor, an employee is unable to return to work to perform assigned regular duties and the incapacitation is of a temporary duration, the Medical Advisor will so notify the Human Resources Department and the representative thereof shall work with the employee and the department head or a designee thereof to provide one of the following options for the employee to follow:

- a. The employee may choose to utilize accrued sick leave until such time as the employee is able to return to work;
- b. The employee may choose to request a leave of absence as provided for in this Agreement;
- c. The Human Resources Director and the department head or designee, may agree to make reasonable accommodations to allow the employee to continue in the employee's regular position;
- d. The Human Resources Director, the department head or designee of the division wherein the employee is assigned and the employee may agree to a transfer to a vacant position in the division or a voluntary demotion or promotion to a different classification if qualified, which does not require the employee to perform the duties which the employee can no longer perform;
- e. The Human Resources Director, the department head or designee, of another division in the department or a different department in the City and the employee may agree to a transfer to a different position in a different division or department or a voluntary demotion or promotion to a position in a different classification, if

qualified, which does not require the employee to perform the duties which the employee can no longer perform; or

f. The employer may choose to provide light duty.

2. If, in the judgment of the City Medical Advisor, an employee will not, within the foreseeable future, be able to return to work to perform regular duties, the Advisor will so notify the Human Resources Department and the representative thereof shall work with the employee and the department head or designee to provide an option or the employee may choose to retire, if eligible or the Human Resources Director may choose to lay off the employee pursuant to the provisions of Article 8 of this Agreement.

Section 17. Equal Opportunity. It is the policy of the City to provide all employees an equal opportunity without unlawful discrimination based on age, race, religion, creed, color, gender, sexual orientation, familial status, political beliefs, national origin or disability. This policy applies to all protected groups as required by law.

Section 18. Notification of Potential Liability. Any bargaining unit employee shall be required to provide reasonable and clear written notice of any situation observed by the employee which may cause a liability to the City, notwithstanding the employee's formal job activity area or working schedule. This provision is intended as an employee's responsibility as a preventative mechanism to further ensure financial security for the City and to provide

the best and most efficient service to the public. Such notice shall be given promptly through the employee's supervisor or, in immediate danger situations, the employee shall notify another department supervisor capable of remedying the matter.

Section 19. Use of Interdepartmental Mailboxes. The Union may distribute Union mail through existing Department mailboxes to employees of the bargaining unit.

Section 20. Use of City Facilities. The Union may request the use of City facilities in which to conduct Union business or social functions. Request for the use of the facilities shall be made not less than twenty-four (24) hours before the date of the requested use, shall not interfere with the regular conduct of business, and shall not be unreasonably denied. Any damage or unreasonable cleanup resulting from Union activities in City facilities shall be the responsibility of the Union.

Section 21. Off-Duty Employment.

A. Purpose.

1. To provide for the control of off-duty employment.
2. To facilitate emergency call-back of employees.

B. Procedure. Employees who are employed in jobs other than their City employment will fill out and keep current an Off Duty Employment Form. This form will be submitted to the employee's supervisor. The supervisor will then be responsible for seeing that such information is forwarded to the department

head. It is imperative that such information be submitted and kept current, to facilitate contacting an employee at all times, in the event of an emergency.

No City equipment or uniforms will be used during off duty employment.

Section 22. Policies and Rules & Regulations not Contained in this Agreement.

The parties agree that all City policies and programs, as well as the administrative rules and regulations implementing them now in force or herein after enacted in accordance with the Topeka City Code and Personnel Code not in conflict with any Article, Section of any Article, or any language contained in this Agreement, shall apply to all City employees including all employees covered by this Agreement. The City will provide written notice of proposed new policies, programs, and rules or regulations, or material changes to existing policies, programs, and rules or regulations to the Union prior to presentation for public comment. In the event the Union does not agree to a proposed policy, program, rule or regulation which would materially affect a condition of employment, the policy, program, rule or regulation will not apply to employees covered by this Agreement. Any additional benefits and/or rights granted to all City employees by any such policy or program or administrative rules and regulations implementing them will also be granted and applied to employees covered by this Agreement.

ARTICLE 14

INTERDEPARTMENTAL AND INTRA-DEPARTMENTAL EMPLOYEE MOVEMENT

Section 1. Filling of Vacancies. For the purpose of this Article, a vacancy is created when the City increases the work force and/or chooses to fill a vacancy created by a termination, resignation, transfer, promotion, or demotion.

Notice of bargaining unit vacancies shall be posted on bulletin boards in every department/division for a period of at least seven (7) calendar days and such jobs will not be filled until the seven (7) days have expired. Such notice shall state the department, position, classification, shift, work location, assignments, minimum qualifications, and pay rate for the job. Vacancies within the bargaining unit shall be filled by promotion whenever possible; provided however that demotions and lateral transfer within the bargaining unit shall take precedent over promotions.

Any qualified bargaining unit employee, except as identified in Section 2 of this article, may apply for a vacancy within the bargaining unit and shall be given first consideration, provided the employee possesses the minimum qualifications specified within the classification specification. When two or more employees possess substantially equal qualifications, departmental seniority shall determine which employee is selected for the vacancy. City seniority shall be used in the event the employees have equal departmental seniority. Hiring from outside the unit shall occur only when it is determined that no qualified/interested applicants exist within the unit.

Written notification of individuals in the bargaining unit who fill each vacancy shall be posted no later than five (5) working days after the vacancy is filled. It shall be posted in the same place as specified for the job opening classification.

Section 2. Promotions. For the purposes of this section, promotion shall be defined as the advancement of an employee from their current position in a classification to a vacated or newly created position in another classification with a higher pay grade. All benefit eligible (non-probationary) employees shall be eligible for promotions to a higher classification for which they are qualified or for which a training program may be established. An employee who is serving a special 520-hour probationary period or is at the suspension level of discipline shall not be eligible to apply for a promotion. Under these circumstances eligibility to apply for a promotion shall not be acquired until the special probationary period has been successfully completed or for a period of five hundred twenty (520) hours after the suspension has been served.

All employees receiving a promotion shall be required to serve an interim probationary period as defined in Article 7. An employee who does not successfully complete interim probation and is returned to the employee's former position or a comparable position shall be compensated at the rate earned by the employee prior to the promotion plus any increases granted by the City Council.

An employee promoted to a higher classification will be moved back one step from the step attained at the time of promotion for each grade the employee moves down on the pay matrix, provided that the employee shall not be moved back past Step 3 of the pay matrix.

An employee shall move to Step 1 of the appropriate grade when the employee has not achieved Step 3 at the time of the promotion.

Section 3. Transfers. For the purpose of this section, a transfer shall be defined as an interdepartmental or an intra-departmental movement without change in the employee's classification. An employee shall be entitled to retain the step that was achieved prior to the transfer.

Section 4. Demotions (Involuntary and Voluntary). Employees may be downgraded (demoted) to a classification within a lower pay grade for the following reasons (The following enumerated list of reasons for demotion is not to be taken as an absolute list of all possible justifications for demotion):

A. Involuntary

1. For unsatisfactory performance on the employee's present job;
2. In the event continued performance of the employee's present job will, in the opinion of the Medical Advisor, injure the health of the employee;

B. Voluntary

1. In the event an employee is unable to perform the work assigned to their current classification because of injuries or physical limitations, but are able to do the work of a lower-rated classification, and provided that reasonable accommodations cannot be made for the employee;

2. In the event an employee requests reassignment to an available vacancy, if not inconsistent with the contractual rights of another employee and when approved by the City;

Procedures for involuntary demotion are governed by the provisions of Articles 4 and 7. Procedures for voluntary demotion are governed by the provision of Article 13, Section 16; Article 8, Section 1.E; and Article 7. The rate of pay for all demotions is as follows: for every grade that an employee is demoted, an employee is walked up and out on the pay matrix, provided however, that no employee shall move further out on the pay matrix than the employee's years of service plus any additional steps that the City Council has granted.

Section 5. Acting Assignments. All bargaining unit members shall be eligible for acting assignments as set forth below.

- A. Eligibility. All benefit eligible (non-probationary) employees may be placed in an acting assignment by the department head or designee of the division wherein the employee is employed.
- B. Hours Available. Employees may be placed in an acting assignment until the position is filled.
- C. Acceptable Use. Acting assignments may be used to fill a position vacated by an employee, to fill a position of an employee on authorized leave or to temporarily fill a newly created position.

D. Rate of Pay for Employees on Acting Assignments.

1. Employees placed in an acting assignment for a position in a higher classification shall be paid in the grade of the higher classification and at the step the employee had attained in their regular position.
2. Employees placed in an acting assignment for a position in the same classification or a classification in the same or lower pay range shall receive their regular rate of pay for all hours worked.

E. Special Conditions.

1. Employees shall continue to accrue seniority in their regular classification while serving in an acting assignment.
2. Employees serving in an acting assignment shall receive all premium pay for the position in which the employee is serving the acting assignment.
3. Department heads or their designee shall determine the employee to serve in an acting assignment based on qualifications and other criteria and such determinations shall not be subject to the grievance procedure in this Agreement.

F. Return to Work.

1. An employee who has served in an acting assignment shall be returned to the employee's regular position at the completion of the acting assignment.

2. Employees shall return to their regular rate of pay, including any salary adjustments, when the employee is returned to the employee's regular position.

Section 6. Out of Class Pay. All bargaining unit employees shall be eligible for out of class pay as set forth below.

- A. Eligibility. All benefit eligible employees may be required to perform duties not contained within the class specifications or job description for the position in which they are currently employed.
- B. Hours Available. All benefit eligible employees may be required to work an unlimited number of hours in an "out of class" status, subject to the provisions of paragraph D of this section.
- C. Acceptable Use.
 1. Department heads or their designee shall determine the qualifications and select the individual to perform out of class work.
 2. The duration of an out of class assignment shall be governed by the provisions of Section 5 of this Article if the assignment is made for the purpose described within the Acting Assignment section (Section 5) of this Article.
 3. "Out of Class" assignments may be made for indefinite periods of time if the assignment is made for the purposes of accomplishing the mission

of the department and the employee is not assigned to a vacant position.

D. Compensation for Out of Class Work.

1. Employees who are assigned duties which are not contained within their classification specifications and such assigned duties fall within the classification specifications of a different classification in a higher pay grade shall be compensated by using the procedure delineated in Section 2 of this Article titled "Promotions." Work at the higher classification shall be performed for a period of ten (10) consecutive work days prior to becoming eligible for out of class pay. Out of class pay shall be paid for all work days in excess of ten (10) days.
2. If the employee performs duties assigned to a lower classification, the employee shall be compensated at the employee's regular or normal rate of pay.

E. Special Conditions. No employee shall refuse to perform duties assigned by the employee's supervisor or such employee shall be subject to the disciplinary actions contained within this Agreement. However, an employee may grieve a failure to receive out of class pay if the employee believes that assigned duties fall within a higher compensated classification and the employee has performed such duties for more than ten (10) consecutive days.

- F. Return to Work. An employee who has been performing out of class duties shall be returned to the employee's regular or normal duties and pay once the out of class assignment is completed.

Section 7. Reclassification. An employee whose position is reclassified to a classification in a higher grade will be placed at the step the employee had attained immediately prior to the reclassification. An employee whose position is reclassified or reallocated to a lower grade will be placed in the step equal to the number of years in service with the City plus any additional steps granted by the City Council in the grade assigned to the classification into which the position is being reclassified.

Section 8. Reallocation. An employee whose position is reallocated to a classification in a higher grade will be compensated at the higher grade by using the procedure delineated in Section 2 of this Article.

ARTICLE 15

HOURS OF WORK

Section 1. General Provisions. The normal work week for the duration of this Agreement shall be forty (40) hours. Normally, the forty (40) hours will consist of five (5) eight (8) hour days, however, variations to the schedule may be allowed pursuant to departmental operating needs and the best interest of an efficient and effective operation. Shift work may be used where needed, in the areas where there is shift work, pursuant to Section 3 of this Article. While office hours remain standardized, flexible scheduling for particular assignment and staff may be utilized. The basic work week for the duration of this Agreement shall be defined as starting at midnight Friday and ending at 12:01 a.m. on the following Saturday. Any overtime work shall only be allowed if it is specifically assigned by a duly authorized supervisor.

Section 2. Hours of Work/Non-Shift Work. All day-shift personnel will generally work eight (8) hours per day, Monday through Friday, approximately between the hours of 8:00 a.m. and 5:00 p.m.

Section 3. Shift Work.

- A. Day shift and night shift are defined in Article 3 of this Agreement. Starting and ending times for shifts may be established pursuant to the provisions of this Article.

- B. Any department may establish shift work for members of this unit. Shifts shall only be established after good faith negotiations with the Union in an effort to reach agreement on the starting and ending times of such shifts.
- C. Split shifts shall not be established, (i.e., eight (8) hours of work performed over more than nine (9) consecutive hours), without negotiations with the Union as provided for in paragraph B, above.
- D. Departments utilizing shift work as of the first date of this Agreement may retain those shifts subject to future negotiations prior to any change in the starting and/or ending times of those shifts.
- E. Employees, working within the classification wherein shift work is to be performed, shall be allowed to bid for assignment to shift work based on their seniority within the department.

Section 4. Bidding for Shift Assignments. Vacancies on a shift which occur, for any reason, shall be filled by the seniority bidding process from among qualified employees who normally perform the work required.

- A. Bidding for shift assignments will be held semi-annually beginning on June 1 through June 15 and December 1 through December 15 of each year. Results will be posted on departmental bulletin boards by June 30 and December 31 and will become effective at the start of the first full shift in July and January. All employees are eligible to bid if they have completed their initial new hire

probationary period. All probationary employees may be assigned to any shift for training purposes by Management until the probationary period is complete and they are eligible to enter the bidding process. Bargaining unit members who fail to bid shall be assigned by Management to those shift assignments remaining open after the completion of the bidding process.

- B. Shift bidding shall occur with the most senior employee getting shift preference. All seniority determinations shall take place under the provisions of Article 6, Section 3.

Section 5. Advance Posting of Work Schedules.

- A. When applicable, management shall post monthly or bi-weekly schedules at least seven (7) working days in advance of the start of the schedule.
- B. Management shall give employees seven (7) working days' notice of changes in hours of work assignments or days off, except in declared emergency.
- C. Management shall, whenever possible, notify employees of special assignments, such as schools, seminars, in-service training, etc., at least seven (7) working days in advance of the start of such assignment.

Section 6. Trading of Shifts/Days Off. Trading of shifts and/or days off may occur with approval of Management and mutual agreement between the affected employees. All trading of shifts and/or days off shall be within the same pay period and the trade shall not cause the accrual of overtime solely by virtue of the trade. Requests to trade shifts and/or days off shall be submitted on a form to be provided by the employer, to the employee's immediate supervisor, not less than forty-eight (48) hours prior to the first work day to be traded. The employee who has assumed responsibility for working on a "traded" shift and/or day will be accountable for attendance on that shift and/or day as if it were their "normal" shift or day. If a shift trade involves a holiday, the employee who works on the holiday shall be entitled to the holiday pay.

Section 7. Flex Time. By mutual agreement between the employee and Management, different work times and lunch periods may be agreed upon as a flexible work schedule (flex time). A day shift employee who opts for a flexible work schedule which includes hours of work which end after 6:00 PM shall not be considered a night shift employee and therefore shall not be entitled to shift differential.

Requests to work flex hours or to change flex hour schedules must be submitted in writing at least one (1) week in advance of the proposed effective date to the department head or their designee.

Requests to work flex hour schedules will be approved whenever possible provided that the department head or their designee determines that staffing levels and the effectiveness and efficiency of operations are not unreasonably or unduly affected.

Section 8. Rest/M Meal Periods. All employees shall be allowed a meal period as close to the middle of his/her shift day as possible. Meal periods are subject to departmental rules and regulations.

- A. Except as provided in paragraph B below, all personnel shall be allowed one paid break period of fifteen (15) minutes each morning and afternoon and a lunch period at times agreed between the employee and their supervisor.
- B. The provision above relating to lunch periods shall not apply in the instance where the City provides a paid lunch period to employees. Rest periods are intended to allow employees a brief break from work activities for rest and relaxation. Work breaks are provided on employer-paid time and scheduled by each employee's supervisor. These breaks may not be combined or accumulated to extend an employee's lunch period or to reduce the number of hours an employee is required to work each day. The scheduling of work breaks is dependent on the type of work required of an employee and is subject to departmental rules. Work breaks may be temporarily suspended when such breaks will unreasonably affect City service. Employees not allowed to take their break at the normal time shall be allowed to take the break at an earlier or later time when work load permits.
- C. Reimbursement for Meals. An employee who is required to attend a dinner, lunch or similar function wherein the employee is required to pay for the meal shall be reimbursed for such costs. A department head may authorize

payment of meals for an individual or group of individuals who have been invited to participate in a meeting or an activity which is to the benefit of the City.

Section 9. Overtime. Overtime work shall be offered under the following conditions:

- A. General Policy. The authorization and control of all overtime work is the direct responsibility of the department head. Overtime hours shall be defined as the total hours worked including any in pay status, excluding holiday pay, which exceeds the FLSA limit.
- B. Voluntary Overtime/Call Back.
 - 1. The City shall establish and maintain a voluntary overtime list from which the City shall offer emergency and scheduled overtime in a manner as set forth below; provided, however, that probationary employees shall not be eligible for voluntary overtime except for an extreme emergency, as determined by the department/division head or designee, or when the voluntary overtime list has been exhausted. This list shall be used, except for employees on official standby, for scheduling bargaining unit employees for voluntary overtime. Provided, however, an employee may be held over at the end of the employee's shift in order to complete a project, for a period of time not to exceed four (4) hours.

2. Employees may notify the City of their desire to be included on the voluntary overtime list by filing a written notice of their desire with the appropriate member of management between June 1 and June 15 and between December 1 and December 15 each year, when new voluntary overtime lists based on seniority will be developed. However, otherwise qualified employees who complete probation may submit written requests to be added to the list at that time. Written requests by employees to remove their names from the list may be submitted at any time.
3. Implementation of the voluntary overtime list will commence with the employee who has the most department seniority and who is qualified to perform the work required and rotate through the least senior employee on a continuing and repeat basis. That is, when there is overtime work to be assigned, the supervisor will start at the beginning of the list, or at the point last left off, whichever is appropriate, then move to the next name on the list until someone volunteers to work the available overtime. No employee, regardless of seniority, will be allowed to work in a position for which they are not qualified or for which they will not have received adequate rest. Adequate rest, as used herein, shall be defined as not less than eight (8) consecutive hours of duty free time between work periods. Work periods shall not exceed sixteen (16) consecutive hours except during a declared emergency.

4. For the purpose of “rotation,” each legitimate attempted contact which does not result in the employee working the available overtime shall be considered to constitute a rejection of the available overtime and shall result in the employee being rotated to the bottom of the list.
5. All employees on the voluntary overtime list except those on approved leave on the day the overtime is offered shall be eligible for available overtime. Employees on approved leave will not be rotated to the bottom of the list, but rather retain their positions until their return. However, employees coming back from approved leave must work at least half a shift prior to being eligible for overtime.
6. An employee may refuse voluntary overtime without penalty except for being rotated to the bottom of the list.
7. When staffing shortages occur due to the unavailability of non-probationary employees the department/division head may assign work to probationary employees for emergency work assignments.
8. When a particular employee is assigned to a specific defined project, that employee may, because of special expertise, also be offered any overtime required for and associated with that project without regard to the voluntary overtime list; however, in the event such employee is unable to perform the additional work or otherwise turns down such an opportunity, the voluntary overtime list will be applied.

C. Involuntary Overtime/Call Back. The assignment of involuntary overtime shall be accomplished in the following manner:

1. The City shall establish and maintain an overtime list of all non-probationary employees from which overtime shall be assigned in the event no member listed on the voluntary overtime list is available or willing to work the overtime on a voluntary basis. The list shall contain the names, in inverse departmental seniority order, of all employees who normally perform the work required.
2. The overtime assignment shall be given to the least senior member who has had adequate rest as defined in Paragraph B, 3 above and the assignment shall be noted on the list. Subsequent assignments shall be given to the next member on the list with the least amount of seniority who has not received an involuntary assignment of overtime until all members have been assigned involuntary overtime and at that time the process shall re-commence from the top of the list.
3. After all of the above have been exhausted, the department/division head or designee may assign work to probationary employees.
4. No employee may refuse a call for involuntary overtime work without being subject to disciplinary action. Under certain circumstances of personal hardship, the Employer may choose to excuse an employee from involuntary overtime work, but in that event such employee shall be first on the list when an involuntary overtime situation next arises.

5. The Employer shall retain the right to call any employee into work without regard to the involuntary overtime list if the employee's particular skills or qualifications are required to accomplish a task or if, due to the nature of an emergency, an unacceptable delay in a reporting time could otherwise be experienced.
- D. For the purposes of this Section, "hold-over" overtime shall be counted as an involuntary overtime assignment. Hold-over shall be defined as the period of time when an employee is required to remain on the job until such time as another employee is found to replace the original employee held over or an employee is required to remain to complete a project.
- E. Voluntary and involuntary overtime offered or assigned within the Police Department shall be offered in blocks of time not to exceed eight (8) hours. The eight (8) hour blocks of time shall be divided into two (2) hour segments.

Section 10. Time and Place for Reporting to Work.

- A. Personnel shall report for duty no later than the beginning of their assigned work schedule.
- B. The shift supervisor will assign the employee's work station prior to the start of the work day.
- C. An employee anticipating being late shall report that fact to the department at their earliest possible opportunity.

- D. If an employee is not present at the beginning of their assigned work schedule, he or she will be considered late for work (tardy), and so noted by the supervisor. Employees who are required to enter their shift starting time on a time clock will be permitted to clock in to work fifteen (15) minutes earlier than their assigned work schedule but shall not be permitted to begin work until their assigned work period begins, unless authorized by the employee's supervisor.

Section 11. Clean-up Time. Employees who are engaged in the type of work which necessitates cleaning up prior to a meal shall be granted a five (5) minute personal clean-up period prior to the meal period, and ten (10) minutes at the end of the shift. However, where work conditions dictate, the before meal clean-up period may be extended to ten (10) minutes.

ARTICLE 16

DURATION, TERMINATION AND AMENDMENTS

This Agreement shall be effective beginning January 1, 2006 and shall remain in full force and effect through December 31, 2008. The provisions of this Agreement shall remain binding on the parties during negotiations as in K.S.A. 75-4321 et. seq., for a successor agreement.

The City and KAPE agree that each party may re-open up to three (3) articles throughout the term of this Agreement.

Should any provisions of this Agreement be held unlawful by a court of competent jurisdiction, all other provisions shall remain in force for the duration of the Agreement. Negotiations shall commence at a mutually agreeable time in the event replacement provisions are deemed to be necessary by the Union or the Employer.

DATED AND ACKNOWLEDGED THIS _____ DAY OF _____ 2006 IN
THE CITY OF TOPEKA, KANSAS, BY:

Mike Osborn
National Representative, AFT, KAPE

Ken Benjamin
Labor Relations Director, COT

David Fish
President, Local 4565

Phil Morrell
Lieutenant, Police Support Operations

Leon Long
Chief Steward, Park Management

Jennifer McLaughlin
Police Records Division Supervisor

Tim McCormick
Chief Steward, Engineering

LuEllen Filby
Accounting Specialist II, Public Works

Duane Morris
Team Member, Traffic Operations

Mike Teply
Acting Director, Public Works

Randy Finson
Team Member, Parks & Recreation

Steve Hitchins
Team Member, Water Pollution Control

Shirelle Canaday
KAPE Team Member, Municipal Court

Maggie Waggoner
Team Member, Police Department

Anthony Jones
KAPE Team Member, Code Compliance

ATTEST:

Iris Walker
City Clerk

Norton N. Bonaparte, Jr.
City Manager



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: Linda Wood **DOCUMENT #:**

SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
Authorization, Week Ended
November 26, 2006

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period November 20, 2006, through November 26, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

Approve and allow weekly payments of valid operating expenditures, pursuant to Resolution No. 7607.

STAFF RECOMMENDATION:

Adopt the Ordinance as presented.

BACKGROUND:

Pursuant to Resolution No. 7607, adopted on April 12, 2005, which provides authorization to pay for certain expenditures prior to approval by the Council in an expenditure ordinance, the expenditures being authorized by this ordinance have been previously paid, in accordance with established procedures and policies for such payments.

BUDGETARY IMPACT:

Approves expenditures for the period November 20, 2006, through November 26, 2006, in the amount of \$4,113,745.41.

SOURCE OF FUNDING:

Appropriated funds and fees-for-service revenues of various City departments.

ATTACHMENTS:

[Weekly Expenditure Ordinance, Week Ended November 26, 2006](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of November 20, 2006, through November 26, 2006, and enumerating said expenditures herein.

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

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total for 399 vendor checks written in this period	\$1,454,134.41
	Total vendor checks voided in this period (net)	-0-
	Total electronic transfers to vendors in this period	186,643.48
	Total net payroll to employees this period	1,369,060.65
	Total payroll related electronic transfers this period	<u>1,103,906.87</u>
	Total for expenditures in this period	<u>\$4,113,745.41</u>

Section 4. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Darrell, Mark, and Steve Martinek, and Darrell and Rick Flynn **PROJECT #:** Z06/32

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the southeast corner of SW Van Buren Street and SW Roby Place in the City of Topeka, Kansas from "M-1" Two-Family Dwelling District TO "C-3" Commercial District. Final Reading.(Z06/32) (Council District No. 3) (The Planning Commission recommended approval by a vote of 9-0-0)(The Planning Department recommended approval)

(The applicant is proposing to zone the property to accommodate its use and development as a commercial office and show room in association with the window and siding business located immediately north across SW Roby Place.)

POLICY ISSUE:

The request is consistent with the principles of the Land Use and Growth Management Plan.

STAFF RECOMMENDATION:

The Planning Commission considered this proposal on November 20, 2006 and recommended **APPROVAL** of "C-3" zoning by a vote of **9-0-0** as referenced in the attached minutes. The Planning Department recommended **APPROVAL** of "C-3" zoning.

BACKGROUND:

- See Staff Report
- City Council Options
 - Adopt the recommendations of the Planning Commission by Ordinance;
 - Override the recommendation of then Planning Commission by a two-thirds majority vote (6 votes) of the City Council membership; or
 - Return such a recommendation to the Planning Commission with a statement specifying the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

Item #16

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial Photo](#)

[Zoning Map](#)

[Application](#)

[Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE

introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located on the southeast corner of SW Roby Place and SW Van Buren Street in the City of Topeka, Kansas from "M-1" Two Family Dwelling District **TO** "C-3" Commercial District. **(Z06/32) (Council District No. 3)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

Lots 129 and 131, Roby Place, South Park Subdivision in the City of Topeka, Shawnee County, Kansas.

Lots 121, 123, 125, 127 on Roby Place, formerly 22nd Street, in South Park, an addition to the City of Topeka, Shawnee County, Kansas.

from "M-1" Two Family Dwelling District **TO** "C-3" Commercial District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

November 20, 2006
Agenda Item #G-1

ZONING REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/032

by: Darrell, Mark, and Steve Martinek, and Steve Flynn

PROPOSAL: Amend the District Zoning Classification from “M-1” Two-Family Dwelling District, TO “C-4” Commercial District on property located at the southeast corner of SW Van Buren Street and SW Roby Place, within the City of Topeka, Kansas.

BACKGROUND: The 18,483 sq. ft. property lies in the southern portion of the Monroe Neighborhood. This portion of the neighborhood was initially constructed as a low to moderate density single-family residential neighborhood, but has been in a transition to more industrial and commercial uses for the past several decades. Only small pockets of residential land uses remain along SW Van Buren Street. Immediately north of the subject property is a commercial contractor’s office. Adjacent properties to the south and east are currently vacant.

PRESENT USE: The property is currently vacant and unused.

PROPOSED USE: The applicant is proposing to zone the property to accommodate its use and development as a commercial office and show room in association with the window and siding business located immediately north across SW Roby Place.

CHARACTER OF NEIGHBORHOOD: This area of the Monroe Neighborhood has decreased substantially in population in recent decades. Most of the remaining residential homes in the immediate vicinity could be considered “remnants” of the former single-family neighborhood that occupied this area in the earlier decades of the 20th Century. Over the past 20 to 30 years, the surrounding area, primarily those street frontages along SW Topeka Boulevard, SW Kansas Avenue, and SW 21st Street have transitioned to commercial land use, although much of the property fronting SW 21st Street near this property is presently vacant. In addition, the applicant has successfully established a commercial business at the corner of SW Van Buren Street and SW Roby Place. This business occupies approximately ½ of the block bounded by SW Van Buren Street, SW Roby Place, SW Kansas Avenue, and SW Hampton Street. It is anticipated that the remaining residential properties in this immediate area will transition to commercial uses within the next two to three decades.

The residence located at 2053 S. Kansas Avenue is listed on the National Register of Historic Places and lies approximately 200 feet to the east of the subject property. The State Historic Preservation Office (SHPO) has determined that this proposal will NOT encroach, damage, or destroy the historic integrity or environs of the listed property.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	<u>Zoning Classification</u>	<u>Present Land Use</u>
North:	"C-4" Commercial District	Commercial
South:	"C-3" Commercial District	Vacant
East:	"M-1" Two-Family Dwelling District	Vacant
West:	"M-1" Two-Family Dwelling District	Low Density Residential

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property has been zoned for two-family residential purposes since 1956, and has been vacant for a period of at least 10 years.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned "M-1" Two-Family Dwelling district. The surrounding neighborhood is a mixture of remnant single and two family dwellings, along with encroaching commercial businesses. With the exception of a used vehicle business located along S. Kansas Avenue, the remainder of this block is vacant.

It is doubtful that new low-density residential development will re-develop on this property or elsewhere within the immediate vicinity. Rather, it is more probable that pressures will continue to develop this property, and other surrounding properties for commercial purposes. Therefore, this property is deemed not suitable for continued use as presently restricted.

CONFORMANCE TO COMPREHENSIVE PLAN: The proposal is somewhat inconsistent with Comprehensive Plan land use policy and conventional planning principles which dictate the most intensive commercial uses should be closest to the arterial intersection. In this case, the inverse of that principle would be true as C-4 uses would be allowed further from an intersection already zoned for C-3 uses. Impacts to local streets and residential uses are typically lessened by gradually declining the intensity away from an arterial intersection.

EXTENT TO WHICH REMOVAL OF PRESENT RESTRICTIONS WILL DETRIMENTALLY EFFECT NEARBY PROPERTY: The property lies within the context of a gradually declining residential neighborhood. Given the presence of the business on adjacent property to the north, it is doubtful that conversion of this property to commercial uses will pose any detrimental affect on the surrounding neighborhood. However, "C-3" property to the south and east may be negatively impacted if the use intensity is inverse to standard planning principles which recognize higher intensity uses closer to intersections.

The property also lies within the 200' environs of the Fred and Cora Luttjohann House, 2053 S. Kansas Avenue, which is listed on the State and National Registers of Historic Places. The SHPO has determined that this project will not negatively encroach upon the environs of this property.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: Since there is no reasonable expectation that the subject property is viable for use under present restrictions, there would be

little benefit to the public by preserving the existing zoning. The property lies immediately south of an established business and the proposed change in zoning would allow the use and development of the subject property in association with this business. The property also lies north of “C-3” property recently recommended for approval by the Planning Commission for a transmission repair shop. Conditions were placed on this property under a Conditional Use Permit to limit the impact that outdoor car storage would have along a major arterial intersection. Denial of the zoning proposal would effectively deny the property owner the most realistic and feasible use of the property, which is an expansion of the existing business enterprise on the adjacent property. However, making the zoning consistent with property closest to the arterial intersection will not only serve the public well, but will better protect the property values expected for investment. Thus, denial of the proposal would constitute an unnecessary hardship upon the landowner.

AVAILABILITY OF PUBLIC SERVICES: All essential public services, utilities, and facilities are presently available and will not be overburdened by this proposal.

COMPLIANCE OF THE PROPOSAL WITH THE ZONING CODE AND THE SUBDIVISION REGULATIONS: The proposed application appears to be in compliance with all applicable provisions of the Comprehensive Zoning Regulations and the Subdivision Regulations. It was determined by the Planning Department that the Business Office and Showroom is in compliance with the “C-3” zoning regulations as a “Home Improvement and Building Supply Center” provided all storage and display is located inside.

CONCERNS OF STAFF AND REVIEWING AGENCIES: The proposed zoning proposal has been submitted to all applicable reviewing agencies for consideration and comment. No significant issues or concerns were expressed by reviewing staff in regard to code compliance or the provision of public services.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Monroe Neighborhood Improvement Association
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: The Fred and Cora Luttjohann House (2053 S. Kansas Avenue) lies approximately 125’ to the northeast of the subject property and is listed on the National Register of Historic Places. The SHPO has determined that this project will not negatively encroach upon the environs of this property.

STAFF RECOMMENDATION:

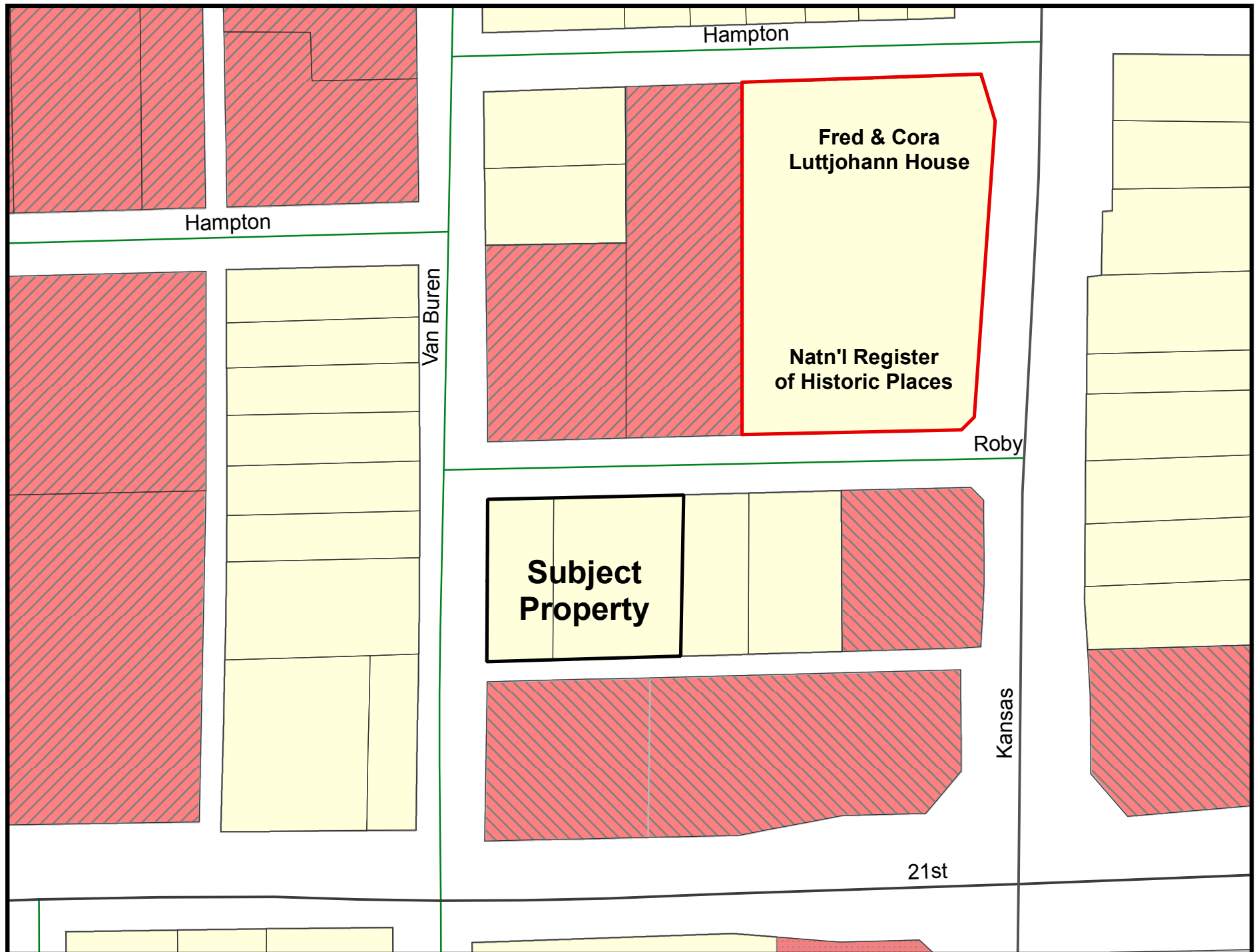
Based on the findings and analysis above, Planning Staff recommends APPROVAL of the “C-3” Commercial District.

Prepared by: T. S. Paris
Planner II



t

Z06/32 by Steven, Francis, and Mark Martinek, and Darrell and Rick Flynn



Z06/32 by Steven, Francis, and Mark Martinek, and Darrell and Rick Flynn



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Martinek, Steven C., Francis R. and Mark A. and Flynn, Rick and Darrell Trusts

Street Address: 118 SW Roby Place

City: Topeka State: KS Zip: 66612 E-mail: _____

Business phone: 233-6666 Home phone: 266-3522 Fax: 233-6767

Authorized Owner Representative (if any): Vernon L. Jarboe

Street Address: 534 S. Kansas Avenue

City: Topeka State: KS Zip: 66603 E-mail: vjarboe@sloanlawfirm.com

Business phone: 357-6311 Home phone: _____ Fax: 357-0152

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – if different from above

Vernon L. Jarboe

Street Address: 534 S. Kansas Avenue

City: Topeka State: KS Zip: 66603 E-mail: vjarboe@sloanlawfirm.co

Business phone: 357-6311 Home phone: _____ Fax: 357-0152

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: Rick Flynn

Owner 1 Signature: Rick Flynn

Date: 9-5-06

Owner 2: Craig Martinek

Owner 2 Signature: Craig Martinek

Date: 9-5-06

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): SW Roby Place; SE Corner of SW Van Buren St. and SW Roby Place

Legal Description of Property: lot(s) _____ block _____ subdivision South Park Addition
(if unplatted, attach metes and bounds description) Roby Place, Lots 129-131
Roby Place, Lots 121, 123, 125, 127

Total Area (acres/square feet): 6,250 Sq. Ft + 12,500 Sq.

Type of Application:
1. Re-zoning from: M-1 to: C-4

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): Lot is currently vacant

How long has the existing use been on the property? _____

Proposed Use (# of dwelling units, square feet, etc.): Contractor's office showroom and ancillary parking

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 9-8-06

Date notice sent: 10-27-2006

Application no.: 286/32

Date advertised: 10-27-2006

Filing fee: 0 Receipt no.: 0

Date of hearing: 11-20-2006

Quarter section map no.: _____

Council district: #3

CHECK YES OR NO

Capital Plaza Area: Yes _____ No _____

Within Historic Site Environs: Yes _____ No _____

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No _____

National/State Historic Register: Yes _____ No _____

Local Historic Resource: Yes _____ No _____

Airport Hazard Area: Yes _____ No _____

Neighborhood Association: Yes _____ No _____

Name of N.I.A./N.A.: _____

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

NA

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

The development will have no significant effect on the character of the neighborhood or use of surrounding properties. Currently, the lots immediately adjacent are vacant and the remainder of the neighborhood is a mixture of multi-family residences and commercial spaces.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

Neighborhood use plan is not available.

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:

West side of Van Buren. Four inch cast iron pipe.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:

South side of both properties in the alley. Eight inch vertified pipe.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?

Will be addressed by engineers on parking lot design.

- b. Does the current storm sewer system have adequate capacity for proposed use?

Will be addressed by engineers on parking lot design.

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

Same entrance curenly used will be used to access parking lot. Adjacent streets used 60' and alley is 20'.

- b. What are the site's existing or proposed access points?

See 4a above.

- c. Will any street improvements or traffic control improvements be required?

No

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
November 20, 2006**

Z06/32 by Steven, Francis and Mark Martinek & Rick and Darrell Flynn requesting to amend the District Zoning Classification from "M-1" Two Family Dwelling District **TO** "C-4" Commercial District on property located on the southeast corner of SW Roby Place and SW Van Buren Street. **(Paris)** Tim Paris summarized the staff report and informed the Commission that staff is recommending C-3 Commercial zoning rather than the C-4 the applicant was originally seeking. He stated the applicant had agreed.

Proponents:

Vernon Jarboe, representative of the applicant, spoke in favor of the proposal. He said the applicants are in the audience as well. Mark Boyd asked if the C-3 zoning is agreeable to the applicant? Mr. Jarboe replied yes.

Opponents:

Jenny Pritchard, 2053 S Kansas Avenue, spoke in opposition to the C-4 zoning. She said with the change to C-3 zoning she isn't against the proposal. She said she originally thought this property would be developed into a parking lot but was told it will be a building. She said she wanted to be sure there would be no outside storage. She said the property is within the environs of a historic building. Mr. Boyd asked Ms. Pritchard if she is satisfied with the C-3 zoning? Ms. Pritchard replied yes. Mr. Paris added all building permits will have to be reviewed by the State Historic Preservation Office.

Exparte communications: none

Theron Sims moved approval, seconded by Fred Sanders. **APPROVAL. (9-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

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DATE:	November 28, 2006		
CONTACT PERSON:	David Thurbon/Bill Fiander	DOCUMENT #:	N/A
SECOND PARTY/SUBJECT:	Topeka Planning Commission	PROJECT #:	Z06/23
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 007 Zoning		
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #:		
	PAGE #:		

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located north of SE 45th Street about 1,830-feet west of SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. Final Reading(Z06/23) (Council District No. 4) (The Planning Commission recommended approval by a vote of 9-0-0) (The Planning Department approval.)

(The zoning change is being sought in conjunction with the development of Rockfire at the Lake Subdivision and Rockfire at the Lake Subdivision No. 2 to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 9-0-0 at their November 20, 2006 meeting. The Planning Department recommended that this request be **APPROVED**.

BACKGROUND:

- See attached staff report.
- City Council options include:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

Item #17

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Vicinity Map](#)

[Aerial](#)

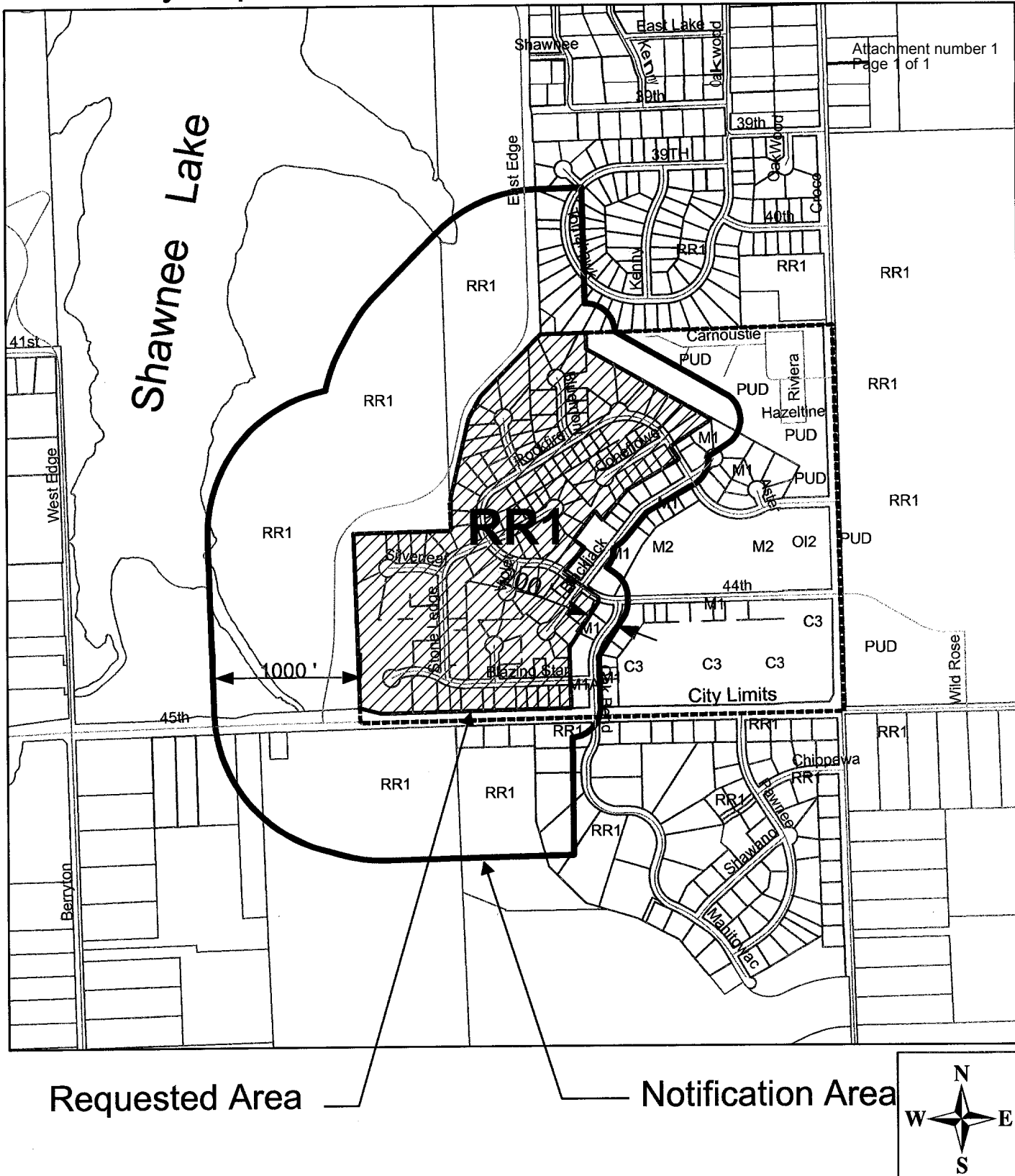
[Ordinance](#)

[Staff Report](#)

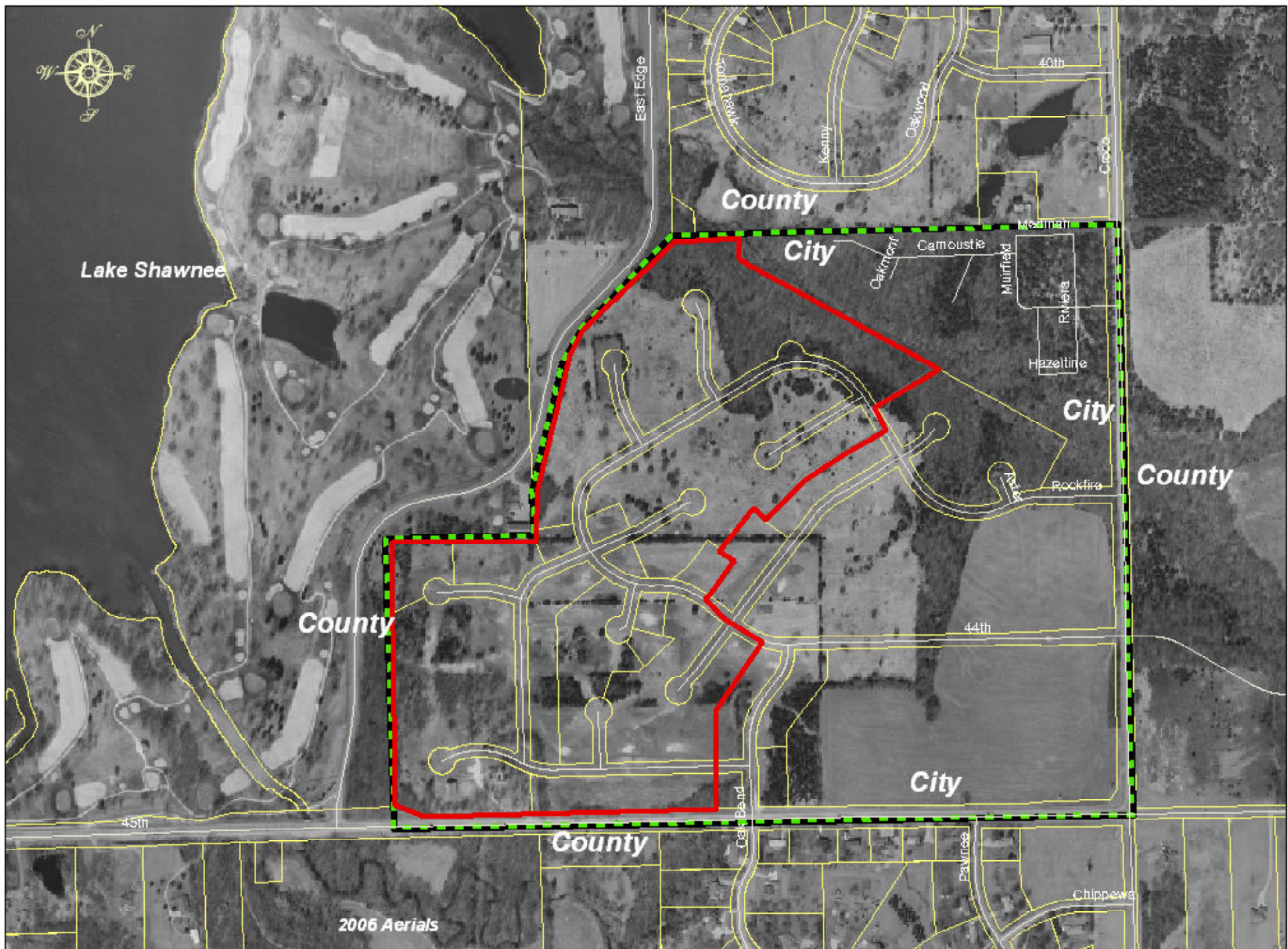
[Minutes](#)

Z06/23 By Topeka Planning Commission

Attachment number 1
Page 1 of 1



Z06/23 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District on property commonly known as Rockfire at the Lake Subdivision, located at NW corner of SE 45th Street & SE Croco Road in the City of Topeka, Kansas.



Z06/23 Topeka Planning Commission (Rockfire at the Lake Subdivision)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Rockfire at the Lake Subdivision, located at the northwest corner of SE 45th Street and SE Croco Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/23) (Council District No. 4)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

Lots 22 through 96 Block B, Lots 7 through 52, Block E and Lots 21 through 56, Block F, Rockfire at the Lake Subdivision and also, Lots 1 through 12 Block A Rockfire at the Lake Subdivision No. 2 in the City of Topeka, Shawnee County, Kansas.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

November 20, 2006
Agenda Item #G.4a

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/23

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District on property commonly known as Rockfire at the Lake Subdivision and Rockfire at the Lake Subdivision No. 2.

LOCATION: On property located north of SE 45th Street about 1,830-feet west of SE Croco Road.

PARCEL ID NUMBERS:

1352204005001000	1352204004023000	1352204005017000
1352204002001000	1352204002057000	1352204005022000
1352204004001000	1352203001001000	1352203001005000
1352204004043000	1352204005016000	1352203001008000
1352204004030000	1352204005014000	1352204007001000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those that are not.

PRESENT USE: The subject property comprises approximately 75-acres. It is platted as Rockfire at the Lake Subdivision for 178 single-family residential lots. The subdivision was recorded and annexed in 2005. Rockfire at the Lake Subdivision No. 2 is a replat of a portion of the original subdivision and was also recorded and annexed in 2005.

CHARACTER OF NEIGHBORHOOD: The neighborhood is located in a rapidly developing area in southeast Topeka that contains mostly single-family dwellings to the south and Lake Shawnee grounds to the west and north. The area to the east is part of the Rockfire at the Lake Subdivision with a variety of proposed uses consisting of single-family, two-family, multi-family and commercial.

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Agenda Item #G.4a

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION	PRESENT LAND USE
North: "RR-1" Residential Reserve District	Lake Shawnee Grounds
South: "RR-1" Residential Reserve District	Single Family Residential & Agricultural
East: "M-1" Two Family Dwelling District	Vacant
"PUD" Planned Unit Development District (M-2; O&I-1; C-4)	Vacant
West: "RR-1" Residential Reserve District	Lake Shawnee Grounds

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant except for two single family residences which existed at the time of the platting of Rockfire at the Lake Subdivision. The subdivision was recorded and annexed in 2005. Rockfire at the Lake Subdivision No. 2 was a replat of a portion of the lots within Rockfire at the Lake; it was also recorded and annexed in 2005.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be commonly seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

November 20, 2006
Agenda Item #G.4a

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
November 20, 2006**

Z06/23 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District on property commonly known as Rockfire at the Lake Subdivision and Rockfire at the Lake Subdivision No. 2, located at the northwest corner of SE 45th Street and SE Croco Road in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

Discussion by members:

Ralph Skoog asked if the RR-1 cases were published in the newspaper and property owners were notified? Mr. Fiander replied yes.

No one spoke in favor or in opposition to the proposal.

Exparte communications: none

Fred Sanders moved approval as written by staff, seconded by Jim Brown. **APPROVAL. (9-0-0)**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

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DATE: November 28, 2006

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Topeka Planning Commission **PROJECT #:** Z06/27

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District. **Final Reading (Z06/27) (Council District No. 8)(The Planning Commission recommended approval by a vote of 9-0-0) (The Planning Department recommended approval.)**

(The zoning change is being sought in conjunction with the development of Sherwood Park Subdivisions No. 1-9 to be more reflective of an urbanizing single-family area within the City.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal by **APPROVED** by a vote of 9-0-0 at their November 20, 2006 meeting. The Planning Department recommended that this request be **APPROVED**.

BACKGROUND:

- See attached staff report.
- City Council options include:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A.

Item #18

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Vicinity Map](#)

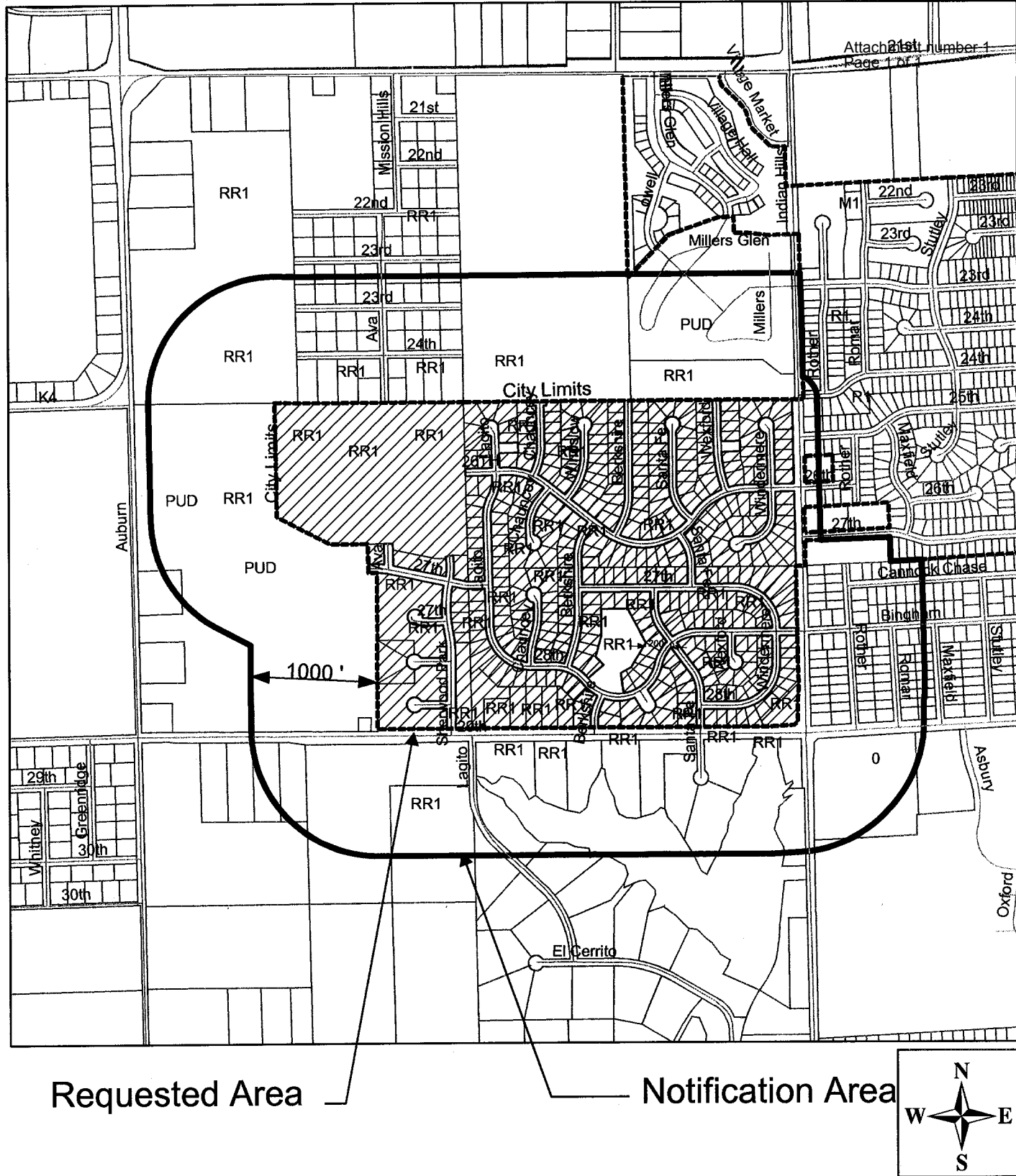
[Aerial](#)

[Ordinance](#)

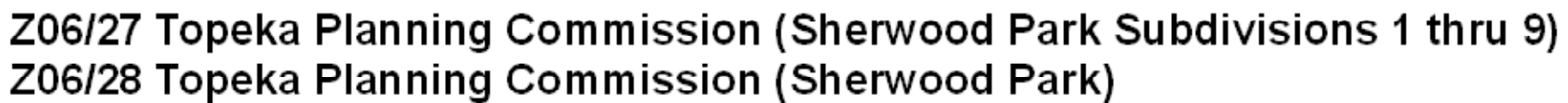
[Staff Report](#)

[Minutes](#)

Z06/27 By Topeka Planning Commission



Z06/27 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District TO "R-1" Single Family Dwelling District on property commonly known as Sherwood Park Subdivisions 1 through 9, located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas.



(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Sherwood Park Subdivisions 1 through 9, located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District. **(Z06/27) (Council District No. 8)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

All of Sherwood Park Subdivisions 1 through 9, except Lot 22, Block F, Sherwood Park Subdivision, in the City of Topeka, Shawnee County, Kansas.

from "RR-1" Residential Reserve District **TO** "R-1" Single Family Dwelling District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

November 20, 2006
Agenda Item #G.4b

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/27

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “R-1” Single Family Dwelling District.

LOCATION: On property located at the northwest corner of SW 29th Street and SW Indian Hills Road.

PARCEL ID NUMBERS: See attachments

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Boundary (MSB) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

Rezoning to “R-1” prohibits the types of agricultural/farming uses allowed by right that are no longer compatible with the expectations of urban development. The “RR-1” district also allows many other potentially conflictive uses through a conditional use permit (e.g. kennels, billboards, sanitary landfill, oil/gas drilling, storage of fertilizers, pesticides, etc.) and fails to establish a minimum lot size for subdivisions. Conversion to “R-1” easily distinguishes those areas that are zoned for urban development in the City from those not in the City.

PRESENT USE: The subject property comprises approximately 160-acres. It is platted as Sherwood Park Subdivision through Sherwood Park Subdivision No. 9 for single-family residential lots. The subdivisions were annexed into the City in 2005.

CHARACTER OF NEIGHBORHOOD: The neighborhood is located in a rapidly developing area in southwest Topeka that contains mostly single family dwellings. The area to the west and north are within the County and currently are undeveloped. The area to the south is within the County and has developed with single family dwellings. The area to the east has developed with single family residences and for the most part is within the City of Topeka.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION

North: “RR-1 Residential Reserve District

PRESENT LAND USE

Vacant and undeveloped

November 20, 2006
Agenda Item #G.4b

South: "RR-1" Residential Reserve District
East: "RR-1" Residential Reserve District
"R-1" Single Family Dwelling District
West: "RR-1" Residential Reserve District

Single Family Residential
Single Family Residential
Single Family Residential
Vacant and undeveloped

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has developed for the most part with single family dwellings. The property has been platted in various stages from November 1995 to April 2006 and its annexation in the City in 2005.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which are commonly seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. Rezoning the property to the "R-1" Single Family Dwelling District will make the area more compatible with other urbanized areas of the City that are contiguous to the site. The proposal is therefore viewed as being **consistent** with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: Rezoning the property to the "R-1" Single Family Dwelling District will allow the property to develop more consistent with an urbanizing area. As the fringe areas around Topeka Planning Commission continue to grow, this area will only become more urban in character and therefore the "RR-1" Residential Reserve District zoning is no longer appropriate. Based upon the established land use patterns, the proposed reclassification for the site to the "R-1" Single Family Dwelling District seems more compatible with the area and no detrimental effects are anticipated.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant.**

November 20, 2006
Agenda Item #G.4b

Setbacks: **Compliant.**

Platting: **Compliant** – The area is platted as Sherwood Park Subdivision through Sherwood Park Subdivision No. 9.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
November 20, 2006**

Z06/27 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “R-1” Single Family Dwelling District on property commonly known as Sherwood Park Subdivisions 1 through 9, located at the northwest corner of SW 29th Street and SW Indian Hills Road in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

No one spoke in favor or in opposition to the proposal.

Exparte communications: none

Theron Sims moved approval as written by staff, seconded by Howard Blackmon. **APPROVAL. (9-0-0)**



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Council Chambers
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Topeka, Kansas 66603

November 29, 2006

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DATE: November 28, 2006

CONTACT PERSON: David Thurbon/Bill Fiander DOCUMENT #: N/A

SECOND PARTY/SUBJECT: Topeka Planning Commission PROJECT #: Z06/28

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas from "RR-1" Residential Reserve District TO "OS-1" Open Space District. **Final Reading (Z06/28) (Council District No. 8) (The Planning Commission recommended approval by a vote of 9-0-0 on November 20, 2006.) (The Planning Department recommended approval.)**

(Approval would zone a neighborhood park within the Sherwood Park Subdivision consistent with parks, trails and open space.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of 9-0-0 at their November 20, 2006 meeting. The Planning Department recommended that this request be **APPROVED**.

BACKGROUND:

- See attached staff report.
- City Council options include:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A.

Item #19

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

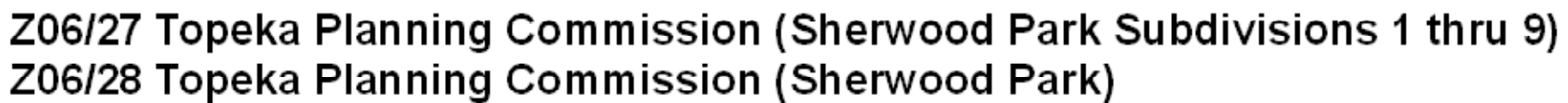
[Aerial](#)

[Vicinity Map](#)

[Ordinance](#)

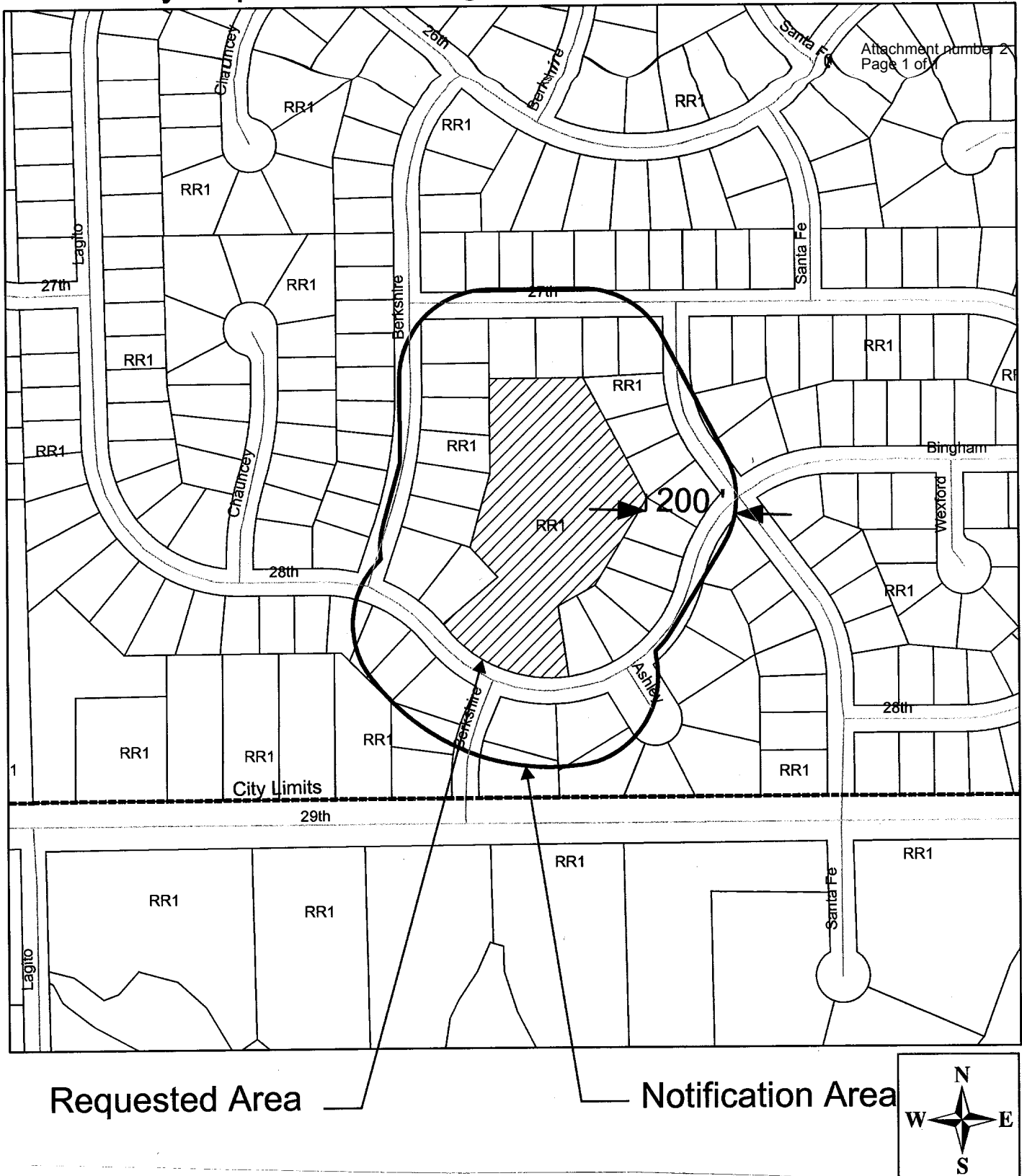
[Staff Report](#)

[Minutes](#)



Z06/28 By Topeka Planning Commission

Attachment number 2
Page 1 of 1



Z06/28 by Topeka Planning Commission requesting to amend the District Zoning Classification from "RR-1" Residential Reserve District TO "OS-1" Open Space District on property commonly known as Sherwood Park Subdivision and located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas.

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property commonly known as Sherwood Park Subdivision, located at the north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas from "RR-1" Residential Reserve District **TO** "OS-1" Open Space District. **(Z06/28) (Council District No. 8)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

Lot 22, Block F, Sherwood Park Subdivision, in the City of Topeka, Shawnee County, Kansas.

from "RR-1" Residential Reserve District **TO** "OS-1" Open Space District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

November 20, 2006
Agenda Item #G.4c

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/28

by: Topeka Planning Commission

PROPOSAL: Zone change from “RR-1” Residential Reserve District to “OS-1” Open Space District on property commonly known as Sherwood Park Subdivision.

LOCATION: On property located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive.

PARCEL ID NUMBERS: 1511204006022000

BACKGROUND: The purpose of the “RR-1” Residential Reserve District is to provide for a transitional area between urbanized development and rural-agricultural areas. “RR-1” zoning comprises most of the Municipal Service Area (MSA) and is intended to allow for the gradual development of urban uses while providing for the coexistence of agricultural farmland based upon the availability of municipal services. In essence, this land is “reserved” for future urbanization. Once platted and annexed, these areas in theory lose their transitional status as designated under “RR-1” zoning and should reflect a more appropriate urban zoning classification, such as “R-1” Single Family Dwelling District.

The purpose of the “OS-1” Open Space District is intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development. The proposed zoning reflects the intended park use of the property which was deeded to the City in 2005.

PRESENT USE: Vacant undeveloped 4.15-acres.

PROPOSED USE: Sherwood Park Subdivision consists of 174 single-family residential lots, with approximately 4.15-acres dedicated for a park. The subdivision was recorded in November 1995.

CHARACTER OF NEIGHBORHOOD: The neighborhood is located in a rapidly developing area in southwest Topeka consisting of single-family residences. The park area is surrounded by single-family homes of Sherwood Park Subdivision.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

ZONING CLASSIFICATION	PRESENT LAND USE
North: “RR-1” Residential Reserve District	Single Family Residential
South: “RR-1” Residential Reserve District	Single Family Residential
East: “RR-1” Residential Reserve District	Single Family Residential
West: “RR-1” Residential Reserve District	Single Family Residential

November 20, 2006
Agenda Item #G.4c

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR IT'S CURRENT USE UNDER PRESENT CLASSIFICATION: The property has remained vacant and unimproved since its platting in November 1995 as Sherwood Park Subdivision and its annexation in the City in February 2005.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property is currently zoned residential reserve district. The site's present classification is viewed as being incompatible and inconsistent for development within the corporate limits. As currently zoned some land uses such as farming/agricultural uses are permitted by right with others permitted by conditional use permit that are not reflective of the property's current urban status. In an "RR-1" District uses such as animal husbandry, oil drilling, kennels, agricultural storage facilities and such are allowed, which may be seen as nuisances in an urban residential area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates the area for *Urban/Suburban Low Density Residential* land use. The proposal appears to conform to the standards set forth in the comprehensive plan relative to existing land use and the suitability for specific land uses.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY: The proposed reclassification would permit the property to remain as open space. Based upon the established pattern of land use and zoning, the proposed reclassification is not anticipated to have a detrimental effect on surrounding properties.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE LANDOWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: There is no hardship to the public or reduced value to the landowner due to the proposed change in zoning. As no detrimental effects are anticipated, there would appear to be no particular gain to the public health, safety or welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this site and will not be overburdened by this proposal.

CONCERNS OF STAFF AND REVIEWING AGENCIES: No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services.

STAFF RECOMMENDATION: Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal.

Prepared by: Cindy Johnson,
Planner I

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
November 20, 2006**

Z06/28 by Topeka Planning Commission requesting to amend the District Zoning Classification from “RR-1” Residential Reserve District **TO** “OS-1” Open Space District on property commonly known as Sherwood Park Subdivision and located north of SW 29th Street between SW Santa Fe Drive and SW Berkshire Drive in the City of Topeka, Kansas. **(Johnson)** Bill Fiander summarized the staff report.

Discussion by members:

Howard Blackmon asked if the city owns this property? Mr. Fiander replied yes. Mr. Blackmon asked why it needs to be rezoned if we own it? Mr. Fiander replied it needs to be zoned to reflect its use as a park. Mr. Blackmon said the staff report states the property should not be less than 5 acres and this is. Mr. Fiander replied many parks are not 5 acres. Mr. Blackmon said he doesn't understand why we need to go through all the paperwork for this. Mr. Fiander replied to make the zoning map accurate. Ralph Skoog said on the right of the map there are parcels that say county. Is this the city limits? He added 27th Street is in the city and the county owns property on both sides of it. Mr. Fiander replied yes. Mr. Skoog asked why there is a block of county in the middle of the city? Mr. Fiander replied the property hasn't been annexed and staff hasn't been instructed to do so. Mr. Skoog added there is less than 20 acres so it could be annexed. Mr. Fiander said that is correct. Mr. Skoog added there are many parcels that could be annexed in this area.

No one spoke in favor or in opposition to the proposal.

Exparte communications: none

Terry Simnitt moved approval as written by staff, seconded by Kimberly Scott. **APPROVAL. (9-0-0)**



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 29, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** Z06/33

SECOND PARTY/SUBJECT: Sims Development Company **PROJECT #:** N/A

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1201 SW Oakley Avenue in the City of Topeka, Kansas from “R-1” Single Family Dwelling District with a Conditional Use Permit for a cultural facility ALL TO “O&I-2” Office and Institutional District. **Final Reading.** (Z06/33) (Council District No. 6)(The Planning Commission recommended approval by a vote of 8-0-1)(The Planning Department recommended approval.)

(Approval would allow the property to be used for office and institutional uses.)

POLICY ISSUE:

The proposal is consistent with the land use policies and principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended the proposal be **APPROVED** by a vote of **8-0-1** at their November 20, 2006 public hearing. The Planning Department recommended the proposal be **APPROVED**.

BACKGROUND:

- See staff report
- The owner has also submitted a re-zoning application for Historic Landmark (HL) overlay district which was recommended for approval by the Topeka Landmarks Commission. The Topeka Planning Commission will hold a public hearing on the case at their December meeting.
- City Council Options:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

Item #20

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Zoning Map](#)

[Aerial Photo](#)

[Rezoning Application](#)

[Letter Opposing O&I-2](#)

[minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 1201 SW Oakley Avenue in the City of Topeka, Kansas from "R-1" Single Family Dwelling District with a Conditional Use permit for a cultural facility **ALL TO** "O&I-2" Office and Institutional District. **(Z06/33) (Council District No. 6)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

A tract of land being in Block 12, Parke Place Addition, being a subdivision (part of the Westboro Substation), in the City of Topeka, Shawnee County, Kansas as fully described below:

Beginning at the Northeast corner of said Block 12; thence Southerly on an assumed Azimuth of 180 degrees 20 minutes 16 seconds, coincident with the East line of said Block 12 for a distance of 150.12 feet to a 3/4" iron bar and the Northeast corner of a tract of land deeded to the City of Topeka, as described in Book 711 at Page 137 in the Shawnee County Register of Deeds Office; thence on an Azimuth of 270 degrees 00 minutes 00 seconds, coincident with the North line of said tract of land deeded to the City of Topeka, for a distance of 140.31 feet to a found chiseled "+" in the concrete at the Northeast corner of Gerlach Lot No. 2, a subdivision in the City of Topeka, Shawnee County, Kansas; thence on an Azimuth of 269 degrees 43 minutes 46 seconds, coincident with the North line of said Gerlach Lot No. 2, for a distance of 24.32 feet; thence on an Azimuth of 00 degrees 39 minutes 35 seconds, for a distance of 149.65 feet to a point on the North line of said Block 12; thence on an Azimuth of 89 degrees 47 minutes 24 seconds, coincident with said North line of Block 12, for a distance of 163.79 feet to the point of beginning.

from "R-1" Single Family Dwelling District with a Conditional Use permit for a cultural facility **ALL TO** "O&I-2" Office and Institutional District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

November 20, 2006
Agenda Item # G-2

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/33

by: Sims Development Company

PROPOSAL: Zone change from "R-1" Single-Family Dwelling District with a "CUP" for a Cultural Facility ALL TO "O&I-2" Office and Institutional District.

LOCATION: 1201 SW Oakley Avenue, southwest corner of Oakley and 12th St.

PARCEL ID NUMBER: 0973503025001010

PRESENT USE: The property is an approximate 24,394 sq. ft. lot with one existing vacant building approved for use as a cultural facility by the Arts Council of Topeka. The building was constructed in the 1930s and historically used as a utility substation.

PROPOSED USE: Adaptive reuse of the existing structure for a professional office with a proposed Historic Landmark Overlay designation. (The Topeka Landmarks Commission will hear the Historic Landmark case on November 9, 2006.)

CHARACTER OF NEIGHBORHOOD: The property is located just north of the Westboro neighborhood. The surrounding area is primarily single-family residential. However, the uses in the immediate proximity of the subject property include multi-family residential dwellings, a City fire station, a VFW post and parking lot, and a utility power station. The subject property lies on the corner of a minor arterial (SW 12th Street) and a collector street (SW Oakley). The Spanish-style Westboro neighborhood commercial center lies one block to the south of the property along SW Huntoon. This Spanish-style structure fits the architectural character and style of the Westboro neighborhood and existing commercial center.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"M-2" Two-Family Dwelling District	Single-family residence
South:	"R-1" Single-Family Dwelling District	City Fire Station
East:	"R-2" Single-Family Dwelling District	Single-family residence
West:	"M-2" Two-Family Dwelling District	Utility power station

November 20, 2006
Agenda Item # G-2

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The Spanish-style structure was constructed as a Western Resources Substation approximately in the 1930s. It has always been zoned “R-1” Single-Family Dwelling District. However, existing records indicate the structure was never used for residential purposes and it does not appear suited for such uses. The building was donated to the Arts Council of Topeka for their use as an arts center in 2001. A Conditional Use Permit was placed on the property at this time to allow for its use as a cultural facility.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The property is currently zoned “R-1” Single-Family Dwelling District with a Conditional Use Permit for a cultural facility. However, the property is not suitably zoned for single-family residential as the present structure located on the property was never used for a residence and is not conducive for residential purposes. The structure was used as a utility substation and then approved for use as a cultural facility. Both of these uses are nearer to being office-type uses than residential in terms of adaptability of the existing structure. The proposed local historic landmark designation would place additional protections on the Spanish-style structure, built in the 1930s. An “O&I-2” classification in combination with a historic landmark overlay designation would allow more flexibility for the adaptive reuse of the building while retaining its historic character.

CONFORMANCE TO COMPREHENSIVE PLAN: The Topeka Land Use and Growth Management Plan – 2025 designates this area for Urban/Suburban Low Density Residential. The Land Use and Growth Management Plan indicates offices within a neighborhood setting should be located along an arterial and collector streets. Therefore, this proposal fits the Comprehensive Plan policies for office development and would also allow for the adaptive reuse of a potential local historic landmark that has been vacant for some time.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Re-use of the building in its historic state should not have a detrimental effect upon the surrounding properties as the property has either been vacant or always been used for office/institutional-type uses. Such a re-use will have a greater benefit on surrounding properties and facilitate more live-work opportunities in the neighborhood.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The proposed reclassification would allow the property to develop in manner consistent with the pattern of surrounding land uses and potentially lead to fewer or shorter traffic trips in/out of the neighborhood. As no detrimental effects are anticipated and some public benefits realized, there should be no significant loss to public health, safety, and welfare by the reclassification of this property.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS: The 2,800 sq. ft. existing structure will require 7 parking spaces at parking ratio of 1 parking space per 400 sq. ft. for professional offices. There appears to be sufficient space on the property to meet the required minimum parking in the

November 20, 2006
Agenda Item # G-2

O&I-2 District. Landscaping regulations will apply at the time of City parking lot permit approval based upon that portion of the property developed for commercial parking.

Minimum Lot Area: **Compliant** – 24,394 sq. ft. (minimum lot area required in O&I-2 is 7,500 sq. ft.)

Setbacks: **Compliant**- The existing structure meets the required setbacks in the “O&I-2” District.

Platting: Platted as a part of Parke Place Addition, Block 12

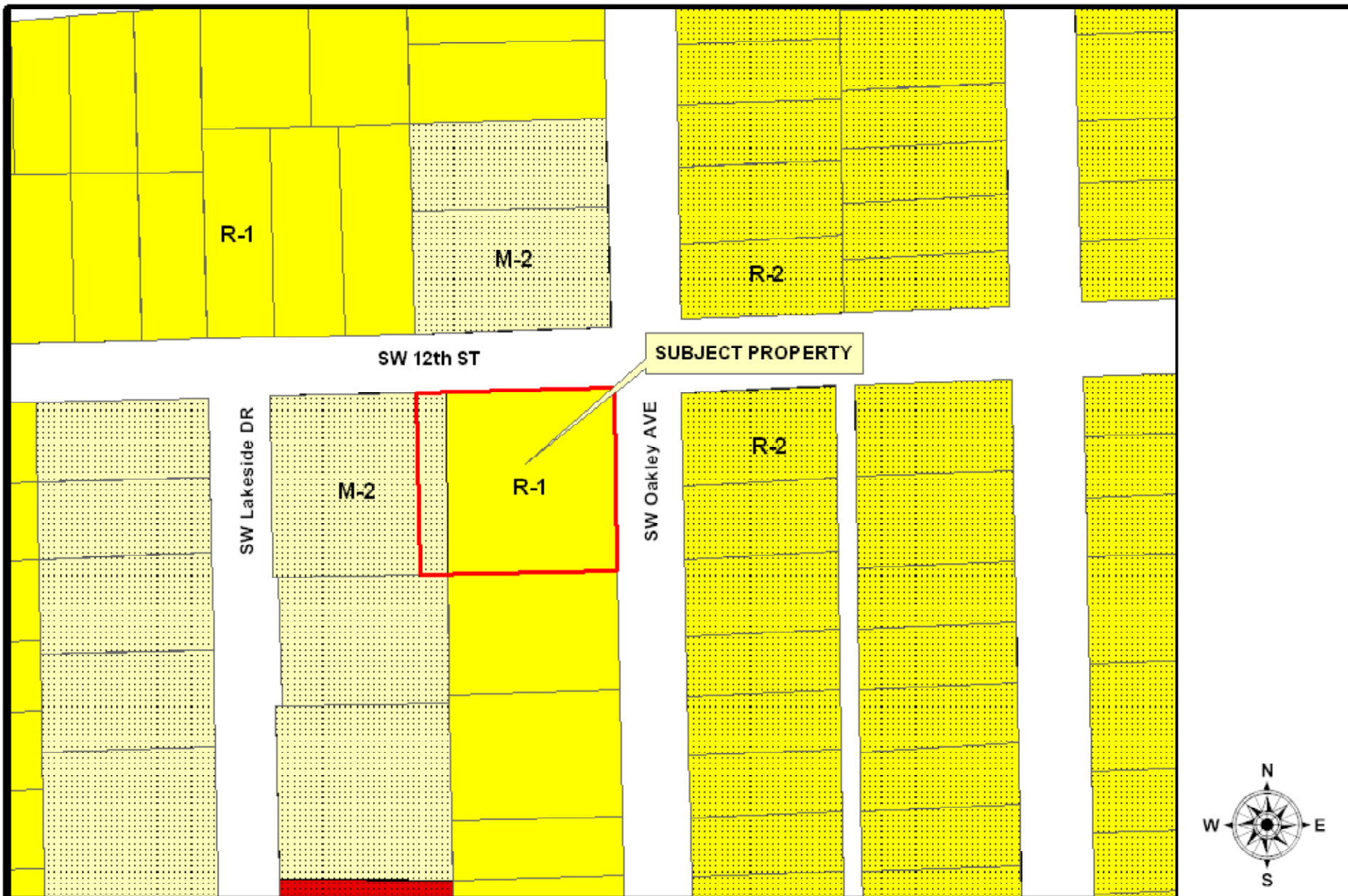
CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service have been resolved or will be addressed at a later stage. City Development Services has stated that the existing gravel driveways and parking areas will need to be improved to City design standards at the time of parking lot permit approval.

ADDITIONAL FACTORS:

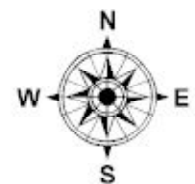
1. Neighborhood Improvement Association: N/A
2. Capitol Area Plaza Authority: N/A
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: There are no National Register properties within 500 ft. .

STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of this proposal.

Prepared by:
Annie Driver, Planner I



P06/33 by: Sims Development Company



P06/33 by: Sims Development Company



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Sims Development Co.

Street Address: 1201 SW Oakley

City: _____ State: KS Zip: 66604 E-mail: theron@simslaw.net

Business phone: 785-235-0200 Home phone: 785-640-3101 Fax: 785-233-0994

Authorized Owner Representative (if any): _____

Street Address: _____

City: _____ State: _____ Zip: _____ E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – If different from above

Scott Gales, Architect One PA

Street Address: 3500 SW Fairlawn, St. 100

City: Topeka State: KS Zip: 66614 E-mail: seg@architectonepa.com

Business phone: 785-271-7010 Home phone: _____ Fax: 785-271-7020

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: Theron L. Sims, Sims Development Co.

Owner 1 Signature:

Date: 08/23/06

Owner 2: _____

Owner 2 Signature: _____

Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 1201 SW Oakley

Legal Description of Property: lot(s) _____ block 12 subdivision Parke Place Addition
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): _____

Type of Application:

1. Re-zoning from: R-1 *w/ CUP for Art + st cultural facility* to: O&I2

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): former Arts Council building

How long has the existing use been on the property? 3 years

Proposed Use (# of dwelling units, square feet, etc.): Professional office building

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 8/3/06

FOR OFFICE USE ONLY

Date submitted: 10-2-06

Date notice sent: 10-27-06

Application no.: 286/33

Date advertised: 10-25-06

Filing fee: \$650.00 Receipt no.: 11416

Date of hearing: 11-22-06

Quarter section map no.: _____

Council district: 6

CHECK YES OR NO

Capital Plaza Area: Yes _____ No X

Within Historic Site Environs: Yes _____ No X

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No X

National/State Historic Register: Yes _____ No X

Airport Hazard Area: Yes _____ No X

Local Historic Resource: Yes _____ No _____

Neighborhood Association: Yes _____ No X

Name of N.I.A./N.A.: _____

Application in progress

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

It is not as conducive as a single family residence. The structure and appearance is that of an office. The building was previously an office and Westar Substation and appears to be an office by the majority of the public.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

I think little change since the property is on a busy corner between an active fire department and a Westar outdoor substation.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

Unknown

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:

On the north side of 12th street there is a 12 inch water main, and on Oakley there is another 12 inch water main

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify water district provider: No

2. Sanitary Sewer

- a. Location and size of sewer main serving site:

There is a 4 inch sewer main

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify sewer district provider: No

3. Storm Drainage

- a. How will storm water run-off be handled on site?

Land naturally slopes to the West. The drives have existing curbing and guttering that allow the water to run-off to Huntoon.

- b. Does the current storm sewer system have adequate capacity for proposed use?

Yes

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

Yes, Huntoon is the public street to the North and Oakley is the public street to the East.

- b. What are the site's existing or proposed access points?

Oakley - driveway

Huntoon - driveway

- c. Will any street improvements or traffic control improvements be required?

No

RECEIVED

NOV 20 2006
TOPEKA PLANNING
DEPARTMENT

PETER F. LINDNER
1197 SW OAKLEY
TOPEKA KANSAS
66604

November 20, 2006

Ralph Skoog
City of Topeka Planning Commission
620 SE Madison
Topeka KS 66607

To Whom It May Concern:

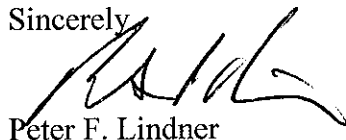
I own three properties in the immediate impact area of the property at 1201 SW Oakley that is being considered for rezoning. I am unable to attend tonight's hearing so please accept this letter as my public comment.

I am supportive of Mr. Sims efforts to rezone the above referenced property. But, I do not feel that "O & I - 2" is appropriate in a residential area such as it is. I feel "O & I - 1" would be the best zoning, if it changes at all, due to the height restrictions that accompany "O & I - 1". I have discussed this with Mr. Sims and he has told me that he is not opposed to "O & I - 1".

This type of adaptive re-use of existing structures is a very important niche for property owners, builders, remodelers and developers to continue to pursue aggressively. This type of activity makes cities vibrant and interesting.

Thank you for your consideration. We look forward to our new neighbor.

Sincerely,



Peter F. Lindner

RECEIVED

NOV 20 2006
TOPEKA PLANNING
DEPARTMENT

PETER F. LINDNER
1197 SW OAKLEY
TOPEKA KANSAS
66604

November 20, 2006

Ralph Skoog
City of Topeka Planning Commission
620 SE Madison
Topeka KS 66607

To Whom It May Concern:

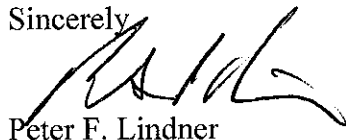
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This type of adaptive re-use of existing structures is a very important niche for property owners, builders, remodelers and developers to continue to pursue aggressively. This type of activity makes cities vibrant and interesting.

Thank you for your consideration. We look forward to our new neighbor.

Sincerely,



Peter F. Lindner

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
November 20, 2006**

Z06/33 by Sims Development Company requesting to amend the District Zoning Classification from “R-1” Single Family Dwelling District with a Conditional Use Permit for a cultural facility **ALL TO** “O&I-2” Office and Institutional District on property located at 1201 SW Oakley Avenue. **(Driver)** Annie Driver summarized the staff report.

Discussion by members:

Ralph Skoog asked if the property to the west remains a substation for the power company? Mrs. Driver replied yes. Mr. Skoog said the fire station is to the south. He asked what is to the west of the fire station? Mrs. Driver replied an apartment complex and the VFW to the south of that.

Proponents:

Scott Gales, Architect I, representative for the owner, spoke in favor of the proposal. He gave some background information concerning the property. He said the property was to be used by the Arts Council but that didn't work out. The applicant is rehabbing the building and will have a law office in the building. He said he is available for questions. Ralph Skoog stated the building has a Spanish tile roof. Will it remain or will be modified? Mr. Gales replied the exterior will stay in tact but will be repaired where needed. Mark Boyd asked if this property will go through a site plan review? Mr. Gales replied yes. Mr. Boyd asked if there is an upgrade in parking if the project will it have to meet landscape requirements? Mr. Gales replied yes. Mr. Boyd asked if the access points will be changed? Mr. Gales said we will follow the plans that were presented by the Arts Council.

Mr. Skoog said there was a letter relating to this proposal that was passed out tonight. Mr. Boyd asked if Mr. Gales had seen the letter? Mr. Gales replied yes. He said the letter states they would rather the zoning be O&I-1. He added the applicant won't have anything in or outside the building that will be detrimental to the neighborhood. He said the intent is to blend into the area. This property is near a fire station and the use won't be any louder than that. Mr. Gales said there really isn't a reason stated for opposition in the letter. Mr. Skoog said the letter states the applicant isn't opposed to O&I-1 zoning, is that true? Mr. Gales replied yes.

Motion:

Fred Sanders moved approval, seconded by Howard Blackmon.

Mr. Skoog said he thinks maybe the zoning should be reduced to O&I-1. The applicant isn't opposed to it. The letter refers to height and that may be the concern. Mr. Boyd asked if during the pre-application meeting if the option of O&I-1 was brought up? Bill Fiander replied yes. O&I-1 or O&I-2 w/historic overlay was discussed. Mr. Fiander replied the ability to have more uses is the reason for the O&I-2. The applicant's historic overlay proposal was approved by the Landmark's Commission and should be on the Planning Commission's agenda next month. The historic overlay requires they have council approval for major changes to the building. Mr. Skoog asked if the changes would be reviewed by Planning? Mr. Fiander replied yes. Mr. Skoog asked what is the height restrictions for the O&I zonings? Mr. Fiander replied 42 feet for O&I-1 and 75 feet for O&I-2. Kimberly Scott added from reading the letter we really don't know the opposition other than they don't care for it. It doesn't clearly state their reason for opposition. Mr. Boyd asked if the zoning case will go to council prior to the Historic Landmarks case? Mr. Fiander replied yes unless the applicant requests otherwise. Mr. Skoog asked if property owners surrounding a Historic Landmark are notified? Mr. Fiander replied yes. Fred Sanders said he doesn't understand what the discussion is about. He asked for O&I-2 and you have one person asking not to give it to him. I don't think one person should be able to sway what he can do.

No one spoke in opposition of the proposal.

Exparte communications: none

Restated motion:

Fred Sanders moved approval, seconded by Howard Blackmon. **APPROVAL. (8-0-1) Commissioner Sims abstained due to a conflict of interest.**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 28, 2006

+ Back Print

DATE: November 28, 2006
CONTACT PERSON: Braxton B. Copley
SECOND PARTY/SUBJECT:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 010 Alcoholic Beverages
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. concerning cereal malt beverage retailer license fees, amending City of Topeka Code § 30-53 and specifically repealing said original section. First Reading.

(This ordinance will reduce the yearly license fee for a limited retailer of cereal malt beverages.)

POLICY ISSUE:

It is necessary to change the City code in order to be consistent with state law.

STAFF RECOMMENDATION:

Approve

BACKGROUND:

Current city code establishes a limited retailer (package sales of cereal malt beverages only) fee of \$100. State law limits the amount of the fee to \$50.00.

BUDGETARY IMPACT:

Ordinance will reduce amount collected for cereal malt beverage retailer license fees from \$100 to \$50 for each license.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. concerning cereal malt beverage retailer license fees, amending City of Topeka Code § 30-53 and specifically repealing said original section.

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

Section 1. Topeka City Code § 30-53, Same-Cereal malt beverage retailer, is hereby amended to read as follows:

(a) All applications for a license to sell cereal malt beverages at retail in original and unopened containers and not for consumption on the premises shall be accompanied by a limited retailer license fee of ~~one hundred~~ fifty dollars (\$~~400~~50.00) per year which fee shall be in addition to any fee charged by the State of Kansas.

(b) All applications for the sale of cereal malt beverages for consumption on the premises shall be accompanied by a general retailer license fee of two hundred dollars (\$200.00) per year which fee shall be in addition to any fee charged by the State of Kansas.

(c) In addition to the foregoing license fee any person desiring a cereal malt beverage license for consumption on or off premises shall pay the following administrative fees for inspection of the premises:

General inspection fee (per hour): . . . \$50.00

Expedited inspection fee with less than twenty-four (24) hour notice (per hour): . . . \$100.00

Section 2. Original City of Topeka Code § 30-53 are hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 1, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Bruno and Frances Langer **PROJECT #:** V04S/5

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of the South Half of SE 31st Street extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision extending located north of 3100 SE Granger Street, City of Topeka, Shawnee County, Kansas. First Reading.
(V04S/5)(Council District #4)

(Approval would vacate a 15-foot wide unimproved portion of SE 31st Street and establish necessary utility and access easements)

POLICY ISSUE:

N/A.

STAFF RECOMMENDATION:

The Planning Department Staff has evaluated this proposal relative to existing land uses and the plat of subdivision, and, recommends **APPROVAL** of the proposed vacation conditional to retaining: 7.5 feet for a pedestrian easement and 15 feet for sanitary sewer, utility, and drainage easements.

BACKGROUND:

- The Kansas Statutes and Topeka Code Section 130-476(b) requires a public hearing in conjunction with proposed vacation petitions which have been filed in accordance with a prescribed procedure.
- The 30' right-of-way has remained undeveloped since the approval of the plat (Shawnee Estates Subdivision) in 1976. The property owners wish to vacate the south half of the right-of-way and enclose a portion of it as a part of their side yard. They have maintained the right-of-way as part of their property.
- A city water line is located in the north half of the platted right-of-way.
- The right-of-way has historically been used by pedestrians traversing from the neighborhood to Lake Shawnee.
- Approval of the vacation should not be construed to imply support for any subsequent land development. If approved, the owner's existing fence would need to be relocated so as to not encroach upon the pedestrian easement.

BUDGETARY IMPACT:

N/A.

Item #22

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Ordinance](#)

[Plat](#)

[Aerial](#)

[Legal Advertisement](#)

[Department Comments](#)

[Application](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of the South Half of SE 31st Street extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision extending located north of 3100 SE Granger Street, City of Topeka, Shawnee County, Kansas. **(V04S/5) (Council District No. 4)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Bruno & Frances Langer, as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described platted street right-of-way located within the City of Topeka, Shawnee County, Kansas:

The South Half of SE 31st Street in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on November 28, 2006, the petition is ready for determination by the Council of the City of Topeka, Kansas.

Section 3. That the Council of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Council of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described platted street right-of-way located within the City of Topeka, Kansas:

The South Half of SE 31st Street in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires the provision for a pedestrian access easement, a sanitary sewer maintenance access easement, and a utility and drainage easement to be established over the described property as set forth in Section 4 and does hereby order the retention of the below described area as easements:

Pedestrian Access Easement: A 7.5 foot wide permanent pedestrian access easement, the North line of which is coincident with the Centerline of SE 31st Street in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Sanitary Sewer Maintenance Access Easement: The South Half of SE 31st Street in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Utility and Drainage Easement: The East 15 feet of the South Half of SE 31st Street, the East line of which is coincident with the East line of Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the North line of Lot 2, Block "G" in said subdivision to the Centerline of SE 31st Street.

Section 6. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 7. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka _____, 2006.

William W. Bunten, Mayor

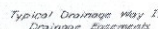
ATTEST:

Iris E. Walker, City Clerk

To Be Codified ____
Not To Be Codified **X**



V04S/5 by Bruno & Frances Langer

[illegible]

EASEMENT:
An easement or license is hereby granted to the public utilities to locate, construct and maintain or authorize the location, construction, maintenance and size of conduits for all and any purpose including water, gas, sewer mains, poles and wire of all, or any of them over, under and along the strips marked Utility Easement. A temporary construction easement of 12 feet, adjacent to the side of utility easements, is dedicated for the use of public utilities while construction is in progress.

BUILDING LINES:
Building lines or setback lines are hereby established as shown on the attached plat and no building or portion thereof shall be built between this line and the street line.

Lucille M. Stevens
Lucille M. Stevens aka Lucille Stevens

My Commission Expires: 3-10-1990

GENE C. MARTIN
STATE NOTARY PUBLIC
Shawnee County, Kansas
My Appointment Expires
3-14-1980

Installation of water main and/or connection charges have been made with the City Water Department.

KRAMER ENGINEERING TOPEKA	
JOB NO. 7668	DATE SEPT.

STREET/ALLEY/EASEMENT/SUBDIVISION VACATION

Case No.: V04S/5 Location: Part of SE 31st St. right-of-way
located between 3036 & 3100 SE Granger St.

DEPARTMENTS:

- **Water Division:** X No Objection Objection
Comments: There is an existing 4" water main located in the north ½ of the right-of-way. An easement across the south ½ should be retained for any future maintenance of the water line.
- **Engineering:** No Objection X Objection
Comments: We will retain a 7.5' wide pedestrian access easement adjacent to the centerline of SE 31st St.; a 15' wide sanitary sewer maintenance access easement over the S. ½ of 31st St. for access to the N-S sewer; a 15' wide utility and drainage easement, N-S for continuity over existing utilities. I talked with Water and their main is in the N. ½ of 31st St., which will remain as right-of-way; NO easement for waterline on S. ½.
- **County Refuse:** X No Objection Objection
- **Fire Department:** X No Objection Objection
- **Police Department:** X No Objection Objection

UTILITY COMPANIES:

- **Southwestern Bell:** X No Objection Objection
- **Westar:** X No Objection Objection
- **Kansas Gas Service:** X No Objection Objection
- **Cox Communications:** X No Objection Objection

Cindy Johnson, Planner I

August 15, 2006

TOPEKA PLANNING DEPARTMENT

620 SE Madison Street-3rd Floor
Topeka, Kansas 66607

Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY

Date Submitted	Date Advertised
Application No.	Date of Public Hearing
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$	Receipt No.

APPLICATION

City Vacation of Streets, Alleys and Easements

1. Applicant(s): BRUNO F. + FRANCES E. LANGER
2. Applicant's Mailing Address: 3100 36 GRANGER ST.
City TOPEKA State: KANSAS Zip: 66605-2271
3. Telephone: Area Code: 785 No.: 266-3140
4. Legal description of property requested to be vacated as prepared by the City of Topeka Department of Public Works: _____

5. Check type of vacation: Street ☒ Alley _____ Easement _____ Other _____
6. Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated:
Lots 2 Block No. 9
In _____ Subdivision SHAWNEE ESTATES

Metes and Bounds Description, if unplatted: _____

2006 SEP - 5 P 1:32

RECEIVED
CITY CLERK
TOPEKA, KS

7. Are there other owners of land who own property adjoining the subject street, alley or easement proposed to be vacated who, pursuant to K.S.A. 12-504, would be a property party to the petition to vacate?

Yes ☒ No ☒

If yes, please list said owner's name(s) and mailing address.

TERESA ROBINSON (785) 267-1937
3036 SE GRANGER ST.
TOPEKA, KS 66605-2271

8. Briefly, describe the proposed development of the subject property and your reasons for vacating the property: NO DEVELOPMENT ONLY WISH TO ENCLOSE PROPERTY AS PORTION OF SIDE YARD. PLAY AREA FOR CHILD.
9. Will the area proposed for vacation preclude, restrict, hamper or lessen ingress-egress to other similarly abutting properties? No
10. Do you concur with the retention of the subject area as an easement should the reviewing utility or public agency request such to cover existing or proposed utility lines? ANY REQUIRED EASEMENTS OR ROW WILL BE ADDED UPON AS DISCUSSED WITH CITY OFFICIALS
11. Will any permanent structures be constructed within the area proposed for vacation? No
12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions? No
13. How are adjoining properties used? SINGLE FAMILY RESIDENCES
14. In your opinion, would the proposed vacation injure or endanger any private rights? No

15. In your opinion, would the public suffer any loss or inconvenience should the petition to vacate be approved? NO

16. In the event this proposed vacation is to vacate street or alley right-of-way, are you aware of the applicability of the district zoning on the subject property? Please briefly explain: CURRENT ZONING ON AREA PROPERTIES IS "R-1" SINGLE FAMILY. THE STREET EASEMENT CURRENTLY IS TOO SMALL FOR ANY STREET CONSTRUCTION. THE PROPERTY WILL NOT HAVE ANY PERMANENT STRUCTURE BUILT UPON IT.

Signature of Applicant(s)

Munt L. Langer
Frances E. Kells Langer

(Please Attach Any Additional Information)

If the owner(s) of record is to be represented by legal counsel or an authorized agent, please complete the following so that communications pertaining to this application may be forwarded to the appropriate individual.

Name of Representative THOMAS Q. LANGER
Street Address 4650 SE 28TH STREET
City TOPEKA State KANSAS Zip Code 66605
Telephone No. (785) 554-7226 Fax No. ()

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on December 1, 2006 and again on December 8, 2006.

IN THE MATTER OF THE PROPOSED VACATION OF:

The South Half of SE 31st Street extending from the east line of SE Granger Street to the east line of Shawnee Estates Subdivision located north of 3100 SE Granger Street, City of Topeka, Shawnee County, Kansas. (V04S/5) (Council District No. 4)

NOTICE OF PUBLIC HEARING

(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Bruno and Frances Langer, as owners of the concerned property, which includes the south half of SE 31st Street extending from the east line of SE Granger Street to the east line of Shawnee Estates Subdivision located north of 3100 SE Granger Street, City of Topeka, Shawnee County, Kansas, with the Clerk of the City of Topeka, Kansas; and praying that the public street right-of-way located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on December 19, 2006, at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

**BY THE GOVERNING BODY,
CITY OF TOPEKA, KANSAS**



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 1, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Nelson Banman et al. **PROJECT #:** V06S/2

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of all of SE Lake Terrace Road in Shawnee Estates Subdivision extending from the East line of SE Granger Street to the east line of Shawnee Estates Subdivision located south of 3108 SE Granger Street, City of Topeka, Shawnee County, Kansas. **First Reading.** (V06S/2)(Council District No. 4)

(Approval would vacate a 30-foot wide unimproved portion of SE Lake Terrace Road and establish necessary utility easements)

POLICY ISSUE:

N/A.

STAFF RECOMMENDATION:

The Planning Department Staff has evaluated this proposal relative to existing land uses and the plat of subdivision, and, recommends **APPROVAL** of the proposed vacation conditional to retaining necessary utility easements.

BACKGROUND:

- The Kansas Statutes and Topeka Code Section 130-476(b) requires a public hearing in conjunction with proposed vacation petitions which have been filed in accordance with a prescribed procedure.
- The 30' right-of-way has remained undeveloped since the approval of the plat (Shawnee Estates Subdivision) in 1976 . The property owners wish to formally vacate the right-of-way and continue to maintain it as an enclosed portion of their side yard.
- A city water line is located in the north half of the platted right-of-way.
- The right-of-way has historically been enclosed by the adjacent property owners.
- The ordinance reflects retention of a sanitary sewer access easement, a drainage/utility easement, and a water line easement.
- Approval of the vacation should not be construed to imply support for any existing or subsequent land development.

BUDGETARY IMPACT:

N/A.

Item #23

SOURCE OF FUNDING:

N/A.

ATTACHMENTS:

[Ordinance](#)

[Site Plan](#)

[Aerial](#)

[Application](#)

[Department Comments](#)

[Legal Advertisement](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of all of SE Lake Terrace Road in Shawnee Estates Subdivision extending from the East line of SE Granger Street to the east line of Shawnee Estates Subdivision located south of 3108 SE Granger Street, City of Topeka, Shawnee County, Kansas. **(V06S/2) (Council District No. 4)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Nelson Banman et al., as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described platted street right-of-way located within the City of Topeka, Shawnee County, Kansas:

All of Lake Terrace Road in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on December 12, 2006, the petition is ready for determination by the Council of the City of Topeka, Kansas.

Section 3. That the Council of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Council of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described platted street right-of-way located within the City of Topeka, Kansas:

All of Lake Terrace Road in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires the provision for a sanitary sewer maintenance access easement, a utility and drainage easement and a water line easement to be established over the described property as set forth in Section 4 and does hereby order the retention of the below described area as easements:

Sanitary Sewer Maintenance Access Easement: A 16 foot wide permanent sanitary sewer maintenance access easement, the Centerline of which is coincident with the Centerline of Lake Terrace Road in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Utility and Drainage Easement: The East 15 feet of Lake Terrace Road, the East line of which is coincident with the East line of Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the North line of Lot 3, Block "F" in said subdivision to the South line of Lot 1, Block "G" in said subdivision.

Water Line Easement: A permanent water line easement, being the North Half of Lake Terrace Road in Shawnee Estates Subdivision in the City of Topeka, Shawnee County, Kansas, extending from the East line of SE Granger Street to the East line of Shawnee Estates Subdivision.

Section 6. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 7. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka _____, 2006.

William W. Bunten, Mayor

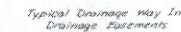
ATTEST:

Iris E. Walker, City Clerk

To Be Codified ____
Not To Be Codified X

BOOK 27 Page 82

T0-571-H - H-E03-72-16-162-002-006
72-572-2
571-3 H-E03-72-16-162-003-001
72-571-A
571-8 H-E03-72-16-162-002-009
SW COR. W/12, S/12, NE 1/4
SEC. 10, T12S, R12E
T0-571-H - H-E03-72-16-162-003-005

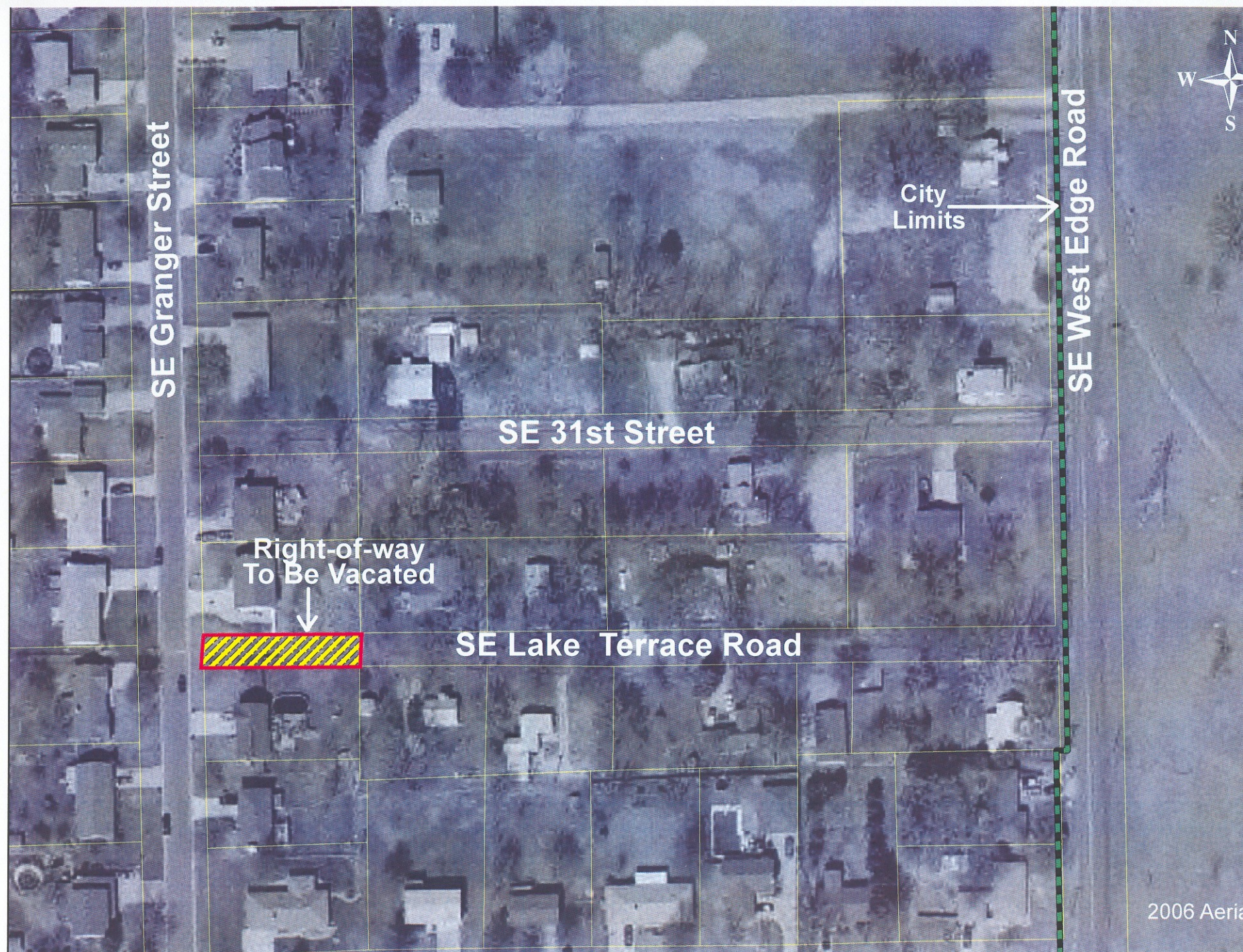


Clarence A. Steiner
Lucille M. Steiner

Gene C. Martin
Notary Public

GENE C. MARTIN
 STATE NOTARY PUBLIC
 Shawnee County, Kansas
 My Appointment Expires
 3-10-1980

KRAMER ENGINEERING TOPEKA	
JOB NO. 7668	DATE SEPT 1



V06S/2 by Nelson Banman et al.

STREET/ALLEY/EASEMENT/SUBDIVISION VACATION

Case No.: V06S/2

Location: SE Lake Terrace Road located south of
3108 SE Granger Street

DEPARTMENTS:

- **Water Division:** X No Objection Objection
Comments: There is an existing 4" water main through the area to be vacated. An easement will need to be retained across the right-of-way to accommodate the water line.

- **Engineering:** X No Objection Objection
Comments: We will retain a 15' wide pedestrian access easement centered on Lake Street centerline; a 16' wide sanitary sewer maintenance access easement centered on the Lake Street centerline, for access to the N-S sanitary sewer; a 15' wide utility and drainage easement, N-S for continuity over existing utilities; and a waterline easement over the N. half of Lake Terrace Road.

- **County Refuse:** X No Objection Objection

- **Fire Department:** X No Objection Objection

- **Police Department:** X No Objection Objection

UTILITY COMPANIES:

- **AT&T:** X No Objection Objection
Comments: If the right-of-way that is requested to be vacated does not extend into the rear utility easement – AT&T is okay with vacation. AT&T has cable buried along the east side in an utility easement.

- **Westar:** X No Objection Objection

- **Kansas Gas Service:** X No Objection Objection

- **Cox Communications:** X No Objection Objection

Cindy Johnson, Planner I

October 26, 2006

TOPEKA PLANNING DEPARTMENT

620 SE Madison Street-3rd Floor
Topeka, Kansas 66607

Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY

Date Submitted 9-20-06

Date Advertised

Application No. 1865/2

Date of Public Hearing

TO BE COMPLETED BY CITY CLERK'S OFFICE

Filing Fee \$ 250.00

Receipt No. 09516

APPLICATION

City Vacation of Streets, Alleys and Easements

1. Applicant(s): Nelson & Barb Banman
2. Applicant's Mailing Address: 903 SE 42nd Terr.
City Topeka State: KS Zip: 66609
3. Telephone: Area Code: 785 No.: 221-4246
4. Legal description of property requested to be vacated as prepared by the City of Topeka Department of Public Works: Southerly 30' of Lot 1, Block G, and Northerly 30' of Lot 3, Block F, Shawnee Estates Subdivision
5. Check type of vacation: Street ☒ Alley ☐ Easement ☐ Other ☐
6. Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated:
Lots 1 & 3 Block No. G and F
In Shawnee Estates Subdivision Topeka, KS
(Refer to attached ILC)

Metes and Bounds Description, if unplatted:

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on December 1, 2006 and again on December 8, 2006.

IN THE MATTER OF THE PROPOSED VACATION OF:

All of SE Lake Terrace Road in Shawnee Estates Subdivision extending from the east line of SE Granger Street to the east line of Shawnee Estates Subdivision located south of 3108 SE Granger Street, City of Topeka, Shawnee County, Kansas. **(V06S/2) (Council District No. 4)**

NOTICE OF PUBLIC HEARING

(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Nelson Banman et al. as owners of the concerned property, which includes all of SE Lake Terrace Road in Shawnee Estates Subdivision extending from the east line of SE Granger Street to the east line of Shawnee Estates Subdivision located south of 3108 SE Granger Street, City of Topeka, Shawnee County, Kansas, with the Clerk of the City of Topeka, Kansas; and praying that the public street right-of-way located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on December 19, 2006, at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

**BY THE GOVERNING BODY,
CITY OF TOPEKA, KANSAS**



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 28, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: Lana Kennedy **DOCUMENT #:**

SECOND PARTY/SUBJECT: Downtown BID service fee levy - 2007 **PROJECT #:**

CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 042 Community Development

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Lana Kennedy relating to the Capital City Downtown Business Improvement District, establishing a service fee levy for 2007, amending City of Topeka Code Section 42-38 and specifically repealing said original section. First Reading. *(Council District 1)*

(The ordinance proposes that the 2007 service fee levy remain at the 2006 service fee level.)

POLICY ISSUE:

Whether or not the City Council shall adopt a Capital City Downtown Business Improvement District service fee levy for 2007.

STAFF RECOMMENDATION:

Approve

BACKGROUND:

This ordinance proposes that the 2007 service fee levy remain at the 2006 service fee levy.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[BID Budget Letter](#)

[BID Fact Sheet](#)

[2007 Draft Budget](#)

[Ordinance](#)

Item #24

May 25, 2006

Ms. Iris Walker, City Clerk
City of Topeka
215 SE 7th Street
Topeka, KS 66603-3914

Dear Ms. Walker:

Pursuant to Sec. 42-39(a) of the Topeka Code, enclosed you will find a proposed 2007 budget for the Capital City Downtown Business Improvement District. Identified below is the recommended program of services. As in the past, we plan to carry out a program of services that will:

1. Create an attractive physical environment;
2. Create an attractive economic condition; and
3. Strive to achieve excellence in the quality of life as a center of government, commerce, cultural, historic and recreational activities.

More specifically, the Advisory Board plans to:

1. Provide for the general maintenance and cleaning of the District;
2. Continue to maintain the District amenities (park bench kiosks, trash receptacles, etc.)
3. Provide water for the maintenance of the plant materials within the streetscape;
4. Continue to partner with Parks and Recreation of Topeka with the expenses associated with maintenance of the plants, flowers and greenery downtown;
5. Replace dead plant material and trees as needed;
6. Provide routine maintenance of the equipment used in downtown cleaning;
7. Offer \$20,000 in matching grants for the Façade Improvement Program;
8. Award grants to help support special events downtown;
9. Promote the district through the use of media advertising and printed materials;
10. Maintain a web site for downtown;
11. Provide some incentives for downtown housing development;
12. Maintain the newly designed Jackson Street for trash pickup in the greenscape area;

13. Continue to contract with Downtown Topeka, Inc. for administrative services that include Inventory Maintenance, Promotional Services, Marketing and Development Services.

At this time, we do not plan to recommend any changes to the district boundaries nor do we anticipate any increases in the assessment rate.

Thank you for your assistance in recording the receipt of this document.

Sincerely,

Susan Mahoney
Executive Director

Cc; Ed Carmona, Chairman
City Manager Norton Bonaparte
Mayor Bill Bunten
Jim Langford, Director of Budget

BID FACT SHEET

BID Program of Services:

- Create an attractive physical environment
- Create an attractive economic condition; and
- Strive to achieve excellence in the quality of life as a center of government, commerce, cultural, historical and recreational activities.

More Specifically:

- Provide for the general maintenance and cleaning of the District, including District amenities (Park benches, kiosks, trash receptacles, etc.)
- Provide water for the maintenance of the plant materials within the streetscape;
- Continue to partner with Parks and Recreation of Topeka with the expenses associated with maintenance of the plants, flowers and greenery downtown;
- Maintain Jackson Street for trash pickup in the greenscape area;
- Replace dead plant material and trees as needed;
- Provide routine maintenance of the equipment used in downtown cleaning;
- Offer \$20,000 in matching grants for the Façade Improvement Program;
- Promote the district through the use of media advertising, printed materials and maintain a website for downtown;
- Lend support to special community events downtown such as barricades, portable restrooms, and other logistical support as needed (ordinances, permits, tables and chairs, marketing, staff support).
- Purchase and maintain flags along Kansas Avenue.

Other Notes:

- Added hanging flower baskets in the 700 block in 2005. The 600 block was added in 2006.
- A new website has been created much more user friendly and highly promotes the district and its businesses.
- Kiosks and trash containers were repainted and cleaned up in 2004.
- The District employs two and a half employees who are clearly identifiable with clothing marked with the BID logo-started in 2004.
- Barricades average \$2400-\$3000 for large events, MKA, Mexican Fiesta, and St. Pat's.
- Portable restrooms cost \$175 per unit for handicap and \$75 for other.
- Participated in 11 community events in 2006.

2007 Capital City Downtown BID Program of Services/Budget

	2007 Budget
BID Reserve	\$35,036.00
Projected/Actual Revenue Current & Prior Years	\$181,883.00
Uncollectables	(\$20,705.00)
Total Revenue	\$196,214.00
Projected/Actual Expenses:	
District Maintenance	
1 Contract for Janitorial Services	\$20,000.00
2 District Amenities	\$3,800.00
3 Water Usage	\$1,300.00
4 Landscape Maintenance	\$14,200.00
5 Landscape Improvements	\$1,000.00
6 Maintenance Equipment	\$3,500.00
7 Façade Matching Grant Program	\$20,000.00
8 Brick Sidewalk Repairs	\$10,000.00
9 Electrical Maintenance	\$3,000.00
Category Total	\$76,800.00
District Programming	
11 Special Events	\$11,029.00
Category Total	\$11,029.00
District Promotion	
12 Media Advertising	\$7,400.00
13 Printed Materials	\$2,600.00
14 District Promotion Other	\$5,000.00
15 Housing Initiatives	\$1,500.00
Category Total	\$16,500.00
District Admin. - Downtown Topeka, Inc.	
16 Inventory Maintenance	\$7,073.00
17 Promotional Services	\$21,220.00
18 Marketing Services	\$21,220.00
19 Development Services	\$14,145.00
20 Office/Overhead	\$17,727.00
21 Postage	\$3,000.00
22 Dist. Admin. Other	
Category Total	\$84,385.00
New Opportunities	
23 Security	\$7,500.00
Category Total	\$7,500.00
Category Totals	
District Maintenance	\$76,800.00
District Programming	\$11,029.00
District Promotion	\$21,500.00
District Administration	\$84,385.00
New Opportunities	\$7,500.00
TOTAL Expenses	\$196,214.00

(Published in the Topeka Metro News_____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Council Member Lana Kennedy, relating to the Capital City Downtown Business Improvement District, establishing a service fee levy for 2007, amending City of Topeka Code § 42-38 and specifically repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code § 42-38, Method of raising revenue, is hereby amended to read as follows:

Method of raising revenue.

(a) The method to be used to raise the funds necessary for the district shall be the levy of service fees upon all businesses located within the district, as defined by K.S.A. 12-1782(b), based on the number of square feet of floor area occupied by each business within the district. For the purposes of this article, the operation of multifamily residential property and the operation of structured parking facilities shall not be considered to be a business.

(b) The service fees assessed shall be as follows:

<i>Number of square feet</i>	<i>Rate per square foot</i>
0 – 999	\$0.00
1,000 plus	0.049

However, the maximum service fee per business shall be eleven thousand dollars (\$11,000.00) regardless of the number of square feet.

(c) For the purposes of this article, the number of square feet of floor area occupied shall be determined as the total area designated for the exclusive use by the owner or tenants expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. In the case of leased property, square feet of floor

area occupied is considered that area for which tenants pay rent. In no event shall square feet of floor area occupied include public toilets, corridors, stairwells, elevators, mechanical equipment rooms, lobbies, mall areas, or hotel sleeping rooms. Further, in no event shall square feet of floor area occupied include area which is unusable, is not occupied due to applicable city codes, or is not in active use by a tenant. In the case of a building occupied by a single business, the gross floor area may be reduced by subtracting the actual measured square footage of excluded areas as defined in this section or by subtracting fifteen (15) percent of the gross floor area, whichever is greater.

(d) Service fees under this section shall be levied for the year 2006~~7~~ and shall be due and payable in two (2) semiannual installments. Service fees shall be deemed delinquent if not paid within thirty (30) days of the due date provided for the second semiannual installment.

Section 2. Original City of Topeka Code § 42-38 is hereby specifically repealed.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council_____.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 27, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**

SECOND PARTY/SUBJECT: Mission Woods Medical Office Park **PROJECT #:** Z84/52J and Z84/53J

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 007 Zoning

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the Master PUD Plan of Mission Woods Subdivision by providing for development of a small animal clinic on property located at the northeast corner of SW Urish Road and SW 29th Street in the City of Topeka, Kansas. **First Reading.** (Z84-52J and Z84-53J) (Council District No. 8)(Planning Commission recommended approval 8-0-0)(Planning Department recommended approval)

(Approval would allow inclusion of a small animal hospital as a permitted use within the office/medical park.)

POLICY ISSUE:

Request is consistent with the land use principles of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **8-0-0** at their September 18, 2006 meeting as referenced in the attached minutes. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See Staff Report
- City Council options:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

Item #25

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Zoning Map](#)

[Application \(4 pages\)](#)

[Minutes](#)

[Exhibit](#)

[Exhibit](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the Master PUD Plan of Mission Woods Subdivision by providing for development of a small animal clinic on property located at the northeast corner of SW Urish Road and SW 29th Street in the City of Topeka, Kansas. **(Z84/52J & Z84/53J) (Council District No. 8)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the Master PUD Plan of Mission Woods Subdivision, is hereby amended in accordance with Section 48-24.06(b) of the Comprehensive Zoning Regulations by providing for development of a small animal clinic on property located at the northeast corner of SW Urish Road and SW 29th Street and described as follows:

Legal Description:

Lot 1 and Lot 2, Block "A" of Mission Woods Subdivision #2 in the City of Topeka, Shawnee County, Kansas

Containing 17.86 acres more or less.

Section 2. That the development of the site for small animal clinic shall be in accordance with the Master PUD Plan of Mission Subdivision and **subject to:**

- 1. Use and development of the site in accordance with the recorded Amended Master PUD Plan of the Mission Woods Subdivision Master Planned Unit Development Plan.**

Section 3. That the amended Master PUD Plan of Mission Woods Subdivision shall be filed of record with the Shawnee County Register of Deeds. Following the recording of the Master PUD Plan and in accordance with Topeka Code Section 48-24.04, prior to any building and/or land development on the site, a site development plan shall be submitted for review and administrative approval by the Planning Director.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

Section 5. This Ordinance Number shall be fixed upon the "District Map".

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
September 18, 2006**

Z84/52J & Z84/53J by Mission Woods Medical Office Park requesting to amend the Master PUD Plan of Mission Woods, which will allow for a small animal clinic on property located on the northeast corner of SW Urish Road and SW 29th Street. **(Diediker)** Dean Diediker summarized the staff report.

Proponents:

Mike Morse, KS Commercial, spoke in favor of the proposal. He stated the architect for the project Scott Gales, Architect I, was available for questions. Mr. Morse said he has contact all owners within the PUD and they all agree with the proposal. Ralph Skoog asked if that included all leased? Mr. Morse said only owners but I am sure they contacted their leasers. Theron Sims asked if the applicant agrees to the staff report? Mr. Morse replied yes. Jim Brown asked if there would be outside dog runs? Mr. Morse replied no, this is a great area and we don't want to change it. Michelle Hoferer asked if surrounding property owners were notified? Mr. Diediker replied yes. Ms. Hoferer asked if staff had been contacted by anyone against the proposal? Mr. Diediker said he had some inquires but none in opposition. Mark Boyd asked what type of small animal hospital? Mr. Morse gave examples of cats, dogs, rabbits, etc. Mr. Boyd asked how is it gauged to be a small animal? Mr. Fiander stated the zoning code defines it as domestic animals or pets.

No one spoke in opposition to the proposal.

Exparte communications: None

Theron Sims moved approval as written by staff, seconded by Ralph Skoog. **APPROVAL. (8-0-0)**

September 18, 2006
Agenda Item #G-4

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z84/52J & Z84/53J Mission Woods Subdivision PUD by: Mission Wood Medical and Office Park

PROPOSAL: A request initiated by Mission Wood Medical and Office Park to amend the Master PUD Plan of the *Mission Woods Subdivision Master Planned Unit Development Plan* to allow inclusion of a small animal hospital as a permitted use within the PUD. In accordance with Section 48-24.06 of the Comprehensive Zoning Regulations, it is the determination of the Planning Director that the proposed change constitutes a *major amendment*.

LOCATION: On property at 2810 SW Mission Woods Drive.

PARCEL ID NUMBER: 1430803010023070.

PRESENT USE: Medical Office Building.

PROPOSED USE: The applicant proposes to amend the PUD "O&I-2" Office and Institutional District use group, to allow inclusion of a small animal hospital as a permitted use within the PUD. Boarding and outside runs would be prohibited.

CHARACTER OF NEIGHBORHOOD: The neighborhood is composed of a mix of residential, commercial and office uses. Immediately north, is the Capitol Financial office building, east is an undeveloped portion of the PUD and residential development, to the south is the Cotton O'Neal Medical Clinic the Dillon's Supermarket and an area of residential development lying outside the corporate limits, to the west is the Brennan Funeral Home and the Mission Township Cemetery which is also outside the corporate limits.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"PUD" "O&I-2" and "C-2" use group	Capitol Financial office
South:	"RR-1" Residential Reserve District	Residential (outside city limits)
	"C-2" Commercial District	Cotton - O'Neil Medical Clinic
	"PUD" "C-2" use group	Dillon's Supermarket

September 18, 2006
Agenda Item #G-4

East:	"PUD" "O&I-2" and "C-2" use group "RR-1" Residential Reserve District	Undeveloped area of PUD Residential (outside city limits)
West:	"PUD" "O&I-2" use group "RR-1" Residential Reserve District	Brennan Funeral Home Mission Township Cemetery (outside city limits)

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The property has been a part of the Mission Woods Subdivision Master Planned Unit Development Plan since its inception in 1984 and has maintained its current "PUD" "O&I-2" use group classification since the plan was amended in 1992, changing the PUD use group classification from Multiply-Family Dwelling District.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The site's present classification is consistent with the established pattern of zoning and land use in the area and remains suitable for the uses to which presently restricted. Amending the plan will allow for an additional use customarily permitted under the "O&I-2" Office and Institutional use group designation; that being a small animal clinic or animal hospital. The clinic or animal hospital that is proposed will have no outside animal runs and no boarding of animals is to be permitted.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* designates this area as *Urban/Suburban Low Density Residential* land use. However, accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision. The current PUD use group classifications of "O&I-2" Office and Institutional and "C-2" Commercial were established when the original PUD was amended in 1992. The proposal is therefore found by staff to be **consistent** with the established goals and objectives of the Comprehensive Plan and accepted planning principles.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: As proposed the amendment to the PUD would permit the subject property to develop **consistent** with the customary and allowed uses permitted under the "O&I-2" Office and Institutional use group classification and as accepted planning principles dictate that established patterns of land use must be recognized as a basic factor which strongly influences rezoning decision it is anticipated that the addition of this customarily permitted use will have no detrimental affect on nearby properties. Therefore, it can be expected that removal of the present restrictions under the proposed conditions should have no detrimental effect upon the area.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The proposed reclassification and conditions of the subject property is viewed as **consistent** with the zoning and use of the surrounding properties. Such an action is viewed as having no detrimental effect on those surrounding properties and therefore, there would appear to be no relative gain to the public health, safety and welfare in requiring continuation of present restrictions.

September 18, 2006
Agenda Item #G-4

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area and will not be overburdened by this proposal.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Complete.**

Minimum Lot Area: **Compliant.**

Setbacks: **Compliant.**

Platting: **Compliant** – The final plat of the Mission Woods Subdivision No. 2 was recorded on December 16, 1992.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services.

ADDITIONAL FACTORS:

- | | |
|--|--|
| 1. Neighborhood Improvement Association: | Not Applicable. |
| 2. Capitol Plaza Area: | Not Applicable. |
| 3. Flood Hazard Area: | The site is impacted by a Type II Stream buffer. |
| 4. Airport Hazard Area: | Not Applicable. |
| 5. Historic Properties: | Not Applicable. |

STAFF RECOMMENDATION:

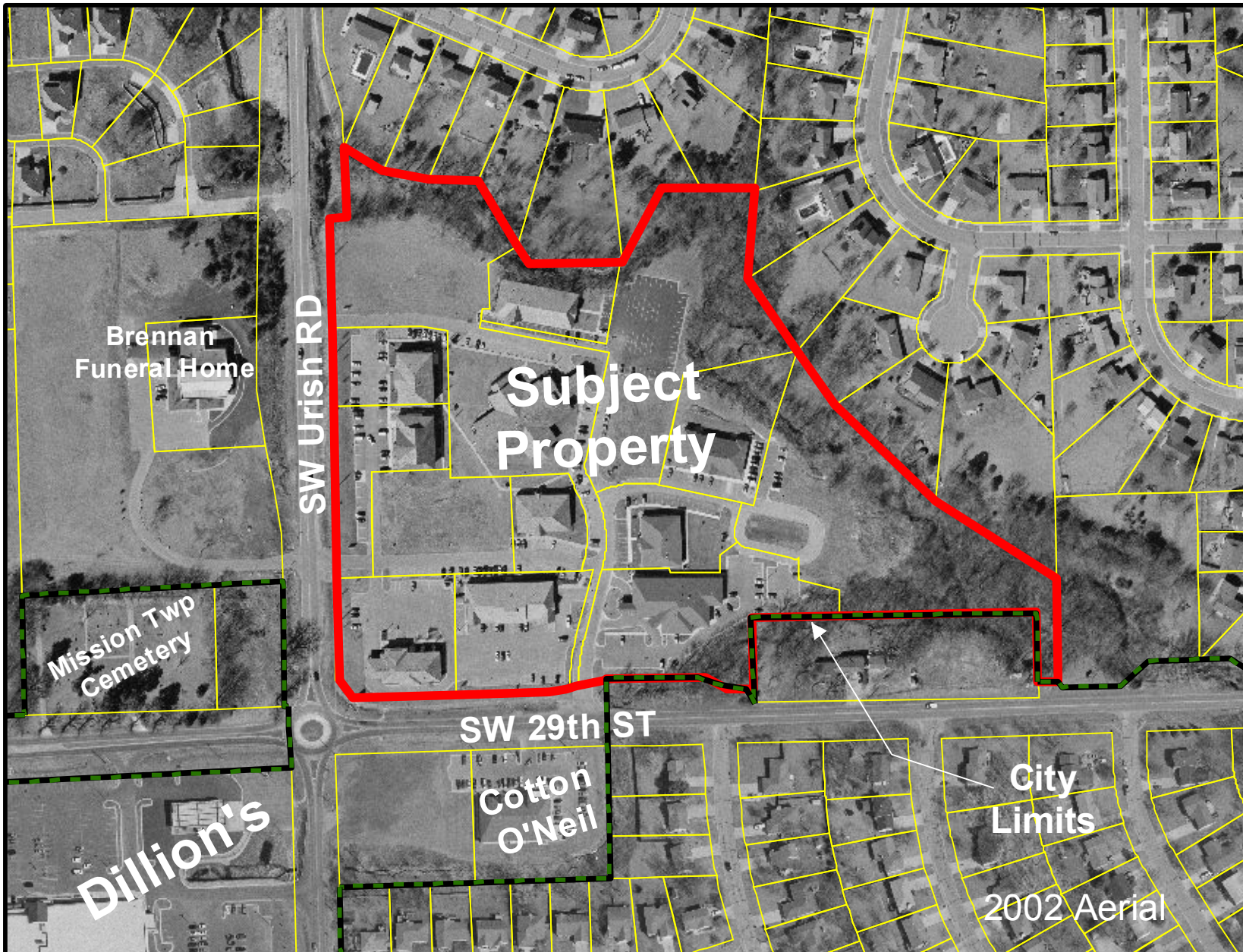
Based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal, subject to the following condition:

1. Use and development of the site in accordance with the recorded Amended Master PUD Plan of Mission Woods Subdivision Master Planned Unit Development Plan.
2. Correct vicinity map it shows SW 21st Street south of the subject site, should be SW 29th Street.
3. Upper right hand corner under (Page 1 of 2) should read “*Revision #11*”
4. Under General Notes #8 remove “*and unincorporated Shawnee County, Kansas*”.
5. Add plan note acknowledging that the creek is a Type II Stream and that any development shall conform with applicable city regulations.

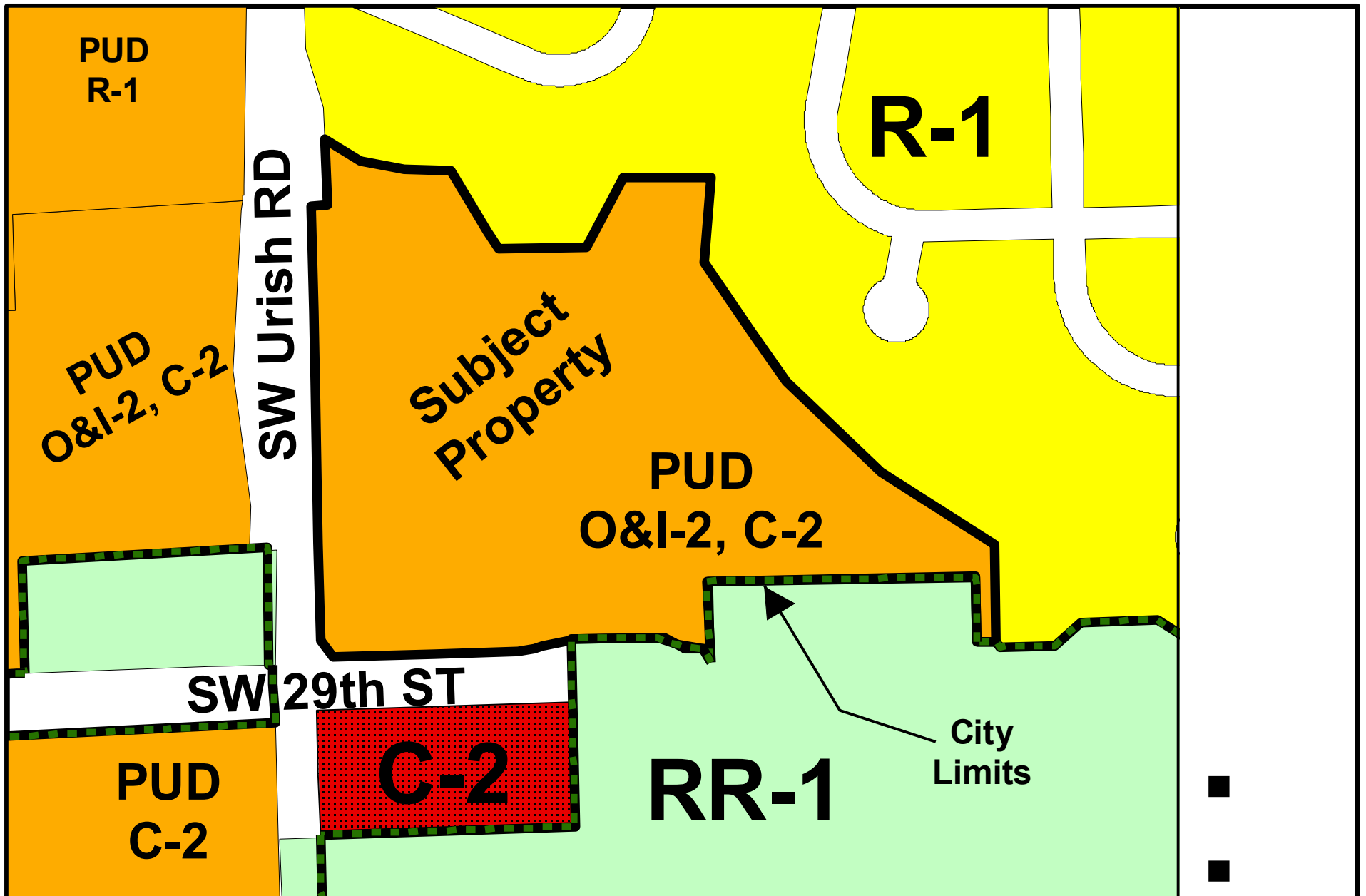
September 18, 2006
Agenda Item #G-4

6. The new note being added under general notes (48-13.04(b)(4) shall read as follows: *"Small animal clinics. Outside runs & boarding of any kind prohibited."*

Prepared by: Dean W. Diediker
Planner II



Z84/52J & Z84/53J by Mission Wood Medical and Office Park



Z84/52J & Z84/53J by Mission Wood Medical and Office Park



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

RECEIVED

AUG 4 2006

TOPEKA PLANNING
DEPARTMENT

Applicant Information

Property Owner(s): Mission Woods Medical office park

Street Address: 3209 S. Topeka

City: Topeka State: KS Zip: 66601

E-mail: _____

Business phone: 266-4870

Home phone: _____

Fax: _____

Authorized Owner Representative (if any): Mike Morse

Street Address: 4125 SW Gage Center Dr. Suite 200

City: Topeka State: KS Zip: 66604

E-mail: mike@kscommercial.com

Business phone: 228-5304

Home phone: _____

Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) -- if different from above

Street Address: _____

City: _____

State: _____ Zip: _____

E-mail: _____

Business phone: _____

Home phone: _____

Fax: _____

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: Terry McElroy

Owner 1 Signature: Terry McElroy

Date: Aug 3-2006

Owner 2: _____

Owner 2 Signature: _____

Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 2810 SW Mission Woods

Lot 1, Block A of Mission Woods Sub #2

Legal Description of Property: lot(s) 1 block A subdivision A
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): _____

Type of Application:

1. Re-zoning from: PUD(O+I-2) to: Amended PUD O+I-2
2. Conditional Use Permit proposed use: NO

Existing Use (# of dwelling units, square feet, etc.): Office Park

How long has the existing use been on the property? 1

Proposed Use (# of dwelling units, square feet, etc.): Small Animal Clinic with
No animal runs and No Boarding

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 8-3-06

FOR OFFICE USE ONLY

Date submitted: 8-4-06

Date notice sent: 8-25-06

Application no.: 284/525 and 284/535

Date advertised: 8-25-06

Filing fee: \$700 Receipt no.: 11391

Date of hearing: 9-18-06

Quarter section map no.: _____

Council district: 6

CHECK YES OR NO

Capital Plaza Area: Yes _____ No ☒

Within Historic Site Environs: Yes _____ No ☒

If Yes, what is it?: _____

^{Future} 100 yr Floodplain: Yes ☒ No _____

National/State Historic Register: Yes _____ No ☒

Airport Hazard Area: Yes _____ No ☒

Local Historic Resource: Yes _____ No ☒

Neighborhood Association: Yes _____ No ☒

Name of N.I.A./N.A.: _____

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

The land is suitable. We are modifying the P.U.D. to allow a Vet which is allowed in O+I-2 zonings.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

None. The land is P.U.D. - O+I-2 and will remain O+I-2.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:

8" Main on Mission Woods Dr.

12" Main on Urish Rd.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:

8" line on Mission Woods Dr.

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

Yes

- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?

Detained on site per City Code.

- b. Does the current storm sewer system have adequate capacity for proposed use?

Yes

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

- b. What are the site's existing or proposed access points?

- c. Will any street improvements or traffic control improvements be required?

No

MISSION WOODS SUBDIVISION PLANNED UNIT DEVELOPMENT MASTER PLAN

(Page 1 of 2)

BOOK _____ PAGE _____ DATE _____ TIME _____

PLANNED UNIT DEVELOPMENT MASTER PLAN MISSION WOODS SUBDIVISION

A Commercial Development
(Page 1 of 2)
Revision #11

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

Marilyn I. Nichols, Register of Deeds

Project Information

Legal Description:

Lot 1 & Lot 2, Block "A," Mission Woods Subdivision No. 2, City of Topeka, Shawnee County, Kansas, 17.86 Acres More Or Less

Office: O & I-2; Uses shall be limited as referenced in note #8 below

Legal Description:

Lot 1, Block "A," of Mission Woods Subdivision No. 2, 14.92 acres more or less.

Total Area: 649,915.2 Sq. Ft.

***No. of Buildings:** 11

Intensity of Use: 1 s.f. Building 7.2 s.f. Land

Total Sq. Footage: 63,402

Parking Requirements: 318 Spaces

Parking Provided: 550 Spaces

Commercial: C-2

Legal Description:

Lot 2, Block "A," of Mission Woods Subdivision No. 2, 2.94 acres more or less.

Total Area: 128,066.4 Sq. Ft.

***No. of Buildings:** 2

Intensity of Use: 1 s.f. Building 7.2 s.f. Land

Total Sq. Footage: 17,874

Parking Requirements: 89 spaces

Parking Provided: 112 spaces

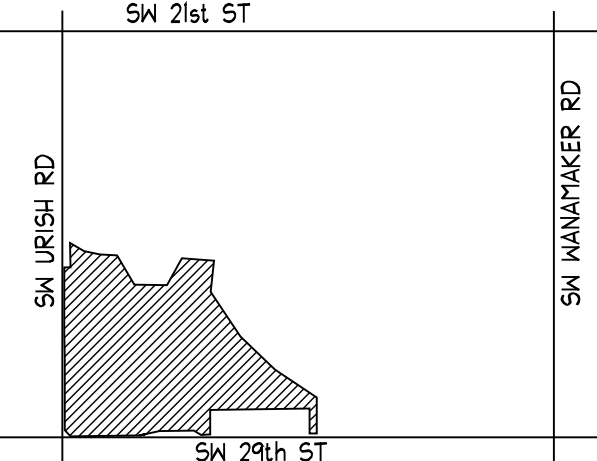
*Building no. 17 is not included in the building count for either commercial or office buildings. Its use will be primarily medical office space with the possibility of a pharmacy located at the west end of the building. The pharmacy portion of the building will be confined within the commercial portion of the PUD plan.

Approximately 3500 square feet of floor area for the pharmacy has been included in the total square footage in the commercial district and 8280 square feet has been included in the office district.

General Notes:

- 1.) ALL DRIVES, PARKING AREAS, AND WALKS TO BE BUILT TO CITY OF TOPEKA STANDARDS.
- 2.) ALL SANITARY SEWER AND WATER MAIN INSTALLATIONS, EXTENSIONS, OR RELOCATIONS AS REQUIRED AND APPROVED BY THE CITY OF TOPEKA PUBLIC WORKS DEPARTMENT WILL BE PAID FOR BY THE DEVELOPER.
- 3.) ALL STORM WATER RUNOFF TO BE REDIRECTED TO THE COUNTY STORM SEWER SYSTEM AS APPROVED BY THE CITY ENGINEER AT THE TIME OF SITE DEVELOPMENT.
- 4.) WRITTEN DIMENSIONS SHALL OVERRIDE SCALED.
- 5.) NO BUILDING WITHIN DEVELOPMENT SHALL EXCEED 25' IN HEIGHT.
- 6.) HANDICAPPED PARKING RATIO WILL MEET ALL ADA REQUIREMENTS W/ MINIMUM 1 HANDICAP SPACE FOR EACH BUILDING.
- 7.) INDICATES EXISTING MATURE GROWTH AREA AND IS NOT INTENDED TO REPRESENT INDIVIDUAL TREE LOCATIONS.
- 8.) BUILDINGS IN THE O & I-2 DISTRICT SHALL BE LIMITED TO THE FOLLOWING AS TAKEN FROM THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA:
 - 4B 13 02 (A)
 - (1) OFFICES FOR CONDUCTING AFFAIRS OF BUSINESS, PROFESSION, SERVICE, INDUSTRY, OR GOVERNMENT, INCLUDING FINANCIAL INSTITUTIONS AND HUMAN HEALTH CARE CLINICS WHICH MAY CONTAIN A PHARMACY
 - (2) BUSINESS OR VOCATIONAL SCHOOL, TECHNICAL COLLEGE, TRAINING ACADEMY.
 - (14) MEDICAL CARE FACILITY, TYPE II
- 4B 13 02 (B)
- (3) DAYCARE FACILITY, TYPE II
- (4) SMALL ANIMAL CLINIC, OUTSIDE RUNS & BOARDING OF ANY KIND PROHIBITED
- 9.) REFERENCE ZONING CASES 284/52-A & 284/53-A
- 10.) MINIMUM OPENING ELEVATIONS ARE ESTABLISHED AND INDICATED BY PLAT
- 11.) ALL ACCELLY DECELL LANES ON SW 24TH ST. AND SW URISH RD HAVE BEEN COMPLETED AS APPROVED BY THE SHAWNEE COUNTY ENGINEER OFFICE AND AS PER RESOLUTION #42-176
- 12.) PUD IS BORDERED TO NORTH BY A TYPE II STREAM, ANY DEVELOPMENT SHALL CONFORM WITH APPLICABLE CITY REGULATIONS REGARDING THIS.

PURSUANT TO SEC. 48-24.05 OF THE TOPEKA CITY CODE, THE APPLICANT MUST PROVIDE THE PLANNING DEPARTMENT A PUD MASTER PLAN SUITABLE FOR RECORDING WITHIN 30 DAYS UPON APPROVAL BY THE GOVERNING BODY AND RECORD IT WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN 45 DAYS OF APPROVAL BY THE CITY COUNCIL OF TOPEKA OR THE PLANNED UNIT DEVELOPMENT ZONE CHANGE SHALL BE NULL AND VOID.

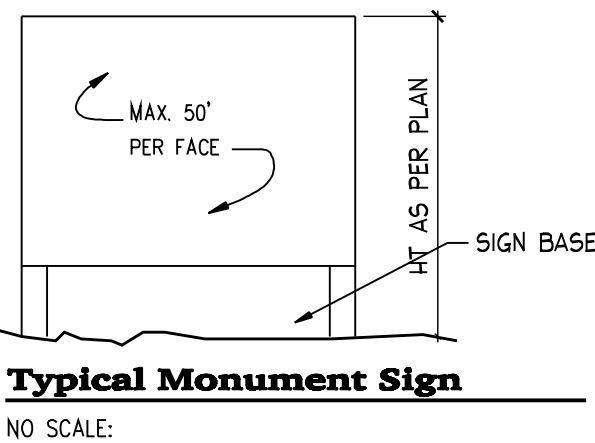


Vicinity Map
NO SCALE:

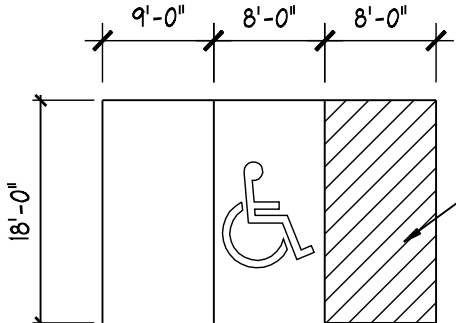
MISSION WOODS SUBDIVISION NO. 2 BUILDING ADDRESS LIST

BUILDING NO.	ADDRESS
1	2810 SW MISSION WOODS DR
2	2820 SW MISSION WOODS DR
3	REMOVED
4	2830 SW URISH RD
5	2840 SW URISH RD
6	REMOVED
7	REMOVED
8	6730 SW MISSION VALLEY DR
9	2835 SW MISSION WOODS DR
10	REMOVED
11	6660 SW MISSION VALLEY DR
12	REMOVED
13	6640 SW MISSION VALLEY DR
14	6630 SW MISSION VALLEY DR
15	REMOVED
16	6663 SW MISSION VALLEY DR
17	6710 SW 24TH ST
18	6730 SW 24TH ST
19	6750 SW 24TH ST

NOTE:
CLOUDED AREAS INDICATE CURRENT REVISIONS TO THE PUD (REVISION #11) DATED 10/10/06

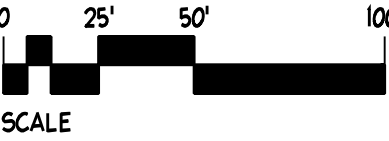
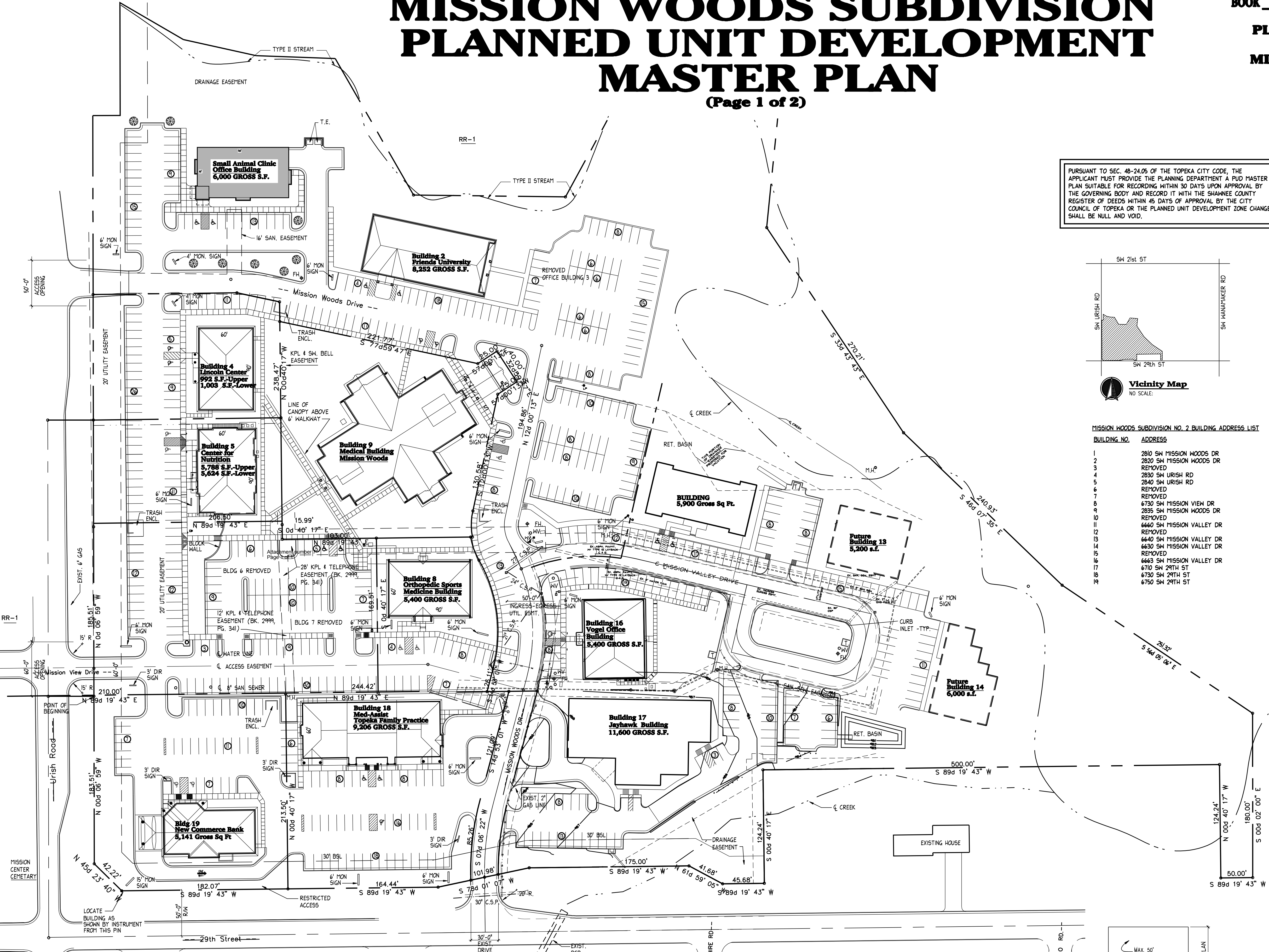


Typical Monument Sign
NO SCALE:



Typical Parking Space
NO SCALE:

Plans prepared by:



REVISED DATES

1.8/10/92	5.2/12/96	9.4/26/01
2.8/28/92	6.9/22/98	10.6/31/04
3.9/10/92	7.2/26/99	11.11/28/06
4.9/26/95	8.12/19/00	

MISSION WOODS SUBDIVISION
PLANNED UNIT DEVELOPMENT
MASTER PLAN
(Page 2)

Owners	
MISSION WOODS MEDICAL AND OFFICE PARK, A KANSAS GENERAL PARTNERSHIP	1, 6, 8, 9, 13, AND 14
FRIENDS UNIVERSITY	2
TOPEKA LINCOLN CENTER, L.L.C.	4
RKT PROPERTIES, L.L.C.	5
VOGEL PROPERTIES, L.L.C.	11 AND 15
URISH MEDICAL PLAZA, L.L.C.	17
KELLING PARTNERS, L.P.	18
COMMERCE PROPERTIES CORP.	19

Owners Certification

THE FOLLOWING OWNERS AGREE TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY THEREOF: THE OWNER OF BUILDINGS NO. 1, 6, 8, 9, 13, AND 14, MISSION WOODS MEDICAL AND OFFICE PARK, A KANSAS GENERAL PARTNERSHIP, HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

SUE MILLER, PARTNER

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME SUE MILLER, PARTNER, IN MISSION WOODS MEDICAL AND OFFICE PARK, A KANSAS GENERAL PARTNERSHIP, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 2 FRIENDS UNIVERSITY, HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

RANDALL C. DOERKSON, V.P. OF ADMINISTRATION AND FINANCE

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME RANDALL C. DOERKSON, V.P. OF ADMINISTRATION AND FINANCE, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 4, LINCOLN CENTER, L.L.C., HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

FRED VANCE, ADMINISTRATOR

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME FRED VANCE, ADMINISTRATOR, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 5 RKT PROPERTIES, HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

RICK R. TAGUE

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME RICK R. TAGUE, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDINGS NO. 11 AND 16, VOGEL PROPERTIES, L.L.C., HAS SIGNED THESE PRESENTS THIS _____ DAY OF _____, 2004.

JEFF A. VOGEL

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME JEFF A. VOGEL, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 17, URISH MEDICAL PLAZA, L.L.C., HAS SIGNED THESE PRESENTS THIS _____ DAY OF _____, 2004.

THOMAS MCBRIDE

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME THOMAS MCBRIDE, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 18, KELLING PARTNERS, L.L.C., HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

JANET MCELROY

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME JANET MCELROY, ADMINISTRATOR, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

IN TESTIMONY THEREOF: THE OWNER OF BUILDING NO. 19, COMMERCE PROPERTIES CORP., HAS SIGNED THESE PRESENTS THIS_____DAY OF _____, 2004.

WILLIAM T. NICHOLS, SENIOR VICE PRESIDENT

BE IT REMEMBERED THAT ON THIS _____DAY OF _____A.D. 2004, BEFORE ME, A NOTARY PUBLIC IN FOR SAID COUNTY AND STATE CAME WILLIAM T. NICHOLS, SENIOR VICE PRESIDENT, OWNER OF THE ABOVE DESCRIBED PROPERTY.

IN WITNESS THEREOF:
I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

Certification of Master PUD Approval:

Notarized certification of Master PUD plan approval by the secretary of the Planning Commission as follows:

David Thurban , Planning Director
Secretary To Planning Commission

Date

Be it remembered that on this_____date of_____A.D. 2004, before me, the undersigned, a notary public in and for said county and state came David Thurban who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission expires:_____

BOOK _____ PAGE _____ DATE _____ TIME _____

PLANNED UNIT DEVELOPMENT
MASTER PLAN
MISSION WOODS SUBDIVISION
A Commercial Development
(Page 2)

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS

Marilyn I. Nichols, Register of Deeds

PUD PROVISIONS FOR COMMON AREAS

MISSION WOODS SUBDIVISION
SECTION 48-24.05 "D-14"

THIS DEVELOPMENT IS A CONDOMINIUM PROJECT WHERE ALL THE OPEN SPACE, STREETS, UTILITIES, DRAINAGE WAY, STREET LIGHTS, AND RECREATIONAL FACILITIES WILL BE OWNED AND MAINTAINED BY THE MISSION WOODS OWNERS ASSOCIATION, INC.

BUILDINGS WILL BE OWNED BY THE INDIVIDUAL USERS, BUT MISSION WOODS OWNERS ASSOCIATION, INC. WILL DICTATE THE SIZE, USE, ARCHITECTURE, AND BUILDING MATERIALS.

THE OWNERS ASSOCIATION WILL BE RESPONSIBLE FOR ALL COSTS FOR MAINTENANCE AND ASSESS EACH BUILDING THEIR PRORATED SHARE.

IT IS OUR FEELING THAT TO MAINTAIN AN ATTRACTIVE MEDICAL AND OFFICE PARK THAT WILL BE AN ASSET TO THE COMMUNITY, THERE NEEDS TO BE ONE ENTITY THAT IS RESPONSIBLE FOR ALL MAINTENANCE AND OPEN SPACES.

AMENDMENTS TO MISSION WOODS PUD

THE "PLANNED UNIT DEVELOPMENT" WHICH WAS RECOMMENDED FOR APPROVAL ON SEPTEMBER 21, 1992 BY THE TOPEKA - SHAWNEE COUNTY METROPOLITAN REGIONAL PLANNING COMMISSION AND APPROVED ON OCTOBER 13, 1992 BY THE BOARD OF SHAWNEE COUNTY COMMISSIONERS ON LAND LEGALLY DESCRIBED AS LOTS 1 AND 2, BLOCK A, MISSION WOODS SUBDIVISION NO. 2, SHAWNEE COUNTY KANSAS MAY BE AMENDED IN THE FOLLOWING MANNER:

MAJOR AND MINOR AMENDMENTS

1.) TO INITIATE AN AMENDMENT IT MUST BE IN WRITING TO THE PLANNING DIRECTOR AND SIGNED BY JERRY D. MCELROY, GENERAL PARTNER, MISSION WOODS MEDICAL AND OFFICE PARK, A KANSAS GENERAL PARTNERSHIP, OWNER OF THE ABOVE MENTIONED TRACT.

THE TERMS AND PROVISIONS HEREOF SHALL EXTEND TO AND BE BINDING UPON THE HEIRS, EXECUTORS, ADMINISTRATORS, TRUSTEES, AND ASSIGNS.

PUD DEVELOPMENT PHASING SCHEDULE

MISSION WOODS SUBDIVISION
SECTION 48-24.04 "A-13"

THE DEVELOPMENT PHASING SCHEDULE IS PARTIALLY CONTROLLED BY THE EXISTING STREETS, SANITARY SEWER, STORM SEWER, AND CITY WATER LINES THAT ARE PRESENTLY IN PLACE AS SHOWN ON THE PUD PLAN. THE FOLLOWING IS THE ANTICIPATED " DEVELOPMENT PHASING SCHEDULE".

PHASE I COMPLETION OF UTILITIES AND STREETS INCLUDING TWO ACCESS DRIVES ON S.W. URISH RD. WHICH WILL SERVICE THE ENTIRE AREA, WILL BE IN PLACE BY THE SUMMER OF 1993. (COMPLETED)

PHASE II THE CONSTRUCTION OF BUILDINGS 18 AND 19 WHICH ARE ALL CURRENTLY SERVED BY SEWER, WATER AND STREETS IS ANTICIPATED TO COMMENCE IN 1993. (COMPLETED)

PHASE III CONSTRUCTION OF BUILDING 9 WILL COMMENCE IN 1993 WHEN ALL STREETS AND UTILITIES ARE IN PLACE TO SERVE THIS AREA. (COMPLETED)

PHASE IV CONSTRUCTION OF BUILDINGS 4,5,6,7, AND 8 WILL COMMENCE IN 1993 AND BE COMPLETED IN THE FALL OF 1994 (BUILDINGS 4,5, AND 8 ARE COMPLETED)

PHASE V THE CONSTRUCTION OF BUILDINGS 11, 12, 13, 14, 15, AND 16 WHICH ARE ALL CURRENTLY SERVED BY SEWER, WATER, AND STREETS WILL BEGIN IN 1994. (BUILDING 12 AND 15 HAVE BEEN REMOVED FROM THE PLAN.) (BUILDING 11 IS COMPLETED)

PHASE VI BUILDINGS 1,2,3,10, AND 17 WILL BE FINAL PHASES, WITH CONSTRUCTION STARTING IN 1994. UTILITIES AND STREETS FOR THIS AREA WILL BE COMPLETED DURING PHASE I. (BUILDINGS 2 AND 17 ARE COMPLETED AND BUILDINGS 3 AND 10 HAVE BEEN REMOVED FROM THE PLAN)

Plans prepared by:





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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

December 12, 2006

+ Back Print

DATE: November 28, 2006

CONTACT PERSON: Norton N. Bonaparte, Jr. **DOCUMENT #:**

SECOND PARTY/SUBJECT: Medevac MidAmerica, Inc. **PROJECT #:**

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 030 Businesses

CIP PROJECT: No

ACTION OF COUNCIL: First Reading. 12/12/06 **JOURNAL #:** 06

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., City Manager repealing City of Topeka Code Appendix B, Article XI, and amending City of Topeka Appendix B, Article VIII relating to ambulance services within the City of Topeka, Kansas, providing a non-exclusive franchise to Medevac MidAmerica, Inc. doing business as American Medical Response to operate an ambulance service within the City of Topeka, Kansas, and specifically repealing City of Topeka Code Appendix B, Articles VIII and XI. First Reading.

(The ordinance was added to the agenda at the meeting.)

POLICY ISSUE:

Whether or not Medevac MidAmerica, Inc. will be able to continue supplying ambulance service to the City of Topeka.

STAFF RECOMMENDATION:

Approve ordinance.

BACKGROUND:

Medevac MidAmerica, Inc. has provided ambulance service to the City of Topeka since 2001 and wishes to continue.

BUDGETARY IMPACT:

The City of Topeka will receive franchise fees.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Financial Statement - Exhibit](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Norton N. Bonaparte, Jr., City Manager repealing City of Topeka Code Appendix B, Article XI, and amending City of Topeka Appendix B, Article VIII relating to ambulance services within the City of Topeka, Kansas, providing a non-exclusive franchise to Medevac MidAmerica, Inc. doing business as American Medical Response to operate an ambulance service within the City of Topeka, Kansas, and specifically repealing City of Topeka Code Appendix B, Articles VIII and XI.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code Appendix B, Article VIII is hereby repealed.

MEDEVAC MEDAMERICA, INC.*

~~Section 1. Authority.~~

~~This ordinance is passed and approved by the Council of the City of Topeka, Kansas, and enacted pursuant to K.S.A. 12-2001, the authority founded and provided in Ordinance No. 14919, duly enacted on the 1st day of February, 1982, by the City of Topeka, Kansas. Ordinance No. 14919 referred to in this ordinance is hereby incorporated into this section by reference as if fully set out therein.~~

~~(Ord. No. 16639, § 1, 9-28-93)~~

~~Section 2. Satisfactory qualifications.~~

~~The Council of the City of Topeka, Kansas, has considered the legal, character, financial, and other qualifications of the applicant and has found Medevac Midamerica, Inc., to be qualified in all respects to own, maintain, and operate an ambulance service in the City of Topeka, Kansas.~~

~~(Ord. No. 16639, § 2, 9-28-93)~~

~~**Section 3. Franchise grant.**~~

~~Pursuant to the provisions of Ordinance No. 14919 a nonexclusive Franchise is granted to Medevac Midamerica, Inc., the Grantee, to own, maintain, and operate an ambulance service within the City of Topeka, Kansas. Said nonexclusive Franchise is granted through and including December 31, 1998, and shall vest all rights, privileges, and immunities of an ambulance service Franchise with Medevac Midamerica, Inc., however, said nonexclusive Franchise shall be subject to and conditioned upon all of the terms, duties and obligations found in the laws of the State of Kansas, Ordinance No. 14919, and this ordinance.~~

~~(Ord. No. 16639, § 3, 9-28-93)~~

~~**Section 4. Rates of charges.**~~

~~The Council of the City of Topeka shall at no time take any action regarding rates and charges which shall preclude the Grantee from earning a reasonable rate of return upon the value of the property used and useful in providing such service.~~

~~(Ord. No. 16639, § 4, 9-28-93)~~

~~**Section 5. Payments to the City.**~~

~~Adequate and valuable consideration for the rights, privileges, and immunities granted Medevac Midamerica, Inc., shall consist of the benefits to be derived by the citizens of the City of Topeka from the maintenance and operation of an ambulance service under the terms and conditions of this franchise and the following amounts which shall be paid by the Grantee to the City of Topeka:~~

55 a. ~~On the effective date of this ordinance, Medevac Midamerica, Inc., shall~~
56 ~~pay to the City of Topeka, Kansas, the license fee prescribed by Section 24-~~
57 ~~34(2) [30-34(2)].~~

58 b. ~~On the first working day recognized by the City of Topeka, Kansas, after~~
59 ~~January 1 of each year within the term of this franchise agreement and while~~
60 ~~the Grantee is operating an ambulance service pursuant to such franchise,~~
61 ~~Medevac Midamerica, Inc., shall pay to the City of Topeka, Kansas, the~~
62 ~~annual registration fee for each vehicle operation in the City as set forth in~~
63 ~~Section 24-34(3) [30-34(3)] as presently provided or hereafter amended.~~

64 c. ~~All payments made hereunder shall be made to the City Treasurer.~~

65 ~~(Ord. No. 16639, § 5, 9-28-93)~~

66 **~~Section 6. Insurance.~~**

67 ~~Medevac Midamerica, Inc., shall upon the effective date of this ordinance file with~~
68 ~~the City Clerk an insurance policy as required by Section 3, paragraph 32 of Ordinance No.~~
69 ~~14919 and the same shall be approved as to form by the City Attorney's Office. during the~~
70 ~~term of this franchise and during such time as the Medevac Midamerica, Inc., is providing~~
71 ~~service pursuant to this franchise, Medevac Midamerica, Inc., shall have filed with the City~~
72 ~~Clerk an insurance policy as required by Section 3, paragraph 32 of Ordinance 14919.~~

73 ~~(Ord. No. 16639, § 6, 9-28-93)~~

~~Section 7. Written acceptance.~~

~~Medevac Midamerica, Inc., shall file with the City Clerk its written acceptance of the provisions of the Franchise within sixty (60) days after the effective date of this franchise as determined by K.S.A. 12-2001.~~

~~(Ord. No. 16639, § 7, 9-28-93)~~

~~Section 8. Remedies of City.~~

~~Nothing herein shall limit or preclude the City from seeking remedies at law or equity in a court of competent jurisdiction for any violation by the Grantee of the laws of the State of Kansas or any ordinance of the City of Topeka.~~

~~(Ord. No. 16639, § 8, 9-28-93)~~

~~Section 9. Forfeiture.~~

~~Any material and substantial fraud, misrepresentation or default of the terms, duties an [and] obligations imposed upon the Grantee by the laws of the State of Kansas, Ordinance No. 14919, or by ordinance shall constitute grounds for forfeiture of this nonexclusive franchise. The City shall notify the Grantee in writing of any allegation of a material and substantial default, fraud, or misrepresentation and shall hold a public hearing on the merits of such allegations. Said public hearing shall be held within thirty (30) days after the notification to the Grantee and shall be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within ten (10) days following the conclusion of such hearing, the Council shall act with respect to such forfeiture and shall submit a written statement to the Grantee. The franchise shall not be forfeited unless the Council finds that there has been a material and substantial default, fraud, or~~

~~misrepresentation of the part of the Grantee so as to justify a forfeiture. In the event the franchise is forfeited, the Grantee shall, within one hundred eighty (180) days of its receipt of the Notice of Forfeiture, cease operation of an ambulance service hereunder.~~

~~(Ord. No. 16639, § 9, 9-28-93)~~

~~Section 10. Surrender.~~

~~If, during the term of this franchise, the Grantee does not earn a fair rate of return upon the value of property used and useful in providing such ambulance service for a period of 6 months; and it is determined by the Grantee that it would not be practical, possible or in the public interest to cure the deficiency by an increase in rates and/or a reduction in service; and the Grantee has complied with all applicable County procedures including the giving of notice of surrender to the City; then the Grantee upon one hundred eighty (180) days written notice to the City Clerk may elect to surrender its franchise and cease operations of the ambulance service hereunder.~~

~~(Ord. No. 16639, § 10, 9-28-93)~~

~~Section 11. Transfer.~~

~~All the rights and obligations of the Grantee, pursuant to this franchise, may with proper approval of the Council, be transferred to a person meeting the requirements for an ambulance service grantee, as determined by the laws and regulations of the State and the City at the time of the contemplated transfer. Any such transferee shall, without limitation, assume all the duties and obligations of Medevac Midamerica, Inc., and Medevac Midamerica, Inc., shall be released of all future rights, duties, and obligations arising from [from] this franchisee [franchise].~~

(Ord. No. 16639, § 11, 9-28-93)

~~Section 12. Hold harmless.~~

~~The Grantee shall hold the City harmless for all liability, damages, costs and expenses of every kind for the payment of which the City may become liability to any person by reason of the rights and privileges herein granted and, if any action either at law or in equity, be brought against the City for damages or for any cost to the City for any fault of the Grantee, its servants, agents, or employees, in the operation of its ambulance service, the Grantee shall pay all costs, damages and expenses for which the City may be held liable.~~

(Ord. No. 16639, § 12, 9-28-93)

~~Section 13. Effective date.~~

~~This franchise ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper in the manner prescribed by law, and shall be binding upon the franchisee upon the filing of its written acceptance as required by Section 7.~~

(Ord. No. 16639, § 13, 9-28-93)

Section 2. City of Topeka Code Appendix B, Article XI is hereby amended to read as follows:

~~American Medical Response, Inc.~~

~~Section 1. Authority.~~

~~This ordinance is passed and approved by the Council of the City of Topeka, Kansas, and enacted pursuant to K.S.A. 12-2001 and the authority found and provided for in Topeka City Code § 62-26 through § 62-69 inclusive.~~

~~(Ord. No. 17314, § 1, 10-27-98; Ord. No. 17767, § 1, 11-20-01)~~

~~Section 2. Satisfactory qualifications.~~

~~The Council of the City of Topeka, Kansas, has considered the legal, character, financial, and other qualifications of the applicant and has found American Medical Response, Inc. f/k/a Medevac MidAmerica, Inc., to be qualified in all respects to own, maintain, and operate an ambulance service in the City of Topeka, Kansas.~~

~~(Ord. No. 17314, § 2, 10-27-98; Ord. No. 17767, § 2, 11-20-01)~~

~~Section 3. Service.~~

~~The maintenance and operation of an ambulance service by American Medical Response in the City of Topeka, Kansas shall be in accordance with these terms and conditions and performance standards set forth in the current ambulance service contract entered into by American Medical Response and the Board of County Commissioners of Shawnee County, Kansas. Said contract is identified as Shawnee County Contract C1-2001. In addition, American Medical Response agrees to provide to the Chief Administrative Officer of the City of Topeka copies of documents which are required to be filed pursuant to Shawnee County Contract C1-2001.~~

~~(Ord. No. 17314, § 3, 10-27-98; Ord. No. 17767, § 3, 11-20-01)~~

~~Section 4. Franchise grant.~~

Pursuant to the provisions of Topeka City Code § 62-41, a nonexclusive franchise is granted to American Medical Response, Inc., hereinafter referred to as the Grantee, to own, maintain, and operate an ambulance service within the City of Topeka, Kansas. Said nonexclusive franchise is granted through and including December 31, 2006, and shall vest all rights, privileges, and immunities of an ambulance service franchise with grantee, however, said nonexclusive franchise shall be subject to and conditioned upon all of the terms, duties and obligations found in the laws of the State of Kansas, Topeka City Code § 62-26 through § 62-69, and this ordinance.

(Ord. No. 17314, § 4, 10-27-98; Ord. No. 17767, § 4, 11-20-01)

Section 5. Payments to the city.

Consideration for the rights, privileges, and immunities granted to grantee includes the benefits to be derived by the citizens of the City of Topeka from the maintenance and operation of an ambulance service under the terms and conditions of this franchise. The following licensing fees shall be paid by the grantee to the City of Topeka:

a. On the effective date of this ordinance, the ambulance service license fees prescribed by Topeka City Code § 30-54(2).

b. On the first working day recognized by the City of Topeka, Kansas, after January 1 of each year within the term of this franchise agreement and while the grantee is operating an ambulance service pursuant to such franchise, the annual registration fee for each vehicle in operation in the city as set forth in Topeka City Code § 30-54(3) as presently provided or hereafter amended.

All fee payments made hereunder shall be made to the city treasurer.

~~(Ord. No. 17314, § 5, 10-27-98; Ord. No. 17767, § 5, 11-20-01)~~

~~Section 6. Insurance.~~

~~Grantee shall upon the effective date of this ordinance file with the city clerk an insurance policy as required by Topeka City Code § 62-51 and the same shall be approved as to form by the City attorney's office. During the term of this franchise and the time grantee is providing service grantee shall maintain paid insurance coverage.~~

~~(Ord. No. 17314, § 6, 10-27-98; Ord. No. 17767, § 6, 11-20-01)~~

~~Section 7. Written acceptance.~~

~~Grantee shall file with the city clerk its written acceptance of the provisions of the franchise within 60 days after the effective date of this franchise as determined by K.S.A. 12-2001.~~

~~(Ord. No. 17314, § 7, 10-27-98; Ord. No. 17767, § 7, 11-20-01)~~

~~Section 8. Remedies of city.~~

~~Nothing herein shall limit or preclude the city from seeking remedies at law or equity in a court of competent jurisdiction for any violation by the grantee of the laws of the State of Kansas or any ordinance of the City of Topeka.~~

~~(Ord. No. 17314, § 8, 10-27-98; Ord. No. 17767, § 8, 11-20-01)~~

~~Section 9. Forfeiture.~~

~~Any material and substantial fraud, misrepresentation or default of the terms, duties and obligations imposed upon the grantee by the laws of the State of Kansas, Topeka City Code § 62-26 through § 62-69 inclusive or by this ordinance shall constitute grounds for forfeiture of this nonexclusive franchise. The city shall notify the grantee in writing of any~~

~~allegation of a material and substantial fraud, misrepresentation or default and shall hold a public hearing before the council of the City of Topeka on the merits of such allegations. Said public hearing shall be held within 30 days after the notification to the grantee and shall be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within ten days following the conclusion of such hearing, the city council shall act with respect to such forfeiture and shall submit a written statement to the grantee. The franchise shall not be forfeited unless the city council finds that there has been a material and substantial fraud, misrepresentation or default on the part of the grantee so as to justify a forfeiture. In such case a notice of forfeiture shall be provided to the grantee. In the event the franchise is forfeited, the grantee shall, within 180 days of its receipt of notice of forfeiture, cease operation of an ambulance service hereunder.~~

~~(Ord. No. 17314, § 9, 10-27-98; Ord. No. 17767, § 9, 11-20-01)~~

~~Section 10. Surrender.~~

~~If, during the term of this franchise, the grantee does not earn a fair rate of return upon the value of property used and useful in providing such ambulance service for a period of six months; and it is determined by the grantee that it would not be practical, possible or in the public interest to cure the deficiency by an increase in rates and/or a reduction in service; and the grantee has complied with all applicable procedures as prescribed by the Board of County Commissioners of Shawnee County, Kansas including the giving of notice of surrender to the city; then the grantee upon 180 days written notice to the city clerk may elect to surrender its franchise and cease operation of the ambulance service hereunder. Fair rate of return means receipt of revenues for patient charges and~~

~~public funds, if any, to include the sum of operating costs, depreciation reserves, growth and development costs and management fees.~~

~~(Ord. No. 17314, § 10, 10-27-98; Ord. No. 17767, § 10, 11-20-01)~~

~~Section 11. Transfer.~~

~~All the rights and obligations of the grantee, pursuant to this franchise, may with written approval of the city council, be transferred to a person meeting the requirements for an ambulance service grantee, as determined by the laws and regulations of the state and the city at the time of the contemplated transfer. Any such transferee shall, without limitation, assume all the duties and obligations of the grantee and grantee shall be released of all future rights, duties, and obligations arising from this franchisee.~~

~~(Ord. No. 17314, § 11, 10-27-98; Ord. No. 17767, § 11, 11-20-01)~~

~~Section 12. Hold harmless.~~

~~The grantee shall hold the city harmless for all liability, damages, costs and expenses of every kind for the payment of which the City may become liable to any person by reason of the rights and privileges herein granted and, if any action either at law or in equity, be brought against the city for damages or for any cost to the city for any fault of the grantee, its servants, agents, or employees, in the operation of its ambulance service, the grantee shall pay all costs, damages and expenses including costs of defense for which the city may be held liable.~~

~~(Ord. No. 17314, § 12, 10-27-98; Ord. No. 17767, § 12, 11-20-01)~~

~~Section 13. Effective date.~~

~~This franchise ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper in the manner prescribed by law, and shall be binding upon the grantee upon the filing of its written acceptance as required by section 7.~~

~~(Ord. No. 17314, § 13, 10-27-98; Ord. No. 17767, § 13, 11-20-01)~~

Medevac MidAmerica, Inc. doing business as American Medical Response

Section 1. Authority.

This Franchise Ordinance is passed and approved by the Council of the City of Topeka, Kansas, and enacted pursuant to K.S.A. 12-2001 and the authority found and provided for in Topeka City Code § 62-26 through § 62-69 inclusive.

Section 2. Satisfactory qualifications.

The Council of the City of Topeka, Kansas, has considered the legal, character, financial, and other qualifications of the applicant and has found Medevac MidAmerica, Inc., doing business as American Medical Response, hereinafter "AMR," to be qualified in all respects to own, maintain and operate an ambulance service in the City of Topeka, Kansas hereinafter "City." The Council of the City of Topeka finds that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of Topeka City Code Chapter 62.

Section 3. Service.

The maintenance and operation of an ambulance service by AMR in the City shall be in accordance with these terms and conditions and performance standards set forth in

the current ambulance service contract entered into by AMR and the Board of County Commissioners of Shawnee County, Kansas. Said contract is identified as Shawnee County Contract C428-2005. In addition, AMR agrees to provide to the city manager of the City copies of documents which are required to be filed pursuant to Shawnee County Contract C248-2005.

Section 4. Franchise grant.

Pursuant to the provisions of Topeka City Code § 62-41, a nonexclusive franchise is granted to AMR, to own, maintain, and operate an ambulance service within the City. Said nonexclusive franchise is granted through and including December 31, 2011, and shall vest all rights, privileges and immunities of an ambulance service franchise with AMR; however, said nonexclusive franchise shall be subject to and conditioned upon all of the terms, duties and obligations found in the laws of the State of Kansas, Topeka City Code § 62-26 through § 62-69, and this Franchise Ordinance.

Section 5. Payments to the City.

Consideration for the rights, privileges, and immunities granted to AMR includes the benefits to be derived by the citizens of the City of Topeka from the maintenance and operation of an ambulance service under the terms and conditions of this Franchise Ordinance. The following licensing fees shall be paid by AMR to the City of Topeka:

- a. On the effective date of this Franchise Ordinance, the ambulance service license fees prescribed by Topeka City Code § 30-54(2).
- b. On the first working day recognized by the City, after January 1 of each year within the term of this Franchise Ordinance and while AMR is operating an

ambulance service pursuant to such Franchise Ordinance, the annual registration fee for each vehicle in operation in the City as set forth in Topeka City Code § 30-54(3) as presently provided or hereafter amended.

All fee payments made hereunder shall be made to the city treasurer.

Section 6. Insurance.

AMR shall upon the effective date of this Franchise Ordinance file with the city clerk an insurance policy as required by Topeka City Code § 62-51 and the same shall be approved as to form by the city attorney's office. During the term of this Franchise Ordinance and the time AMR is providing service AMR shall maintain paid insurance coverage according to Topeka City Code § 62-51.

Section 7. Written acceptance.

AMR shall file with the city clerk its written acceptance of the provisions of the Franchise Ordinance within sixty (60) days after the effective date of this Franchise Ordinance as determined by K.S.A. 12-2001.

Section 8. Remedies of City.

Nothing herein shall limit or preclude the City from seeking remedies at law or equity in a court of competent jurisdiction for any violation by AMR of the laws of the State of Kansas or any ordinance of the City.

Section 9. Forfeiture.

Any material and substantial fraud, misrepresentation or default of the terms, duties and obligations imposed upon AMR by the laws of the State of Kansas, Topeka City Code § 62-26 through § 62-69 inclusive or by this Franchise Ordinance shall constitute grounds

for forfeiture of this nonexclusive Franchise Ordinance. The City shall notify AMR in writing of any allegation of a material and substantial fraud, misrepresentation or default and shall hold a public hearing before the Council of the City of Topeka on the merits of such allegations. Said public hearing shall be held within thirty (30) days after the notification to AMR and shall be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within ten (10) days following the conclusion of such hearing, the Council of the City of Topeka shall act with respect to such forfeiture and shall submit a written statement to AMR. This Franchise Ordinance shall not be forfeited unless the Council of the City of Topeka finds that there has been a material and substantial fraud, misrepresentation or default on the part of AMR so as to justify a forfeiture. In such case a notice of forfeiture shall be provided to AMR. In the event this Franchise Ordinance is forfeited, AMR shall, within one hundred eighty (180) days of its receipt of notice of forfeiture, cease operation of an ambulance service hereunder.

Section 10. Surrender.

If, during the term of this Franchise Ordinance, AMR does not earn a fair rate of return upon the value of property used and useful in providing such ambulance service for a period of six (6) months; and it is determined by AMR that it would not be practical, possible or in the public interest to cure the deficiency by an increase in rates and/or a reduction in service; and AMR has complied with all applicable procedures as prescribed by the Board of County Commissioners of Shawnee County, Kansas including the giving of notice of surrender to the City; then AMR upon one hundred eighty (180) days written notice to the city clerk may elect to surrender this Franchise Ordinance and cease

operation of the ambulance service hereunder. Fair rate of return means receipt of revenues for patient charges and public funds, if any, to include the sum of operating costs, depreciation reserves, growth and development costs and management fees.

Section 11. Transfer.

All the rights and obligations of AMR, pursuant to this Franchise Ordinance, may with written approval of the Council of the City of Topeka, be transferred to a person meeting the requirements for an ambulance service, as determined by the laws and regulations of the State and the City at the time of the contemplated transfer. Any such transferee shall, without limitation, assume all the duties and obligations of AMR and AMR shall be released of all future rights, duties, and obligations arising from this Franchise Ordinance.

Section 12. Hold harmless.

AMR shall hold the City harmless for all liability, damages, costs and expenses of every kind for the payment of which the City may become liable to any person by reason of the rights and privileges herein granted and, if any action either at law or in equity, be brought against the City for damages or for any cost to the City for any fault of AMR, its servants, agents, or employees, in the operation of its ambulance service, AMR shall pay all costs, damages and expenses including costs of defense for which the City may be held liable.

Section 13. Effective date.

This Franchise Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper in the manner prescribed

357 by law, and shall be binding upon AMR upon the filing of its written acceptance as required
358 by section 7.

359 Section 3. City of Topeka Code Appendix B, Articles VIII and XI are hereby
360 specifically repealed.

361 PASSED and APPROVED by the City Council_____.

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William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

Medevac Midamerica, Inc.

**(A wholly owned subsidiary of Medevac Medical Services, Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)**

Financial Statements December 31, 2005

CAUSEY DEMGEN & MOORE INC.

Certified Public Accountants and Consultants

Suite 4650
1801 California Street
Denver, Colorado 80202-2681
Telephone: (303) 296-2229
Facsimile: (303) 296-3731
www.cdmcpa.com

Report of Independent Auditors

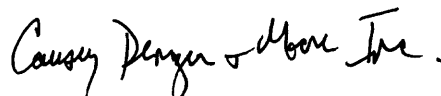
To the Management of
American Medical Response, Inc.:

We have audited the accompanying balance sheet of Medevac Midamerica, Inc. ("Company"), (a wholly owned subsidiary of Medevac Medical Services Inc., a wholly owned subsidiary of American Medical Response, Inc., a subsidiary of Emergency Medical Services L.P.) as of December 31, 2005, and the related statements of operations, of changes in shareholder's equity and of cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 2 to the financial statements, the Company has not recorded current and deferred income taxes. The omission of this information is, in our opinion, a departure from accounting principles generally accepted in the United States of America. Management has informed us that the effects of this departure from accounting principles generally accepted in the United States of America on the financial position, results of operations and cash flows has not been determined.

In our opinion, except for the effects of not recording current and deferred income taxes as discussed in the preceding paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of Medevac Midamerica, Inc. (a wholly owned subsidiary of Medevac Medical Services, Inc., a wholly owned subsidiary of American Medical Response, Inc., a subsidiary of Emergency Medical Services L.P.) as of December 31, 2005, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.



Denver, Colorado
May 25, 2006

CDM

MEDEVAC MIDAMERICA, INC.

(A wholly owned subsidiary of Medevac Medical Services, Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

Balance Sheet
December 31, 2005
Assets

Current assets:

Trade and other accounts receivable (net of allowance for uncompensated care of \$395,877)	\$	639,973
Medical supplies inventory		102,547
Prepaid expenses		<u>3,042</u>
Total current assets		745,562

Property and equipment, net (Note 3)		939,647
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Non-current assets:

Deposits and other		<u>13,878</u>
Total assets	\$	<u>1,699,087</u>

Liabilities and shareholder's equity

Current liabilities:

Accrued expenses	\$	179,043
Patient refunds		<u>16,344</u>
Total current liabilities		195,387

Commitments and contingencies (Note 6)

Shareholder's equity:

Common Stock, \$0.10 par value, 30,000 shares authorized, 20 shares issued and outstanding		2
Payable to parent company (Note 5)		1,200,435
Retained earnings, commencing February 1, 2005		<u>303,263</u>

Total shareholder's equity		<u>1,503,700</u>
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Total liabilities and shareholder's equity	\$	<u>1,699,087</u>
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The accompanying notes are an integral part of these financial statements.

MEDEVAC MIDAMERICA, INC.

(A wholly owned subsidiary of Medevac Medical Services, Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

Statement of Operations**For the year ended December 31, 2005**

Revenue, net of contractual provisions	\$	4,852,924
Other revenue		<u>759,265</u>
Net revenue		5,612,189
Operating expenses:		
Salaries		1,593,845
Provision for uncompensated care		1,233,622
Benefits and payroll taxes		295,015
Depreciation and amortization		253,458
Vehicle operating costs		242,417
Medical supplies		172,464
Insurance		138,882
Facilities rent and other occupancy		123,448
Other operating		65,877
Telecommunications		52,221
Professional fees		10,692
Other general and administrative		<u>93,618</u>
		<u>4,275,559</u>
Direct shared services from Parent Company (Note 5)		
Management expense		136,027
Billing services allocation		264,060
Dispatch services		287,157
Finance, human resources, information technology, purchasing and materials management, safety and risk management and business development		<u>242,263</u>
		<u>929,507</u>
Total operating expenses		5,205,066
Income from operations		407,123
Interest expense to Parent Company (Note 5)		<u>97,163</u>
Net income before taxes	\$	<u>309,960</u>

The accompanying notes are an integral part of these financial statements.

MEDEVAC MIDAMERICA, INC.

(A wholly owned subsidiary of Medevac Medical Services, Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

Statement of Changes in Shareholder's Equity For the year ended December 31, 2005

	Common Stock	Payable to Parent Company	Retained Earnings	Total Equity
Balances at December 31, 2004	\$ 2	\$ 1,370,453	\$ 37,680	\$ 1,408,135
Net income before taxes for the one month period ended January 31, 2005	-	-	6,697	6,697
Sale of Company to Emergency Medical Service L.P.	-	44,377	(44,377)	-
Net working capital advanced to Parent Company for the year ended December 31, 2005	-	(214,395)	-	(214,395)
Net income before taxes for the eleven month period ended December 31, 2005	-	-	303,263	303,263
Balances at December 31, 2005	\$ 2	\$ 1,200,435	\$ 303,263	\$ 1,503,700

The accompanying notes are an integral part of these financial statements.

MEDEVAC MIDAMERICA, INC.

(A wholly owned subsidiary of Medevac Medical Services, Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

Statement of Cash Flows

For the year ended December 31, 2005

Cash flows from operating activities:

Net income before taxes	\$	309,960
Adjustments to reconcile net income before taxes to net cash provided by operating activities:		
Depreciation and amortization		253,458
Provision for uncompensated care		1,233,622
Changes in operating assets and liabilities:		
Accounts receivable		(1,292,733)
Medical supplies		11,292
Prepaid expenses		2,023
Accrued liabilities		10,128
Patient refunds		3,284
Net cash provided by operating activities		531,034

Cash Flows from Investing Activities:

Purchase of property, plant and equipment	(303,761)
Increase in radio frequency licenses	(12,878)
Net cash used in investing activities	(316,639)

Cash Flows from Financing Activities:

Working capital advanced to Parent Company	(214,395)
Net cash used in financing activities	(214,395)
Net change in cash	-
Cash, beginning of year	-
Cash, end of year	\$ -

Supplemental cash flow information:

On February 1, 2005, the Company offset its retained earnings of \$44,377 against the payable due to its Parent Company resulting from the sale of the parent to Emergency Medical Services L.P.

The accompanying notes are an integral part of these financial statements.

Medevac Midamerica, Inc.

**(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)**

NOTES TO FINANCIAL STATEMENTS

1. Organization and Basis of Financial Statement Presentation:

Medevac Midamerica, Inc. (the "Company") is a Missouri corporation authorized to do business in Kansas and is a wholly owned subsidiary of Medevac Medical Services, Inc. ("MMS"), a Kansas corporation, a wholly owned subsidiary of American Medical Response, Inc. ("AMR" or "Parent") and a subsidiary of Emergency Medical Services L.P. Balances and financial results of the Company are not indicative of AMR's financial position or results of operations.

The company operates an ambulance service contract with Shawnee County, Kansas. The contract, which was extended effective January 1, 2006, has a term through December 31, 2011 and can be extended up to December 31, 2016.

Except as disclosed in Note 2 (income taxes), these financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") to reflect the financial position, results of operations, and cash flows of the Company.

Corporate Structure

The Company's operations are significantly integrated with the operations of AMR. AMR was in turn, an indirect subsidiary of Laidlaw International, Inc. ("Laidlaw") through January 31, 2005 and became a subsidiary of Emergency Medical Services L.P. as of February 1, 2005. Upon the sale of AMR to Emergency Medical Services L.P., the Company recorded two "push down" accounting entries to revalue its property and equipment to net book value by netting accumulated depreciation against the historical cost basis of property and equipment and to eliminate retained earnings against the payable to Parent Company on the accompanying balance sheet.

The Company is dependent on its parent AMR, for continued financial support. It is the intent of AMR to continue to provide financial support to the Company through the year ended December 31, 2006, and fund its operating deficits, if any.

2. Significant Accounting Policies

Cash and Cash Equivalents

The Company considers all highly liquid instruments with an original maturity of three months or less to be cash equivalents.

Accounts Receivable and Concentration of Credit Risk

Accounts receivable are recorded at the invoiced amount net of contractual allowances and do not bear interest. The allowance for uncompensated care represents the difference between the allowed portion of the Company's receivables and expected collections from third-party payors and patients and does not include charity care. The Company determines the allowance based on historical write-off experience by industry and regional economic data. The Company reviews its allowance for uncompensated care monthly. Past due balances over 90 days, which amounted to \$326,616 at December 31, 2005, and accounts over a specified amount are reviewed individually for collectibility. All other balances are reviewed on a pooled basis by type of receivable. Account

Medevac Midamerica, Inc.

**(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)**

NOTES TO FINANCIAL STATEMENTS

balances are charged off against the allowance when the Company feels it is probable the receivable will not be recovered.

During the year ended December 31, 2005, the Company derived approximately 42.5% of its net ambulance fee revenue from Medicare, 5.8% from Medicaid and 42.8% from private insurers, including prepaid health plans and other non-governmental sources, and 8.9% directly from patients.

Medical Supplies Inventory

Medical supplies inventory is valued at cost, determined on a first-in, first-out basis or market. Durable medical supplies, including stretchers, oximeters and other miscellaneous items are capitalized as inventory and expensed as used.

Property and Equipment

Property and equipment purchased prior to February 1, 2005 is stated at fair value due to the "push-down" accounting entry that was recorded to revalue the property and equipment upon the sale of AMR to Emergency Medical Services L.P. Property and equipment purchased after the sale is stated at cost. Depreciation of property and equipment is computed on a straight-line basis over their estimated useful lives, which are as follows:

Buildings and improvements	40 years
Vehicles	5 years
Medical and office equipment	5 to 10 years
Communication, computer and other equipment	3 to 5 years

Maintenance and repairs of property and equipment are charged to operations and major improvements are capitalized. Upon retirement, sale or other disposition of property and equipment, the cost and accumulated depreciation are eliminated from the accounts and any resulting gain or loss is included in operations.

Radio Frequency Licenses

Radio frequency licenses of \$12,878, which are included in deposits and other at December 31, 2005, are considered to be indefinite lived intangible assets and as such they are not amortized. The radio frequency licenses are reviewed for impairment on an annual basis.

Impairment of Long-lived Assets and Other Definite Lived Intangibles

Long-lived assets and other definite lived intangibles are assessed for impairment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Important factors, which could trigger impairment review, include significant underperformance relative to historical or projected future operating results, significant changes in the use of the acquired assets or the strategy for the overall business, and significant negative industry or economic trends. If indicators of impairment are present, management evaluates the carrying value of long-lived assets and other definite lived intangibles in relation to the projection of future undiscounted cash flows

Medevac Midamerica, Inc.

(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

NOTES TO FINANCIAL STATEMENTS

of the underlying business. Projected cash flows are based on historical results adjusted to reflect management's best estimate of future market and operating conditions, which may differ from actual cash flows.

Compensated Absences

Employees can earn between 2 and 4 weeks of annual leave based on longevity of employment. Accrued paid time off in excess of 200 hours will be paid out at year end. Compensated absences as of December 31, 2005 are included in accrued liabilities in the accompanying balance sheet.

Deferred Revenue

The Company offers a membership program which allows participants use of services at a one-time annual administrative charge. The Company also receives various subsidies from governmental sources that are often received in advance of services performed. Revenue is recognized ratably over the respective service period. Deferred revenue in the amount of \$27,567 as of December 31, 2005 is included in accrued liabilities in the accompanying balance sheet.

Patient Refunds

These amounts represent overpayments on patient accounts that must be refunded.

Revenue Recognition

Revenue is recorded at rates established by agreements with the respective municipalities with contractual provisions deducted to arrive at net operating revenue.

Contractual provisions represent the difference between pre-established reimbursement rates paid by Medicare and Medicaid and those allowed under the agreement with the municipality government.

Service fees not reimbursed by other third party payors are billed to the patient. The Company establishes an allowance for the estimated amount not collectible from these parties.

Advertising expense

All costs related to marketing and advertising are expensed in the period incurred. Advertising expense amounted to \$20,513 for the year ended December 31, 2005.

Income Taxes

The Company will be included in the consolidated federal income tax return of its Parent Company. As such, the Company has not recorded current or deferred income taxes, which is a departure from GAAP. The effects of this departure from GAAP on the financial position, results of operations, and cash flows have not been determined.

Medevac Midamerica, Inc.

(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)

NOTES TO FINANCIAL STATEMENTS

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results, including the actual results for uncompensated care and contractual allowances, could differ from those estimates.

Insurance

AMR provides various types of insurance coverage for the Company. AMR is self-insured for health insurance coverage. The Company is charged a set percentage of budgeted revenue for insurance related expenses with additional adjustments based upon actual occurrences (see note 5 for further explanation).

Business Risks and Uncertainties

The healthcare (ambulance) industry is subject to numerous laws and regulations of federal, state and local governments. Compliance with these laws and regulations can be subject to future government review and interpretations as well as regulatory actions unknown or unasserted at the time. Recently, government activity has increased with respect to investigations and allegations concerning possible violations by health care providers of fraud and abuse statutes and regulations, which could result in the imposition of significant fines and penalties as well as significant repayments for patient services previously billed. Compliance with such laws and regulations are subject to future government review and interpretations as well as potential regulatory actions. Management of the Company has implemented procedures to identify and comply with any laws, regulations, and regulatory actions.

Except for management, all of the Company's employees are covered by a collective bargaining agreement which expires December 31, 2006. The Company expects to successfully negotiate a new agreement and union members will continue to work while the parties negotiate.

3. Property and Equipment, net

Property and equipment, net consists of the following as of December 31, 2005:

Land	\$ 128,295
Buildings and improvements	242,919
Vehicles	493,411
Medical, communications and other equipment	<u>310,911</u>
	1,175,536
Less: accumulated depreciation	<u>(235,889)</u>
Property and equipment, net	<u>\$ 939,647</u>

Depreciation expense was \$253,458 for the year ended December 31, 2005.

Medevac Midamerica, Inc.

**(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)**

NOTES TO FINANCIAL STATEMENTS

4. Retirement Plan

AMR maintains 401(k) plans (the "Plans") for its employees and employees of its affiliated companies who meet the eligibility requirements set forth in the Plans. Employees may contribute a maximum of 40% of their compensation up to a maximum of \$14,000 for 2005. The Company makes matching contributions to the Plans equal to 50% of the first 6% of the participant's compensation up to a maximum of 3% of the participant's annual compensation. The Company's contributions to the Plans were \$13,151 for the year ended December 31, 2005, which are included in Benefits and payroll taxes in the Statement of Operations.

5. Transactions with Related Parties

Revenue receipts are deposited in cash accounts maintained by AMR. Cash is disbursed from accounts owned by AMR to cover expenses incurred by the Company. AMR processes the accounts payable, accounts receivable, and the payroll transactions for the Company, which results in charges through the intercompany account.

In the normal course of business, a related party allocation is made to AMR's subsidiaries, including the Company, for the payment of various support functions, including salaries, payroll, related benefits and other charges. This allocation is based on the Company's number of transports, and can vary from year to year, based upon AMR's corporate cost incurred. The Company was allocated \$136,027 for the year ended December 31, 2005, related to these support functions.

A related party fee for billing-related functions was charged to the Company based on the Company's number of transports and amounted to \$264,060 for the year ended December 31, 2005.

A related party fee for dispatch services was also charged to the Company based on the Company's number of transports and amounted to \$287,157 for the year ended December 31, 2005.

Other related party charges of \$242,263 for the year ended December 31, 2005, include costs for finance, human resources, information technology, business development and an allocation of insurance expense based on set percentages of budgeted revenue and additional adjustments based upon actual occurrences for the following coverages: workers' compensation, vehicle, general liability and malpractice.

The activity between the Company and AMR resulted in working capital advanced to the Parent Company of \$214,395 during the year and a net payable due to AMR of \$1,200,435 at December 31, 2005. At December 31, 2005, this balance has been reflected as a component of equity since the Company does not expect to pay the liability, which is primarily a result of net cash transfers between the Company and AMR. In addition, the Company was charged interest by AMR of \$97,163 for the year ended December 31, 2005, relating to this related party balance. The average interest rate was 8.19% for the year ended December 31, 2005. As a result of the net transfers between the Company and AMR, the company's intercompany balance due to the parent was decreased by \$170,018 during the year ended December 31, 2005, which included an increase in

Medevac Midamerica, Inc.

**(A wholly owned subsidiary of Medevac Medical Services Inc.,
a wholly owned subsidiary of American Medical Response, Inc.)**

NOTES TO FINANCIAL STATEMENTS

the payable in the amount of \$44,377 due to the sale of the Parent Company to Emergency Medical Services L.P. as discussed in Note 1.

6. Commitments and Contingencies

The Company, like other Medicare and Medicaid providers, is subject to government audits of its Medicare and Medicaid reimbursement claims. Accordingly, retroactive revenue adjustments from these programs could occur. The Company is also subject to the Medicare and Medicaid fraud and abuse laws, which prohibit any bribe, kickback or rebate in return for referral of Medicare or Medicaid patients. Violation of these prohibitions may result in civil and criminal penalties and exclusion from participation in the Medicare and Medicaid programs. The Company has programs in place to assure substantial compliance with these laws.

In the normal course of operations, the Company is named as a defendant in lawsuits and is subject to periodic examinations by regulatory agencies. Management is of the opinion that liabilities, if any, arising from such litigation and examinations would not have a material affect on the Company's financial position, result of operations, or cash flows.

Lease Commitments

The Company leases facilities under agreements that expire at various dates through December 2006. Total rent expense was \$37,452 for the year ended December 31, 2005. Future non-cancelable minimum lease payments for these facilities total \$20,904 for the year ended December 31, 2006.

Shawnee County Contract

The Company has an agreement with Shawnee County to provide emergency ambulance services through December 31, 2011, and the agreement can be extended up to December 31, 2016. The agreement requires the Company to maintain ambulance vehicles, equipment, and staff trained and authorized to perform basic and advanced life support services. The Company is also required to maintain liability insurance in minimum coverage amounts as specified in the agreement. Management believes, for the year ended December 31, 2005, it was in compliance with the terms of the agreement.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 28, 2006

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DATE: November 28, 2006

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

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POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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