

Table of Contents

Agenda	3
Approval of the minutes of the February 23rd, 2010 City Commission Meeting. February 23, 2010 Commission Meeting Minutes.	6
Approval of an Order vacating a portion of a platted utility easement described as follows: Beginning 10 feet North and 10 feet West of the Southeast Corner of Lot 24, Saia's Mt. Carmel First Addition; thence 206.30 feet West; thence 20 feet South to a point that is 10 feet South and 206.30 feet east of the Northwest Corner of Lot 23; thence 206.30 feet East; thence 20 feet North to the point of beginning; all located in the City of Pittsburg, Crawford County, Kansas. (Crawford County Mental Health) CCMH Utility Vacation Order	10
Approval of staff request to incorporate new language into Policy Number 302 of the Employee Handbook regarding overtime and compensatory time. Memo - Policy No. 302 Proposed Changes. Policy No. 302 with Proposed Changes.	12 13
Consider a housing rehabilitation loan application for Troy and Angela Whetzel of 613 W. 3rd in the amount of \$10,000 to be used for specific items. CAB minutes of meeting Agenda Memo	15 18
Approval of staff recommendation to award the bid for the sale of surplus phone equipment to Kansas Communications Systems, Inc. of Chanute, Kansas, based on their high bid of \$675.00. Surplus Equipment Memo. Surplus Equipment Bid Tab Sheet	19 20
Approval of staff recommendation to approve the recommendation of the Economic Development Advisory Committee to fund an infrastructure development project in the Southeast Industrial Park with Revolving Loan Funds in an amount not to exceed \$150,000. Southeast Industrial Park Memo Southeast Industrial Park Attachments	21 23
Approval of the Appropriation Ordinance for the period ending March 10, 2010, subject to the release of HUD expenditures when funds are received. CHECK LIST Signature Page - Appropriation Ordinance	27 46
SMOKING BAN - City Attorney Henry Menghini will provide an overview of the recently passed State law prohibiting smoking in most public places. HB 2221 - Regulating Smoking	47

ENGINEERING SERVICES AGREEMENT - PUBLIC UTILITIES MAINTENANCE BUILDING - Staff is requesting approval of the Engineering Services Agreement provided by PKHLS Architecture, P.A. for the design and contract administration of the Public Utilities Maintenance Building (KWPCRF Project No. C20 1818 01A).

PU Bldg Eng Agrmt Memo	62
PU Bldg PE Services Agreement	64

REQUEST TO REZONE - The Planning and Zoning Commission, in its meeting of February 22nd, 2010, voted unanimously to recommend Governing Body approval of a request submitted by Miller's Professional Imaging to rezone the 600 Blocks of East Monroe and East Madison from R-2 Two-Family Residential to IP-2 Planned Medium Industrial.

MPI Rezoning PZC Recommendation Memo	82
MPI Rezoning Map	84

CONDITIONAL USE FOR DOG KENNEL - The Planning and Zoning Commission, in its meeting of February 22nd, 2010, voted 6 to 2 to recommend to the Governing Body approval of a request submitted by Karen S. Clark for a Conditional Use under the provisions of Article 30 of the Pittsburg Zoning Ordinance to keep more than 4 dogs as pets only at 1131 W. 2nd Street with certain stipulations being imposed.

Clark CU PZC Recommendation Memo	85
Clark CU Map	88

PROGRESSIVE PRODUCTS TAX EXEMPTION - Consider the request submitted by Progressive Products for the City Commission to rescind the tax abatement granted to Progressive Products for equipment.

Progressive Products Memo	89
Progressive Products Request Letter	90
Progressive Products - Letter from State	91

CITY OF PITTSBURG, KANSAS
COMMISSION AGENDA
Tuesday, March 09, 2010
5:30 PM

CALL TO ORDER BY THE MAYOR:

- a. Invocation provided by Mary Cash of the Community of Christ
- b. Flag Salute Led by the Mayor
- c. Public Input

CONSENT AGENDA:

- a. Approval of the minutes of the February 23rd, 2010 City Commission Meeting.
- b. Approval of an Order vacating a portion of a platted utility easement described as follows: Beginning 10 feet North and 10 feet West of the Southeast Corner of Lot 24, Saia's Mt. Carmel First Addition; thence 206.30 feet West; thence 20 feet South to a point that is 10 feet South and 206.30 feet east of the Northwest Corner of Lot 23; thence 206.30 feet East; thence 20 feet North to the point of beginning; all located in the City of Pittsburg, Crawford County, Kansas. (Crawford County Mental Health)
- c. Approval of Ordinance No. G-1088 defining group homes and group residences; adding group homes to the list of allowed uses in all residential districts; eliminating the maximum square footage allowance for accessory buildings in all residential districts; and establishing a maximum lot coverage allowance in all residential districts by amending and supplementing Zoning Ordinance No. G-663. **Second Reading - ROLL CALL VOTE.**
- d. Approval of staff request to incorporate new language into Policy Number 302 of the Employee Handbook regarding overtime and compensatory time.
- e. Consider a housing rehabilitation loan application for Troy and Angela Whetzel of 613 W. 3rd in the amount of \$10,000 to be used for specific items.
- f. Consider Downtown Living Loan Application for Pasteur Properties in the amount of \$36,000 for renovation of three second story apartments at 106 W. 3rd.

CITY OF PITTSBURG, KANSAS
COMMISSION AGENDA
Tuesday, March 09, 2010
5:30 PM

- g. Approval of staff recommendation to award the bid for the sale of surplus phone equipment to Kansas Communications Systems, Inc. of Chanute, Kansas, based on their high bid of \$675.00.
- h. Approval of staff recommendation to approve the recommendation of the Economic Development Advisory Committee to fund an infrastructure development project in the Southeast Industrial Park with Revolving Loan Funds in an amount not to exceed \$150,000.
- i. Approval of the Appropriation Ordinance for the period ending March 10, 2010, subject to the release of HUD expenditures when funds are received.
ROLL CALL VOTE.

SPECIAL PRESENTATION:

- a. **SMOKING BAN** - City Attorney Henry Menghini will provide an overview of the recently passed State law prohibiting smoking in most public places.
Receive for file.

CONSIDER THE FOLLOWING:

- a. **ENGINEERING SERVICES AGREEMENT - PUBLIC UTILITIES MAINTENANCE BUILDING** - Staff is requesting approval of the Engineering Services Agreement provided by PKHLS Architecture, P.A. for the design and contract administration of the Public Utilities Maintenance Building (KWPCRF Project No. C20 1818 01A). **Approve or disapprove the Engineering Services Agreement with PKHLS Architecture, P.A. and, if approved, authorize the Mayor to sign on behalf of the City.**

CITY OF PITTSBURG, KANSAS
COMMISSION AGENDA
Tuesday, March 09, 2010
5:30 PM

- b. **REQUEST TO REZONE** - The Planning and Zoning Commission, in its meeting of February 22nd, 2010, voted unanimously to recommend Governing Body approval of a request submitted by Miller's Professional Imaging to rezone the 600 Blocks of East Monroe and East Madison from R-2 Two-Family Residential to IP-2 Planned Medium Industrial. **Approve or disapprove recommendation.** (If the Governing Body is not in agreement with the recommendation as provided, the State Statutes stipulate that the Governing Body, by a 2/3 majority, may override the recommendation or may return the recommendation to the Planning and Zoning Commission for further consideration. A return of the recommendation must be accompanied with a statement specifying the basis for the Governing Body's returning the recommendation.)

- c. **CONDITIONAL USE FOR DOG KENNEL** - The Planning and Zoning Commission, in its meeting of February 22nd, 2010, voted 6 to 2 to recommend to the Governing Body approval of a request submitted by Karen S. Clark for a Conditional Use under the provisions of Article 30 of the Pittsburg Zoning Ordinance to keep more than 4 dogs as pets only at 1131 W. 2nd Street with certain stipulations being imposed. **Approve or disapprove the recommendation.**

- d. **PROGRESSIVE PRODUCTS TAX EXEMPTION** - Consider the request submitted by Progressive Products for the City Commission to rescind the tax abatement granted to Progressive Products for equipment. **Approve or disapprove request of Progressive Products.**

NON-AGENDA REPORTS & REQUESTS:

EXECUTIVE SESSION:

- a. **EXECUTIVE SESSION** - An Executive Session is necessary for discussion deemed privileged in the attorney/client relationship. **Motion to recess into Executive Session for approximately 30 minutes for discussion deemed privileged in the attorney/client relationship.**

ADJOURNMENT

OFFICIAL MINUTES
OF THE
GOVERNING BODY
OF THE
CITY OF PITTSBURG, KANSAS
February 23, 2010

A Regular Session of the Board of Commissioners was held at 5:30 p.m., Tuesday, February 23rd, 2010, in the City Commission Room, located in the Law Enforcement Center, 201 North Pine, with Mayor Rudy Draper presiding and the following members present: Marty Beezley, Pamela Henderson, Patrick O'Bryan, and William H. Rushton.

K.O. NooNoo of the First Presbyterian Church provided the invocation.

Mayor Draper led the flag salute.

APPROVAL OF MINUTES – FEBRUARY 5th, 2010 - On motion Beezley, seconded by O'Bryan, the Governing Body approved the minutes of the February 5th, 2010, Special City Commission Meeting as submitted. Motion carried.

APPROVAL OF MINUTES – FEBRUARY 9th, 2010 - On motion of Beezley, seconded by O'Bryan, the Governing Body approved the minutes of the February 9th, 2010, City Commission Meeting as submitted. Motion carried.

ANNUAL TAX ABATEMENT RENEWALS – On motion of Beezley, seconded by O'Bryan, the Governing Body approved the recommendation of the Economic Development Advisory Committee (EDAC) to grant 2010 tax abatement renewals to Martinous Produce, Pitsco, Pitt Plastics and Names and Numbers. Motion carried.

CEREAL MALT BEVERAGE LICENSE – VILLA'S RODEO – On motion of Beezley, seconded by O'Bryan, the Governing Body approved the application submitted by Sandra Leyva for a 2010 Cereal Malt Beverage License for Villa's Rodeo, located at 514 North Joplin, and authorized the City Clerk to issue the license. Motion carried.

TASC AMENDED CONTRACT – On motion of Beezley, seconded by O'Bryan, the Governing Body approved an amended contract with TASC for Flexible Spending Accounts and COBRA administration, and authorized the Mayor to sign the agreement on behalf of the City. Motion carried.

CANDY PRODUCTIONS LLC CONTRACT – On motion of Beezley, seconded by O'Bryan, the Governing Body approved a contract in the amount of \$2,000 between the City and Candy Productions LLC, for an April 2nd, 2010, performance by Candy Coburn at Memorial Auditorium and authorized the Mayor to sign the contract on behalf of the City. Motion carried.

OFFICIAL MINUTES
OF THE
GOVERNING BODY
OF THE
CITY OF PITTSBURG, KANSAS
February 23, 2010

ORDINANCE NO. G-1087 – On motion of Beezley, seconded by O'Bryan, the Governing Body approved Ordinance No. G-1087 amending Sections 18-34, 18-63, 18-101, and 18-102 of the Pittsburg City Code by adopting by reference the 2008 Edition of The National Electrical Code, as adopted by the National Fire Protection Association (NFPA No. 70) and approved by The American National Standards Institute, except such parts or portions thereof as are deleted, modified, supplemented or amended by Section 18-102, on second reading with the following roll call vote: Yea: Beezley, Draper, Henderson, O'Bryan, and Rushton. Motion carried.

ORDINANCE NO. G-1088 – On motion of Beezley, seconded by O'Bryan, the Governing Body approved first reading of Ordinance No. G-1088 defining group homes and group residences; adding group homes to the list of allowed uses in all residential districts; eliminating the maximum square footage allowance for accessory buildings in all residential districts; and establishing a maximum lot coverage allowance in all residential districts by amending and supplementing Zoning Ordinance No. G-663. Motion carried.

VACATION ORDER – On motion of Beezley, seconded by O'Bryan, the Governing Body approved an Order vacating the 600 Block of East Monroe beginning at the east right-of-way line of Homer Street and extending east a distance of 506 feet to the west right-of-way line of Stilwell Street, located adjacent to Lots 1 through 11, Block 4; and Lots 12 through 22, Block 3, Bonview Addition, all located in the City of Pittsburg, Crawford County, Kansas. Motion carried.

APPROPRIATION ORDINANCE – On motion of Beezley, seconded by O'Bryan, the Governing Body approved the Appropriation Ordinance for the period ending February 24th, 2010, subject to the release of HUD expenditures when funds are received, with the following roll call vote: Yea: Beezley, Draper, Henderson, O'Bryan and Rushton. Motion carried.

PUBLIC HEARING - REQUEST TO VACATE – Following a Public Hearing, on motion of Beezley, seconded by O'Bryan, the Governing Body approved the request submitted by Crawford County Mental Health to vacate a platted utility easement described as beginning 10 feet North and 10 feet West of the Southeast Corner of Lot 24, Saia's Mt. Carmel First Addition; thence 412.60 feet West; thence 20 feet South to a point that is 10 feet South of the Northwest Corner of Lot 23; thence 412.60 feet East; thence 20 feet North to the point of beginning; all located in the City of Pittsburg, Crawford County, Kansas, and directed the preparation of the necessary Order. Motion carried.

OFFICIAL MINUTES
OF THE
GOVERNING BODY
OF THE
CITY OF PITTSBURG, KANSAS
February 23, 2010

HIKING/BIKING TRAILHEAD AND TRAIL – Following a verbal presentation by Staff and Jim Busch, of Pittsburg Beautiful, regarding the proposed design and donation of land and resources for the Hiking/Biking Trailhead and Trail beginning at 11th and Broadway and running southwesterly to Georgia and Second Street, on motion of Beezley, seconded by O'Bryan, the Governing Body accepted the donations from Pittsburg Beautiful and Pittsburg Pepsi-Cola Bottling Co. and authorized Staff to proceed with the construction of the trailhead. Motion carried.

Commissioner O'Bryan requested staff to re-notify the property owners adjoining the trail, as it has been two years since the property owners were first informed of the project, and ownership of some of the properties may have changed.

DANCE HALL LICENSE RENEWAL - MOOREMAN'S, INC. – On motion of O'Bryan, seconded by Rushton, the Governing Body approved the application submitted by Graig Moore of Mooreman's, Inc, 1608 S. Broadway, for the renewal of his dance hall license and directed the City Clerk to issue the license. Motion carried.

CITIZENS AGAINST SMOKING – Following a verbal presentation by Kim Wilson and Cathy Newby, requesting the City Commission to adopt an Ordinance regulating smoking in public places, it was the consensus of the Governing Body to monitor action to be taken by the State of Kansas on this subject in the near future and, if needed, direct staff to prepare a draft ordinance for future consideration. Ms. Wilson and Ms. Newby provided a sample ordinance for consideration.

Commissioners Beezley indicated that she would like the City Commission to act quickly on this topic.

Commissioner O'Bryan suggested a study session be held in the future to discuss this matter in detail, as many businesses would be affected by such an ordinance.

RESOLUTION NO. 1100 - Following a verbal update on the Atkinson Road Bridge Replacement Project, on motion of O'Bryan, seconded by Henderson, the Governing Body approved Resolution No. 1100 to amend Resolution No. 997 due to the increased cost of providing for the reconstruction of the bridge and further approved PEC's Supplemental Agreement No. 1 to increase their original contract price by \$16,567.63 making a total contract amount of \$102,500, and authorized the Mayor to sign the documents on behalf of the City. Motion carried.

RESOLUTION NO. 1099 – On motion of Rushton, seconded by O'Bryan, the Governing Body approved Resolution No. 1099 that would allow for the improvement of Quincy Avenue from Broadway Street to Stilwell Street, and authorized the Mayor to sign the Resolution on behalf of the City. Motion carried.

OFFICIAL MINUTES
OF THE
GOVERNING BODY
OF THE
CITY OF PITTSBURG, KANSAS
February 23, 2010

DISPOSITION OF BIDS – On motion of O'Bryan, seconded by Beezley, the Governing Body awarded the bid for the Memorial Auditorium Step Replacement to Home Center Construction, of Pittsburg, Kansas, based on their low base bid amount of \$32,980 and add alternate bid of \$37,300 (electronic ice melt system) for a total of \$70,280, and authorized the Mayor to execute the contract documents when they are prepared. Motion carried.

Commissioner Beezley asked staff to keep Commissioners updated on the progress of the project, as additional damage may be discovered once the project gets underway.

CHANGE ORDERS AND FINAL PAYMENT - PUBLIC SAFETY FACILITIES (POLICE/COURTS FACILITY AND FIRE STATION NO. 1) – On motion of O'Bryan, seconded by Henderson, the Governing Body disapproved Change Order No. 25 for Fire Station No. 1 reflecting an increase of \$3,000 making a new contract construction amount of \$4,433,462.18, Change Order No. 28 for the Police/Courts Facility reflecting an increase of \$7,000 making a new contract construction amount of \$6,772,913.56, and final payment in the amount of \$243,560.54 to Crossland Construction Company, of Columbus, Kansas, until such a time as the unfinished items can be completed on both the Police/Courts Facility and Fire Station No. 1. Motion carried.

NON-AGENDA REPORTS AND REQUESTS:

JOHN VANGORDEN ANNIVERSARY – The City Commissioners recognized John VanGorden on 43 years of employment with The City of Pittsburg.

ADJOURNMENT: On motion of O'Bryan, seconded by Beezley, the Governing Body adjourned the meeting at 6:54 p.m. Motion carried.

Rudy Draper, Mayor

ATTEST:

Tammy Nagel, City Clerk

ORDER VACATING PORTION OF AN EASEMENT

AN ORDER, vacating a portion of a platted utility easement described as follows: Beginning 10 feet North and 10 feet West of the Southeast Corner of Lot 24, Saia's Mt. Carmel First Addition; thence 206.30 feet West; thence 20 feet South to a point that is 10 feet South and 206.30 feet east of the Northwest Corner of Lot 23; thence 206.30 feet East; thence 20 feet North to the point of beginning; all located in the City of Pittsburg, Crawford County, Kansas.

WHEREAS, Notice has been duly given that the Governing Body would hold a public hearing to consider a Petition to vacate a portion of the easement hereinafter described, with notice being published in the Morning Sun on January 28, 2010 pursuant to K.S.A. 12-504;

WHEREAS, said public hearing was held on February 23, 2010, with no one appearing in opposition to the Petition;

WHEREAS, no private rights will be injured or endangered by the vacations, the public will suffer no loss or inconvenience thereby, and the Petition shall be granted;

WHEREAS, no written objection to the Petition has been filed by any owner or adjoining party who would have been a proper party to the Petition; and

WHEREAS, it is by the Governing Body of the City of Pittsburg, Kansas, deemed expedient and in the best interest of the City that the easements hereinafter described be vacated.

NOW, THEREFORE, BE IT ORDERED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS.

Section 1: A portion of a utility easement described as follows: Beginning 10 feet North and 10 feet West of the Southeast Corner of Lot 24, Saia's Mt. Carmel First Addition; thence 206.30 feet West; thence 20 feet South to a point that is 10 feet South and 206.30 feet east of the Northwest Corner of Lot 23; thence 206.30 feet East; thence 20 feet North to the point of beginning, is hereby vacated.

Section 2: The land comprising the portion of the easement hereby vacated and closed shall revert to the adjoining owners of land in the same proportion as when originally taken.

Section 3: This Order shall take effect upon being signed by the Mayor and attested by the City Clerk.

Section 4: Upon the execution of this Order, the City Clerk shall certify true copies thereof and send one copy to the office of the County Clerk and also a certified copy thereof to the office of the Register of Deeds for recording as provided by K.S.A. 12-505.

SO ORDERED AND PASSED the 9th day of March, 2010.

Mayor - Rudy Draper

ATTEST:

City Clerk - Tammy Nagel

(SEAL)



Interoffice Memorandum

TO: City Commissioners

FROM: John VanGorden, Interim City Manager

DATE: March 3rd, 2010

SUBJECT: Agenda Item – March 9th, 2010, City Commission Meeting
Changes to Employee Policy Manual – Policy Number 302

After a review of Policy Number 302 titled "Overtime and Compensatory Time" in the newly revised Employee Handbook, staff is recommending the fourth paragraph of the policy be revised to read as follows:

With the exception of firefighters and employees with exempt status, all employees shall be eligible to receive overtime compensation (1 ½ times the hourly rate of pay) for all hours in excess of forty (40) hours a week. **All emergency call back hours will be compensated at a rate of 1 ½ times the employee's rate of pay.**

A copy of the Policy, along with the proposed changes typed in red is attached for your review.

Please place this item on the agenda for the March 9th, 2010, City Commission Meeting. Action requested is review of the recommendation, and if approved, incorporate the proposed changes into Policy Number 302.

If you have any questions, please call. Thank you!

Attachment: Policy Number 302 with proposed changes



Section Number: III
Effective Date: 12/22/2009
Revision Date:

Policy Number: 302
Page 1 of 2
Revision Number:

TITLE	OVERTIME AND COMPENSATORY TIME
--------------	---------------------------------------

The Fair Labor Standards Act (FLSA) allows public employers to pay nonexempt employees for overtime worked in the form of compensatory time off. An employee may be given compensatory time off ("comp. time") in lieu of cash payments for the overtime worked. Compensatory time may be used in lieu of cash overtime compensation only if such an agreement or understanding has been arrived at between the City and the individual employee before the performance of work. Any comp time off shall be at the rate of 1 ½ times the hours of overtime worked.

No exempt employee as defined by the FLSA, shall be eligible for overtime pay or compensatory time off.

Compensation for authorized overtime work will be paid at the rate of 1 ½ times the employee's regular rate of pay. Overtime compensation will be paid the first payday following the pay period in which it was earned. For compensatory time with City Manager approval, departments may establish maximum accrual limits and require employees to use accrued compensatory time prior to the end of the fiscal year.

With the exception of firefighters and employees with exempt status, all employees shall be eligible to receive overtime compensation (1 ½ times the hourly rate of pay) for all hours in excess of forty (40) hours a week. **All emergency call back hours will be compensated at a rate of 1 ½ times the employee's rate of pay.**

Section 7(k) of the FLSA provides that employees engaged in fire protection may be paid overtime on a "work period" basis. The City of Pittsburg has determined a "work period" to be 28 consecutive days in length. Fire protection personnel are due overtime under such a plan after 212 hours during a 28-day period.

Leave time is considered as time worked for computing overtime within a scheduled work period for all non-exempt employees.

Emergency Response

Non-exempt employees will be granted a minimum of two hours overtime compensation when responding to an emergency situation. Management should carefully weigh the costs and benefits of alternatives before authorizing emergency response pay. Reasonableness and fairness shall be exercised in administering this policy.



Section Number: III
Effective Date: 12/22/2009
Revision Date:

Policy Number: 302
Page 2 of 2
Revision Number:

Emergency Response is when an employee has left the work site at the end of his/her regularly scheduled work shift and is required to return to the worksite due to an emergency situation as defined herein. Emergency Response requires an employee to respond on short notice to an emergency situation at work for any of the following reasons:

- Avoid significant service disruption
- Avoid placing employees or the public in unsafe situations
- Protect and/or provide emergency services to citizens, property or equipment
- Respond to emergencies with employees or residents in the case of severe weather.
- Any other situation approved **in advance** by the City Manager or his/her designee.

Expectations

Employees are expected to report to work when called for emergency response situations. An employee is expected to perform necessary work duties in a safe and competent manner without risk to employees, citizens, equipment or operation.

All overtime work must have prior authorization by the employee's department head or supervisor. Failure to gain prior approval for overtime may result in disciplinary action for violation of personnel and departmental policies if a pattern of abuse develops.

Upon termination of employment, accrued comp time will be paid to the employee.

**CITIZEN'S ADVISORY BOARD
ON NEIGHBORHOOD REVITALIZATION
MINUTES OF MEETING
FEBRUARY 18, 2010**

MEMBERS ATTENDING: CRAIG CHRONISTER, CHAIR
MARILYN PETERSON, 2ND VICE CHAIR
TINA SMITH, 1ST VICE CHAIR
JUDY WESTHOFF, VICE CHAIR
JULIE JONES
BRIAN PASTEUR

MEMBERS ABSENT: DONNIE TALENT

STAFF ATTENDING: DEENA HALLACY

GUEST ATTENDING: NONE

Craig Chronister, Chair, called the meeting to order at 4:34PM.

- 1) **APPROVAL OF MINUTES OF LAST MEETING** – December 15, 2009
Judy Westhoff made the motion to approve the minutes of the last meeting. Tina Smith seconded the motion and it passed unanimously.

- 2) **NEW BUSINESS:**

- A) **Rehabilitation Loan application –**

- Troy and Angela Whetzel
613 W. 3rd, Pittsburg, KS

- Discussion of this application included review of the mortgaged amount versus the property valuation. The mortgaged amount exceeds the valuation of the property. The owners of the property have requested an approval of \$18,000. The Board members felt uncomfortable approving the entire amount because of the upside-down mortgage. It was obvious with pictures that the need to renovate the bathroom was a high priority. The home is in very good condition otherwise. There was some discussion as to the improvement of the property valuation based upon the completion of the bathroom renovation. After much discussion Marilyn Peterson moved to approve the amount not to exceed \$10,000 to include the following renovations: Bathroom, gutters, front door, attic fan and a \$1,000 allowance on an energy efficient appliance of the family's choice. Tina Smith seconded the motion and it was approved unanimously.

There was much discussion on the issue of allowing money for the purchase of new appliances. Marilyn Peterson moved to approve an amendment to the program guidelines to include \$1,000 limit on the purchase of one energy efficient appliance as an eligible rehabilitation activity. Tina Smith seconded the motion and it was approved unanimously.

Board members requested that staff provide before and after pictures of each rehabilitated property when completed. They were informed that the pictures for all completed projects would be provided at the next scheduled meeting.

B) Living Downtown Rehabilitation Loan Application –

Brian Pasteur
106 W. 3rd Street – 3 apartments
Pittsburg, KS 66762

Brian Pasteur, as a new Board member, was asked to step out of the meeting and not be included in the discussion. Brian and I have discussed the upstairs loan for rehab for several weeks and it was before he became a Board member that we first began our discussions. Because his contractor is now at a point where he can begin the work, Brian submitted an application for the downtown loan program. We discussed that we are still waiting for his personal guarantee but will have it before any paperwork is signed if the application is approved by the Commission. Brian is requesting an approval of \$36,000 which is for two apartments, but he does not believe he will be using the entire amount. It was explained to the Board that we can approve and sign all documentation for the approved amount and then sign a Note Modification when the project is complete.

Marilyn Peterson moved to approve the application for \$36,000. Julie Jones seconded the motion and the motion passed unanimously.

3) OLD BUSINESS:

A) PROGRAM STATUS REPORTS

• REHAB PROGRAM UPDATE

Deena explained to the Board members that the position we have taken with the borrowers with them being responsible in obtaining the bids with the contractors they want to work for them and keeping track of all the costs has worked out very good. The staff time necessary in the past with programs like this has been cut back considerably and the owner no longer believes we are responsible for any poor workmanship.

- **DEMOLITION PROGRAM STATUS**

The City Commission set aside \$100,000 from old federal funds for the program in 2006. Since then we have completed 41 demolitions and have four pending at this time. Remaining funds are around \$48,000.

- **NEIGHBORHOOD REVITALIZATION PROGRAM**

The program has been approved since 2002. Forty-eight projects have been completed. Nineteen have been placed inactive for either unpaid taxes or no completion. There are currently eight pending projects.

- **PAINT PITTSBURG**

The Commission set aside \$20,000 in 2001 and another \$20,000 2005. Since 2001, we have assisted 242 rental property owners and 120 homeowners with up to \$100 in outside paint costs. We have about \$7,000 remaining in that fund.

- **HOUSING NEEDS ASSESSMENT**

Discussed with the Board the need to make some decisions within the realms of our budgets available as to how we can address the issues noted in the Housing Needs Assessment. Members asked that I set a date for them to meet and discuss. Everyone noted they have the Housing Needs Assessment available to them and will start reviewing it.

4) ADDITIONAL ITEMS : None

5) ADJOURNMENT – Meeting adjourned at 5:30PM.

Respectfully submitted,

Deena Hallacy



Interoffice Memorandum

TO: JOHN VANGORDEN, JON GARRISON, TAMMY NAGEL
FROM: DEENA HALLACY
DATE: FEBRUARY 25, 2010
SUBJECT: AGENDA ITEM: MARCH 9TH, 2010
LOAN APPLICATIONS

The Citizen's Advisory Board met on Thursday, February 18, 2010. We reviewed two applications for funds from the Presbyterian Church Fund. One was for the Housing Rehab Program and one for the Downtown Living Loan Program.

Applications reviewed are as follows:

TROY AND ANGELA WHETZEL	613 W. 3 rd	REQUEST: \$18,000
PASTEUR PROPERTIES	106 W. 3 RD	REQUEST: \$36.000

For three second story apartments

After review of these applications the Board recommends the following to the Commission:

WHETZEL: Recommended approval of a loan for \$10,000 for specific items

PASTEUR: Recommended approval of a loan for the full \$36,000 for renovation of three second story apartments.

Please place these items on the commission agenda for review and approval.



Interoffice Memorandum

TO: TAMMY NAGEL
City Clerk

FROM: Jeff W Bair
Information Systems

DATE: March 3rd, 2010

SUBJECT: Surplus Phone Equipment

Bids were received to buy surplus phone equipment not needed by the City of Pittsburg. Kansas Communications of Chanute, KS was the high bid for \$675.00. It is our recommendation to award the bid to Kansas Communications.

Thank you for your consideration.

CITY OF PITTSBURG, KANSAS

**Recapitulation of Bids Received
Sale of Used Phone Equipment**

Tuesday, March 2nd, 2010 – 2:00 p.m.

Name and Address of Bidder	Amount Bid
Kansas Communications Systems, Inc. 407 East Main Chanute, Kansas 66720	\$675.00
Choice Technology, LLC 214 East 4 th Street, Loft 1A Joplin, Missouri 64801	\$250.00



Interoffice Memorandum

TO: JOHN D. VANGORDEN
Interim City Manager

FROM: Mark D Turnbull
Director of Economic Development

DATE: February 22, 2010

SUBJECT: Request for Use of Revolving Loan Funds -
Infrastructure Project -Southeast Industrial Park

The Economic Development Advisory Committee met to consider an infrastructure development project in the Southeast Industrial Park. Business expansion within the park has put pressure on the infrastructure serving it, much of which is undersized to meet the current needs of the existing industries. One of the park's oldest and largest occupants is planning an expansion and has proposed expansion of their physical plant. Growth experienced by Pitsco, Masonite and anticipated locations in the former National Mills building support the size increases of infrastructure serving the park and street modification. To accommodate this growth, it was necessary to vacate Monroe Street from Stilwell to Homer. MPI is assuming costs associated with relocation of electric, telephone, cable and gas utilities.

The expansion of MPI has heightened the need to improve the intersection of Stilwell and Monroe. American Electric and MPI border Stilwell Street on opposite sides. Both generate an extensive amount of truck traffic. Both Stilwell and Monroe are country-style paved streets. The corner radiuses are very small and impossible for trucks to maneuver without getting on unpaved area.

The City staff would propose the improvement of this intersection by increasing the radiuses and repaving this intersection with concrete. This would provide better access for delivery trucks to American Electric and relieve the pressure that is anticipated with the expansion of MPI's shipping dock. The anticipated cost for this improvement would be \$92,883.00.

Infrastructure Project -Southeast Industrial Park
Page Two

Staff also proposed the use of Revolving Loan Funds to install a 12-inch water line to tie together the 12-inch water line in Jefferson Street to the 24-inch line in Jackson Street. With the vacation of Monroe Street, it was necessary to abandon the water line located therein. This water line did not provide service to any of the adjoining buildings, but it did provide a loop of the water system in this area. The third component is to loop the 12-inch water line in Jefferson Street to the 24-inch water line in Jackson Street to continue the looping of this system. This would actually provide better water pressure to all of the other industries in the Southeast Industrial Park. The anticipated cost for the new water lines would be \$48,110.74.

Based on an affirmative recommendation from the EDAC staff is requesting approval of the infrastructure for a project maximum of \$150,000.00 and requesting, if approved, the President of the Commission to sign appropriate documents.

Attachment: Intersection Improvement Estimate
Water Line Estimates

ENGINEER'S ESTIMATE OF PROBABLE COST
Intersection of Stilwell and Monroe

2/25/2010

ITEM NO.	DESCRIPTION	UNIT	NO. OF UNITS	UNIT COST	TOTAL COST
1	Mobilization	L.S.	1	\$2,500.00	\$2,500.00
2	Traffic Control	L.S.	1	500.00	500.00
3	Erosion Control	L.S.	1	500.00	500.00
4	Contractor Staking	L.S.	1	1,500.00	1,500.00
5	Site Grading	L.S.	1	500.00	500.00
6	Pavement/Sidewalk Removal	S.Y.	507	9.00	4,563.00
7	Concrete Pavement	S.Y.	382	55.00	21,010.00
8	Detectable Warning Pavers	S.F.	40	25.00	1,000.00
9	Storm Sewer	L.F.	93	200.00	18,600.00
10	2'-6" Curb and Gutter	L.F.	129	20.00	2,580.00
11	Storm Sewer Structures	Each	2	6,000.00	12,000.00
12	Asphaltic Concrete	Tons	91	60.00	5,460.00
13	Aggregate Base	S.Y.	2,167	10.00	21,670.00
14	Permanent Seeding	L.S.	1	500.00	500.00

TOTAL	\$92,883.00
--------------	--------------------

Prepared By: Bruce D. Remsberg, P.E.
City Engineer

CITY OF PITTSBURG, KANSAS

**WATER LINE
Jefferson to Monroe**

400 ft.	12" Plastic Pipe C900	@ \$ 10.55/ft.	\$ 4,220.00
4	6" Line Valves	@ \$ 313.88/ea.	1,255.52
1	12" Line Valve	@ \$1,372.58/ea.	1,372.58
1	12"x6" Tee MJ	@ \$ 181.77/ea.	181.77
1	6"x6" Tee MJ	@ \$ 75.13/ea.	75.13
4	6"x13" Swivel Adapter	@ \$ 101.86/ea.	407.44
1	12"x13" Swivel Adapter	@ \$ 293.52/ea.	293.52
2	6"x12" Solid Sleeve	@ \$ 184.70/ea.	369.40
5	Valve Boxes 4 Ft.	@ \$ 43.16/ea.	215.80
1	12"x12" Tapping Sleeve	@ \$1,141.64/ea.	1,141.64
1	12" Tapping Valve	@ \$ 448.02/ea.	448.02
1	Fire Hydrant 4' Bury 6" Shoe	@ \$1,375.21/ea.	1,375.21
500 ft.	Trace Wire #12 Copper	@ \$.08/ft.	<u>40.00</u>
	TOTAL MATERIAL COST.....		\$11,396.01
	LABOR COST @ \$20 PER FOOT.....		<u>8,000.00</u>
	TOTAL PROJECT COST.....		<u>\$19,396.01</u>

CITY OF PITTSBURG, KANSAS

**WATER LINE
Monroe to Jackson**

700 ft.	12" Plastic Pipe C900	@ \$ 10.55/ft.	\$ 7,385.00
1	24"x12" Tapping Sleeve	@ \$1,408.23/ea.	1,408.23
1	12" Tapping Valve	@ \$ 448.02/ea.	448.02
1	12" Line Valve	@ \$1,372.58/ea.	1,372.58
1	12"x6" Tee MJ	@ \$ 181.77/ea.	181.77
2	6"x6" Tee MJ	@ \$ 75.13/ea.	150.26
1	12" Swivel Adapter	@ \$ 293.52/ea.	293.52
5	6"x13" Swivel Adapter	@ \$ 101.86/ea.	509.30
3	6" Line Valve	@ \$ 313.88/ea.	941.64
2	6"x12" Solid Sleeve	@ \$ 184.70/ea.	369.40
5	Valve Boxes 4 Ft.	@ \$ 43.16	215.80
1	Fire Hydrant 4' Bury 6" Shoe	@ \$1,375.21/ea.	1,375.21
800 ft.	Trace Wire #12 Copper	@ \$.08/ft.	<u>64.00</u>
	TOTAL MATERIAL COST.....		\$14,714.73
	LABOR COST @ \$20 PER FOOT.....		<u>14,000.00</u>
	TOTAL PROJECT COST.....		<u>\$28,714.73</u>



VENDOR SET: 99 City of Pittsburg, KS
BANK: * ALL BANKS
DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
C-CHECK	VOID CHECK	V	2/19/2010			161788		
C-CHECK	VOID CHECK	V	2/19/2010			161789		

* * T O T A L S * *	NO	CHECK AMOUNT	DISCOUNTS	TOTAL APPLIED
REGULAR CHECKS:	0	0.00	0.00	0.00
HAND CHECKS:	0	0.00	0.00	0.00
DRAFTS:	0	0.00	0.00	0.00
EFT:	0	0.00	0.00	0.00
NON CHECKS:	0	0.00	0.00	0.00

VOID CHECKS:	2 VOID DEBITS	0.00		
	VOID CREDITS	0.00	0.00	0.00

TOTAL ERRORS: 0

VENDOR SET: 99	BANK: *	TOTALS:	2	0.00	0.00	0.00
BANK: *		TOTALS:	2	0.00	0.00	0.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
1962	RESERVE ACCOUNT	R	2/17/2010			161758		5,000.00
5759	COMMUNITY HEALTH CENTER OF SEK	R	2/19/2010			161786		1,471.50
4263	COX COMMUNICATIONS	R	2/19/2010			161787		1,205.46
0497	CRAWFORD COUNTY DISTRICT COURT	R	2/19/2010			161790		24.00
6082	GARRISON LAW OFFICE LLC	R	2/19/2010			161791		246.63
0094	M&I BANK	R	2/19/2010			161792		950.00
6135	MCNEARNEY & ASSOCIATES LLC	R	2/19/2010			161793		200.09
4248	BRIAN SCHOLES	R	2/19/2010			161794		231.87
5854	ANTHONY A SNYDER	R	2/19/2010			161795		254.92
5914	RODNEY TALCOTT	R	2/19/2010			161796		587.30
6136	US DEPARTMENT OF EDUCATION	R	2/19/2010			161797		273.73
5589	VERIZON WIRELESS	R	2/19/2010			161798		407.61
1108	WESTAR ENERGY	R	2/19/2010			161799		27.28
6434	WINDHAM PROFESSIONALS INC	R	2/19/2010			161800		44.11
0497	CRAWFORD COUNTY DISTRICT COURT	R	2/22/2010			161801		24.00
1	C K CLOWNS	R	2/24/2010			161807		135.00
4263	COX COMMUNICATIONS	R	2/24/2010			161808		17.53
5280	KANSAS BOARD OF TAX APPEALS	R	2/24/2010			161809		400.00
1	SARLEY, JOHN	R	2/24/2010			161810		30.00
5904	TASC	R	2/24/2010			161811		1,844.40
5561	AT&T MOBILITY	R	2/26/2010			161812		1,138.53
1	CRAWFORD COUNTY DOMESTIC	R	2/26/2010			161813		100.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
5941	CRAWFORD COUNTY WALK KANSAS	R	2/26/2010			161814		396.00
1	HAMBLIN, BRAD	R	2/26/2010			161815		85.00
1	HUDSON, JESSE	R	2/26/2010			161816		85.00
5924	HUGO WALL SCHOOL OF URBAN AND	R	2/26/2010			161817		270.00
1	PITTSBURG TRUCK N TRAVEL	R	2/26/2010			161818		85.00
1	ROBINSON, SHON	R	2/26/2010			161819		85.00
0349	UNITED WAY OF CRAWFORD COUNTY	R	2/26/2010			161820		500.00
5589	VERIZON WIRELESS	R	2/26/2010			161821		582.30
1	WEIR, TONY	R	2/26/2010			161822		85.00
1108	WESTAR ENERGY	R	2/26/2010			161823		33.16
0081	JOYE VAN GORDEN	R	2/26/2010			161824		225.00
2876	A-PLUS CLEANERS & LAUNDRY	R	3/02/2010			161883		785.81
6402	BEAN'S TOWING & AUTO BODY	R	3/02/2010			161884		110.00
0417	CBA LIGHTING & CONTROL, INC.	R	3/02/2010			161885		97.00
5671	WJN ENTERPRISES INC	R	3/02/2010			161886		1,865.96
5857	CREATIVE PRODUCT SOURCING INC	R	3/02/2010			161887		263.01
0699	DRIVERS LICENSE GUIDE CO	R	3/02/2010			161888		28.95
6358	FIRE X INC	R	3/02/2010			161889		90.50
3291	GCSAA	R	3/02/2010			161890		160.00
4247	KANSAS MAYORS ASSOC.	R	3/02/2010			161891		50.00
6066	ELLIOTT LODGING LTD	R	3/02/2010			161892		1,529.69
6290	R-QUIP EQUIPMENT RENTAL	R	3/02/2010			161893		16.50

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
0188	SECRETARY OF STATE, RON THORNB	R	3/02/2010			161894		25.00
6041	SOUTHERN SUPPLY	R	3/02/2010			161895		43.54
1251	SPRINGFIELD-PITTSBURG EXPRESS	R	3/02/2010			161896		35.46
6401	VAISALA INC	R	3/02/2010			161897		6,000.00
0011	AMERICAN ELECTRIC INC	E	2/24/2010			999999		100.87
0026	STANDARD INSURANCE COMPANY	E	3/02/2010			999999		1,376.08
0034	CRONISTER BROTHERS, INC	E	2/24/2010			999999		602.39
0039	BATTERY MART INC	E	2/24/2010			999999		43.11
0046	ETTINGERS OFFICE SUPPLY	E	2/24/2010			999999		1,333.49
0055	JOHN'S SPORT CENTER	E	2/24/2010			999999		82.99
0063	LOCKE WHOLESALE SUPPLY	E	2/24/2010			999999		589.72
0078	SUPERIOR LINEN SERVICE	E	2/24/2010			999999		187.36
0083	WATER PRODUCTS INC	E	2/24/2010			999999		6,333.07
0084	INTERSTATE EXTERMINATOR, INC.	E	2/24/2010			999999		335.00
0087	FORMS ONE	E	2/24/2010			999999		2,002.69
0101	BUG-A-WAY INC	E	2/24/2010			999999		80.00
0105	PITTSBURG AUTOMOTIVE INC	E	2/24/2010			999999		1,603.49
0112	MARRONES INC	E	2/24/2010			999999		272.80
0124	AMERICAN BATTERY & ELECTRIC	E	2/24/2010			999999		280.60
0128	MT CARMEL MEDICAL CENTER	E	2/24/2010			999999		340.00
0129	PROFESSIONAL ENGINEERING CONSU	E	2/24/2010			999999		905.97
0133	JIM RADELL CONSTRUCTION INC	E	2/24/2010			999999		2,540.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
0135	PITTSBURG AREA CHAMBER OF COMM	E	2/24/2010			999999		45.00
0136	CHARLESWORTH & ASSOCIATES LC	E	2/24/2010			999999		450.00
0142	HECKERT CONSTRUCTION CO INC	E	2/24/2010			999999		205.00
0145	BROADWAY LUMBER COMPANY, INC.	E	2/24/2010			999999		797.37
0152	JOHN VAN GORDEN	E	2/19/2010			999999		200.50
0154	BLUE CROSS & BLUE SHIELD	D	2/18/2010			999999		72,038.86
0154	BLUE CROSS & BLUE SHIELD	D	2/26/2010			999999		80,180.86
0163	O'REILLY AUTOMOTIVE INC	E	2/24/2010			999999		524.57
0164	ALVIN J EASTEP	E	2/24/2010			999999		65.00
0176	BAKER & TAYLOR INC	E	2/24/2010			999999		83.37
0177	BOOK WHOLESALERS INC	E	2/24/2010			999999		190.46
0181	INGRAM	E	2/24/2010			999999		45.71
0191	XEROX CORP	E	2/24/2010			999999		320.95
0194	KANSAS STATE TREASURER	D	2/26/2010			999999		472,459.09
0199	KIRKLAND WELDING SUPPLIES	E	2/24/2010			999999		72.30
0200	SHERWIN WILLIAMS COMPANY	E	2/24/2010			999999		992.06
0201	SPICER-ADAMS WELDING, INC.	E	2/24/2010			999999		22.00
0207	PEPSI-COLA BOTTLING CO OF PITT	E	2/24/2010			999999		136.15
0224	KDOR	D	2/19/2010			999999		1,094.15
0224	KDOR	D	2/23/2010			999999		1,153.58
0292	UNIFIRST CORPORATION	E	2/24/2010			999999		113.87
0306	CASTAGNO OIL CO INC	E	2/24/2010			999999		18.38

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
0308	DOBRAUC OIL COMPANY INC	E	2/24/2010			999999		2,640.82
0312	HACH COMPANY	E	2/24/2010			999999		502.37
0317	KUNSHEK CHAT & COAL CO, INC.	E	2/24/2010			999999		17,888.98
0328	KANSAS ONE-CALL SYSTEM	E	2/24/2010			999999		201.40
0329	O'MALLEY IMPLEMENT CO INC	E	2/24/2010			999999		12,553.20
0332	PITTCRAFT PRINTING	E	2/24/2010			999999		653.00
0337	CROSS-MIDWEST TIRE	E	2/24/2010			999999		62.65
0339	GENERAL MACHINERY	E	2/24/2010			999999		542.50
0345	VICTOR L PHILLIPS CO	E	2/24/2010			999999		78.26
0347	LYNN'S QUICK LUBE	E	2/24/2010			999999		144.75
0348	TYRELL'S SERVICE INC	E	2/24/2010			999999		494.44
0375	CONVENIENT WATER COMPANY	E	2/24/2010			999999		21.80
0420	CONTINENTAL RESEARCH CORP	E	2/24/2010			999999		656.40
0516	AMERICAN CONCRETE CO INC	E	2/24/2010			999999		84.50
0589	BERRY TRACTOR & EQUIPMENT	E	2/24/2010			999999		230.32
0636	SAM BROWN & SON SHEET METAL	E	2/24/2010			999999		272.00
0704	NEPTUNE RADIATOR AND AUTO	E	2/24/2010			999999		538.87
0709	BATES SALES COMPANY INC	E	2/24/2010			999999		35.88
0714	SHARE CORPORATION	E	2/24/2010			999999		160.02
0785	REDICO INDUSTRIAL SUPPLY INC	E	2/24/2010			999999		252.00
0969	SEK-CAP INC	E	2/24/2010			999999		19,123.00
0998	CHEMSEARCH	E	2/24/2010			999999		237.02

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
1033	BOB DITTMANN AGENCY INC	E	2/24/2010			999999		100.00
1050	KPERS	P	2/19/2010			999999		1,636.55
1188	SIMPSONS DATA SERVICES INC	E	2/24/2010			999999		249.90
1199	SCURLOCK INDUSTRIES CORP	E	2/24/2010			999999		459.00
1235	RHODES GROCERY INC	E	2/24/2010			999999		107.52
1478	KANSASLAND TIRE OF PITTSBURG	E	2/24/2010			999999		128.48
1490	ESTHERMAE TALENT	E	2/24/2010			999999		25.00
1619	MIDWEST TAPE	E	2/24/2010			999999		179.92
1766	ASSOCIATION OF GOVERNMENT ACC	E	2/24/2010			999999		90.00
1792	B&L WATERWORKS SUPPLY INC	E	2/24/2010			999999		130.23
1862	MIDWEST TRUCK	E	2/24/2010			999999		429.54
1923	AUTOZONE	E	2/24/2010			999999		159.97
1977	CDW GOVERNMENT, INC.	E	2/24/2010			999999		1,424.03
2025	SOUTHERN UNIFORM & EQUIPMENT L	E	2/24/2010			999999		753.80
2111	DELL MARKETING L.P.	E	2/24/2010			999999		18,690.54
2161	RECORDED BOOKS	E	2/24/2010			999999		314.20
2165	CP COMMUNICATIONS	E	2/24/2010			999999		218.95
2186	PRODUCERS COOPERATIVE ASSOCIAT	E	2/24/2010			999999		471.17
2433	THE MORNING SUN	E	2/24/2010			999999		2,828.35
2612	SANTA FE DISTRIBUTING INC	E	2/24/2010			999999		245.54
2960	PACE ANALYTICAL SERVICES INC	E	2/24/2010			999999		706.00
3147	INTERNAL REVENUE SERVICE	D	2/19/2010			999999		63.95

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
3248	AIRGAS MID-SOUTH, INC	E	2/24/2010			999999		634.37
3261	PITTSBURG AUTO & GLASS	E	2/24/2010			999999		175.00
3281	USA BLUE BOOK	E	2/24/2010			999999		284.34
3571	LARRY'S DIESEL REPAIR LLC	E	2/24/2010			999999		1,671.54
3972	WASHINGTON ELECTRONICS INC	E	2/24/2010			999999		138.40
4121	MCANANY, VAN CLEAVE & PHILLIPS	E	2/24/2010			999999		112.50
4126	EMERGENCY MEDICAL PRODUCT INC	E	2/24/2010			999999		213.44
4133	T.H. ROGERS HOMECENTER	E	2/24/2010			999999		5.99
4163	TICKETSAGE INC	E	2/24/2010			999999		1,333.54
4186	KEN WILKERSON	E	2/24/2010			999999		1,800.00
4262	KDHE	E	2/26/2010			999999		258,075.15
4307	HENRY KRAFT, INC.	E	2/24/2010			999999		118.58
4390	SPRINGFIELD JANITOR SUPPLY, IN	E	2/24/2010			999999		660.38
4621	JCI	E	2/24/2010			999999		519.88
4638	SOUND PRODUCTS	E	2/24/2010			999999		46.35
5236	SHOWCASES	E	2/24/2010			999999		382.42
5249	CHRISTY STAFFORD	E	2/19/2010			999999		36.00
5295	SPRINGFIELD BLUEPRINT	E	2/24/2010			999999		190.14
5340	COMMERCE BANK TRUST	E	2/26/2010			999999		14,081.41
5420	AQUIONICS INC	E	2/24/2010			999999		1,108.99
5474	THE UPS STORE	E	2/24/2010			999999		242.25
5552	NATIONAL SIGN CO INC	E	2/24/2010			999999		498.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
5599	PALMERTON & PARRISH INC	E	2/24/2010			999999		367.41
5635	LASER EQUIPMENT INC	E	2/24/2010			999999		562.98
5640	CORRECT CARE SOLUTIONS LLC	E	2/24/2010			999999		35.00
5644	SPIGARELLI, SPIGARELLI & HAYES	E	2/24/2010			999999		150.00
5689	CONNIE ETZKIN	E	2/19/2010			999999		21.06
5745	FLUID EQUIPMENT COMPANY INC	E	2/24/2010			999999		1,948.00
5758	ROLL OFF SERVICES INC (ATTN MA	E	2/24/2010			999999		149.00
5855	SHRED-IT USA INC	E	2/24/2010			999999		50.00
5904	TASC	D	2/22/2010			999999		8,580.92
5907	BREATHING AIR SERVICES INC	E	2/24/2010			999999		1,025.50
6016	SCHOLASTIC LIBRARY PUBLISHING	E	2/24/2010			999999		285.32
6117	ALEXANDER OPEN SYSTEMS INC	E	2/24/2010			999999		14,025.00
6118	CHOICE TECHNOLOGY LLC	E	2/24/2010			999999		2,710.88
6131	MCELROY METAL INC	E	2/24/2010			999999		443.47
6139	BOB MARTIN	E	2/24/2010			999999		780.00
6175	HENRY C MENGhini	E	2/24/2010			999999		300.00
6191	MARADETH FREDERICK	E	2/24/2010			999999		600.00
6230	THE MAZUREK LAW OFFICE LLC	E	2/24/2010			999999		72.00
6253	DWAYNE O'BRIEN	E	2/24/2010			999999		2,634.48
6262	CLEAN THE UNIFORM COMPANY	E	2/24/2010			999999		373.56
6308	PITTSBURG TITLE LLC	E	2/24/2010			999999		140.00
6309	TAMMY FRYE	E	2/24/2010			999999		400.00

VENDOR SET: 99 City of Pittsburg, KS
BANK: 80144 M&I Bank
DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
6427	FC INDUSTRIES INC	E	2/24/2010			999999		1,476.10
6448	POCKET PRESS INC	E	2/24/2010			999999		246.21

* * T O T A L S * *		NO	CHECK AMOUNT	DISCOUNTS	TOTAL APPLIED
REGULAR CHECKS:		49	29,783.39	0.00	29,783.39
HAND CHECKS:		0	0.00	0.00	0.00
DRAFTS:		7	635,571.41	0.00	635,571.41
EFT:		122	419,503.28	23.10	419,526.38
NON CHECKS:		0	0.00	0.00	0.00
VOID CHECKS:	0 VOID DEBITS		0.00		
	VOID CREDITS		0.00	0.00	0.00

TOTAL ERRORS: 0

VENDOR SET: 99	BANK: 80144	TOTALS:	178	1,084,858.08	23.10	1,084,834.98
BANK: 80144	TOTALS:	178	1,084,858.08	23.10	1,084,881.18	

VENDOR SET: 99 City of Pittsburg, KS
 BANK: EFT MANUAL EFTS
 DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
0152	JOHN VAN GORDEN	E	3/01/2010			999999		185.00
0237	JON B. GARRISON	E	2/25/2010			999999		170.15
0253	TAMARA N NAGEL	E	2/25/2010			999999		15.00
0577	KANSAS GAS SERVICE	E	2/25/2010			999999		1,122.92
0866	AVFUEL CORPORATION	E	3/01/2010			999999		20,372.35
3884	MARK D. TURNBULL	E	2/25/2010			999999		78.66
5609	RON WHITE	E	2/25/2010			999999		420.00
5689	CONNIE ETZKIN	E	2/25/2010			999999		29.75

* * T O T A L S * *		NO	CHECK AMOUNT	DISCOUNTS	TOTAL APPLIED	
REGULAR CHECKS:		0	0.00	0.00	0.00	
HAND CHECKS:		0	0.00	0.00	0.00	
DRAFTS:		0	0.00	0.00	0.00	
EFT:		8	22,393.83	0.00	22,393.83	
NON CHECKS:		0	0.00	0.00	0.00	
VOID CHECKS:	0 VOID DEBITS		0.00			
	VOID CREDITS		0.00	0.00	0.00	
TOTAL ERRORS:		0				
VENDOR SET: 99	BANK: EFT	TOTALS:	8	22,393.83	0.00	22,393.83
BANK: EFT	TOTALS:		8	22,393.83	0.00	22,393.83

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
6266	KENNETH JOSEPH BRADY	R	3/01/2010			161825		269.00
6182	ALAN FELDHAUSEN	R	3/01/2010			161826		405.00
6155	HOUSING AUTHORITY OF DEKALB CO	R	3/01/2010			161827		716.80
5567	TERRE KNOLL	R	3/01/2010			161828		550.00
0266	JOHN S KUTZ	R	3/01/2010			161829		513.00
1601	GRAIG MOORE	R	3/01/2010			161830		293.00
5699	JON PRIDEAUX	R	3/01/2010			161831		400.00
3406	JON SCHWENKER	R	3/01/2010			161832		234.00
6265	THERENCE STEELE	R	3/01/2010			161833		236.00
6437	FRED VAN BECELAERE	R	3/01/2010			161834		1,250.00
4636	WESTAR ENERGY, INC. (HAP)	R	3/01/2010			161835		922.00
0140	A&M RENTALS	E	3/02/2010			999999		1,644.00
0372	CONNER REALTY	E	3/02/2010			999999		1,532.00
0855	CHARLES HOSMAN	E	3/02/2010			999999		705.00
0969	SEK-CAP INC	E	3/02/2010			999999		1,117.44
1008	BENJAMIN M BEASLEY	E	3/02/2010			999999		1,074.00
1231	JOHN LOVELL	E	3/02/2010			999999		431.00
1421	SMITH RENTALS	E	3/02/2010			999999		501.00
1454	BETTY J WILSON	E	3/02/2010			999999		234.00
1542	LARRY SHANKS	E	3/02/2010			999999		550.00
1603	GARY SAKER	E	3/02/2010			999999		550.00
1609	PHILLIP H O'MALLEY	E	3/02/2010			999999		3,439.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
1638	VERNON W PEARSON	E	3/02/2010			999999		1,250.00
1649	HAROLD O'MALLEY	E	3/02/2010			999999		344.00
1688	DORA WARE	E	3/02/2010			999999		1,702.00
1961	DUSTIN D MAJOR	E	3/02/2010			999999		310.00
1982	KENNETH STOTTS	E	3/02/2010			999999		3,081.00
1985	RICK A MOORE	E	3/02/2010			999999		242.00
2050	ACTON DEVELOPMENT	E	3/02/2010			999999		348.00
2256	TODD MERANDO	E	3/02/2010			999999		321.00
2304	DENNIS HELMS	E	3/02/2010			999999		443.00
2339	CHRIS WINDSOR	E	3/02/2010			999999		162.00
2348	MARY D VANLEEUWEN	E	3/02/2010			999999		644.00
2398	WILLIAM E SAMSON	E	3/02/2010			999999		825.00
2542	CHARLES YOST	E	3/02/2010			999999		1,450.00
2624	JAMES ZIMMERMAN	E	3/02/2010			999999		2,293.00
2718	KENNETH B DUTTON	E	3/02/2010			999999		516.00
2771	MICHELLE PRYOR	E	3/02/2010			999999		132.00
2850	VENITA STOTTS	E	3/02/2010			999999		454.00
2913	KENNETH N STOTTS JR	E	3/02/2010			999999		780.00
3002	BARBARA MINGORI	E	3/02/2010			999999		142.00
3067	STEVE BITNER	E	3/02/2010			999999		3,655.00
3082	JOHN R JONES	E	3/02/2010			999999		862.00
3114	PATRICIA BURLESON	E	3/02/2010			999999		557.00

VENDOR SET: 99 City of Pittsburg, KS
BANK: HAP M&I Bank - HAP
DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
3142	COMMUNITY MENTAL HEALTH CENTER	E	3/02/2010			999999		1,018.00
3158	BETTY L. FARRIS	E	3/02/2010			999999		311.00
3162	THOMAS A YOAKAM	E	3/02/2010			999999		645.00
3187	DEAN POWELL	E	3/02/2010			999999		324.00
3193	WILLIAM CROZIER	E	3/02/2010			999999		152.00
3215	REA RAE DONNA RHODES	E	3/02/2010			999999		88.00
3218	CHERYL L BROOKS	E	3/02/2010			999999		927.00
3241	CHARLES P SIMPSON	E	3/02/2010			999999		640.00
3252	LINDA S LLOYD	E	3/02/2010			999999		204.00
3272	DUNCAN HOUSING LLC	E	3/02/2010			999999		1,957.00
3273	RICHARD F THENIKL	E	3/02/2010			999999		933.00
3317	PHIL MARTIN	E	3/02/2010			999999		371.00
3520	DON T. BUCHE	E	3/02/2010			999999		400.00
3593	REMINGTON SQUARE	E	3/02/2010			999999		8,613.00
3668	MID AMERICA PROPERTIES OF PITT	E	3/02/2010			999999		3,271.00
3708	GILMORE BROTHERS RENTALS	E	3/02/2010			999999		109.00
3724	YVONNE L. ZORNES	E	3/02/2010			999999		696.00
3746	JAROLD BONBRAKE	E	3/02/2010			999999		450.00
3929	MDI LIMITED PARTNERSHIP #49	E	3/02/2010			999999		5,492.00
3978	TBSW HOLDINGS, LLC	E	3/02/2010			999999		198.00
4154	JOSEPH L. BOURNONVILLE	E	3/02/2010			999999		412.00
4218	MEADOWLARK TOWNHOUSES	E	3/02/2010			999999		1,648.00

VENDOR SET: 99 City of Pittsburg, KS
 BANK: HAP M&I Bank - HAP
 DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
4308	KENNETH BATEMAN	E	3/02/2010			999999		596.00
4388	RICHARD L PERRY	E	3/02/2010			999999		213.00
4492	PITTSBURG APARTMENTS	E	3/02/2010			999999		4,025.00
4546	C & M PROPERTIES LLC	E	3/02/2010			999999		34.00
4550	JIM RUSSELL	E	3/02/2010			999999		466.00
4752	S & N MANAGEMENT, LLC	E	3/02/2010			999999		525.00
4928	PITTSBURG STATE UNIVERSITY	E	3/02/2010			999999		1,617.00
5000	RAY COSTANTINI	E	3/02/2010			999999		215.00
5035	ZACK QUIER	E	3/02/2010			999999		469.00
5036	TRACY STAHL	E	3/02/2010			999999		525.00
5356	MICHAEL SIMMONS	E	3/02/2010			999999		524.00
5393	CARLOS ANGELES	E	3/02/2010			999999		917.00
5411	HERMAN A KUPLEN	E	3/02/2010			999999		383.00
5549	DELBERT BAIR	E	3/02/2010			999999		290.00
5583	ROBERT L NANKIVELL SR	E	3/02/2010			999999		85.00
5614	JAMES DAVID VAUGHN	E	3/02/2010			999999		550.00
5653	PEGGY HUNT	E	3/02/2010			999999		159.00
5656	EARL HARTMAN	E	3/02/2010			999999		1,113.00
5660	HERBERT WARING	E	3/02/2010			999999		421.00
5676	BARBARA TODD	E	3/02/2010			999999		254.00
5748	COZY LIVING PROPERTIES INC	E	3/02/2010			999999		181.00
5806	GARY M WILKINSON	E	3/02/2010			999999		231.00

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
5817	JAMA ENTERPRISES LLP	E	3/02/2010			999999		288.00
5825	DEAN DAVIED	E	3/02/2010			999999		351.00
5829	LORN BURDICK	E	3/02/2010			999999		491.00
5833	GERRY DENNETT	E	3/02/2010			999999		490.00
5854	ANTHONY A SNYDER	E	3/02/2010			999999		289.00
5870	ANTHONY E SIMONCIC	E	3/02/2010			999999		372.00
5875	BRIAN WARE	E	3/02/2010			999999		309.00
5885	CHARLES T GRAVER	E	3/02/2010			999999		382.00
5896	HORIZON INVESTMENTS GROUP INC	E	3/02/2010			999999		429.00
5897	NIESE WOODY-FAIR	E	3/02/2010			999999		1,989.00
5906	JOHN HINRICHS	E	3/02/2010			999999		197.00
5939	EDNA R TRENT	E	3/02/2010			999999		222.00
5957	PASTEUR PROPERTIES LLC	E	3/02/2010			999999		1,677.00
5961	LARRY VANBECELAERE	E	3/02/2010			999999		160.00
5975	RAY PEAK	E	3/02/2010			999999		62.00
6002	SALLY THRELFALL	E	3/02/2010			999999		252.00
6032	TIM J. RIDGWAY	E	3/02/2010			999999		1,490.00
6043	BRENDA CAVIN	E	3/02/2010			999999		730.00
6062	MARC D SCHROEDER	E	3/02/2010			999999		354.00
6068	MICHAEL CREEL	E	3/02/2010			999999		242.00
6073	REBECCA FOSTER	E	3/02/2010			999999		709.00
6090	RANDAL BENNEFELD	E	3/02/2010			999999		530.00

VENDOR SET: 99 City of Pittsburg, KS
BANK: HAP M&I Bank - HAP
DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
6092	MINGORI LLC	E	3/02/2010			999999		172.00
6101	KENNETH D GIEFER	E	3/02/2010			999999		255.00
6108	TILDEN BURNS	E	3/02/2010			999999		223.00
6130	T & K RENTALS LLC	E	3/02/2010			999999		274.00
6150	JAMES L COX	E	3/02/2010			999999		391.00
6161	SJM INTERESTS INC	E	3/02/2010			999999		423.00
6172	ANDREW A WACHTER	E	3/02/2010			999999		827.00
6186	TROY ROSENSTIEL	E	3/02/2010			999999		514.00
6227	ANGELA BOLLINGER	E	3/02/2010			999999		357.00
6284	FRED TWEET	E	3/02/2010			999999		287.00
6294	RONALD E WUERDEMAN	E	3/02/2010			999999		308.00
6298	KEVAN L SCHUPBACH	E	3/02/2010			999999		3,891.00
6300	MARTY STAHL	E	3/02/2010			999999		223.00
6306	BALKANS DEVELOPMENT LLC	E	3/02/2010			999999		97.00
6314	PARKVIEW HOUSING INC	E	3/02/2010			999999		548.00
6317	RONALD L EMERSON	E	3/02/2010			999999		177.00
6333	JANA DALRYMPLE	E	3/02/2010			999999		425.00
6380	WAYNE E THOMPSON	E	3/02/2010			999999		555.00
6394	KEVIN HALL	E	3/02/2010			999999		550.00
6406	PITTSBURG STATE UNIVERSITY	E	3/02/2010			999999		262.00
6440	KATHLEEN E MARTINEZ	E	3/02/2010			999999		396.00
6441	HEATHER D MASON	E	3/02/2010			999999		550.00

VENDOR SET: 99 City of Pittsburg, KS
 BANK: HAP M&I Bank - HAP
 DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
6442	MELISSA BERMAN	E	3/02/2010			999999		440.00
6450	PICKET FENCE PROPERTIES INC	E	3/02/2010			999999		1,254.00

* * T O T A L S * *		NO	CHECK AMOUNT	DISCOUNTS	TOTAL APPLIED
REGULAR CHECKS:		11	5,788.80	0.00	5,788.80
HAND CHECKS:		0	0.00	0.00	0.00
DRAFTS:		0	0.00	0.00	0.00
EFT:		123	100,356.44	0.00	100,356.44
NON CHECKS:		0	0.00	0.00	0.00
VOID CHECKS:	0 VOID DEBITS		0.00		
	VOID CREDITS		0.00	0.00	0.00

TOTAL ERRORS: 0

VENDOR SET: 99	BANK: HAP	TOTALS:	134	106,145.24	0.00	106,145.24
BANK: HAP	TOTALS:		134	106,145.24	0.00	106,145.24

VENDOR SET: 99 City of Pittsburg, KS
 BANK: PY PAYROLL PAYABLES
 DATE RANGE: 2/17/2010 THRU 3/02/2010

VENDOR I.D.	NAME	STATUS	CHECK DATE	INVOICE AMOUNT	DISCOUNT	CHECK NO	CHECK STATUS	CHECK AMOUNT
0224	KDOR	D	2/19/2010			000000		11,137.91
0321	KP&F	D	2/19/2010			000000		26,644.79
0728	ICMA	D	2/19/2010			000000		5,716.47
1050	KPERS	D	2/19/2010			000000		29,045.74
3147	INTERNAL REVENUE SERVICE	D	2/19/2010			000000		58,493.98
6415	ING FINANCIAL ADVISORS	D	2/19/2010			000000		485.00
0349	UNITED WAY OF CRAWFORD COUNTY	R	2/19/2010			161781		35.00
1503	FAMILY SUPPORT PAYMENT CENTER	R	2/19/2010			161782		347.74
2228	KANSAS PAYMENT CENTER	R	2/19/2010			161783		1,083.28
2577	OK CENTRALIZED SUPPORT RE	R	2/19/2010			161784		130.97
0028	PAYROLL CLEARING	E	2/19/2010			999999		77,967.14

* * T O T A L S * *		NO	CHECK AMOUNT	DISCOUNTS	TOTAL APPLIED
REGULAR CHECKS:		4	1,596.99	0.00	1,596.99
HAND CHECKS:		0	0.00	0.00	0.00
DRAFTS:		6	131,523.89	0.00	131,523.89
EFT:		1	77,967.14	0.00	77,967.14
NON CHECKS:		0	0.00	0.00	0.00
VOID CHECKS:	0 VOID DEBITS		0.00		
	VOID CREDITS		0.00	0.00	0.00

TOTAL ERRORS: 0

VENDOR SET: 99	BANK: PY	TOTALS:	11	211,088.02	0.00	211,088.02
BANK: PY	TOTALS:		11	211,088.02	0.00	211,088.02
REPORT TOTALS:			333	1,424,485.17	23.10	1,424,462.07

Passed and approved this 9th day of March, 2010.

Rudy Draper, Mayor

ATTEST:

Tammy Nagel, City Clerk

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2221

By Committee on Health and Human Services

2-3

~~14 AN ACT concerning child care; disclosure of certain information;~~
~~15 amending K.S.A. 2008 Supp. 65-525 and repealing the existing section.~~
16 AN ACT concerning crimes and punishments; relating to smoking and
17 cigarette sales; amending K.S.A. 21-3105, 21-4009, 21-4010, 21-4011,
18 21-4012 and 65-530 and K.S.A. 2008 Supp. 79-3301 and 79-3321 and
19 repealing the existing sections; also repealing K.S.A. 21-4016 and 21-
20 4017.

21

Be it enacted by the Legislature of the State of Kansas:

22 ~~Section 1. K.S.A. 2008 Supp. 65-525 is hereby amended to read as~~
23 ~~follows: 65-525. (a) Records in the possession of the department of health~~
24 ~~and environment or its agents regarding child care facilities, maternity~~
25 ~~centers or family day care homes shall not be released publicly in a man-~~
26 ~~ner that would identify individuals, unless except individual names of li-~~
27 ~~censees, registrants, applicants, facilities and maternity centers may be~~
28 ~~released. Nothing in this section prohibits release of any information as~~
29 ~~required by law.~~

30 ~~—(b)—Records containing the name, address and telephone number of~~
31 ~~a child care facility, maternity center or family day care home in the~~
32 ~~possession of the department of health and environment or its agents~~
33 ~~shall not be released publicly unless required by law.~~

34 ~~—(c)—Records that cannot be released by subsection (a) or (b) in the~~
35 ~~possession of the department of health and environment or its agents~~
36 ~~regarding child care facilities, maternity centers or family day care homes~~
37 ~~may be released to: (1) An agency or organization authorized to receive~~
38 ~~notice under K.S.A. 65-506, and amendments thereto; (2) a criminal jus-~~
39 ~~tice agency; (3) any local, state or federal agency that provides child care~~
40 ~~services, funding for child care or child protective services governmental~~
41 ~~entity or subdivision thereof; (4) any federal agency for the purposes of~~
42 ~~compliance with federal funding requirements; (5) any local fire depart-~~
43

1 ~~ment, (6); (3) any child and adult care food program sponsoring agency;~~
2 ~~or (7) (4) any local disaster agency or emergency entity.~~

3 ~~—(d) Any state or federal agency or any person receiving records under~~
4 ~~subsection (a) or (b) shall not disseminate the records without the consent~~
5 ~~of the person whose records will be disseminated unless required by law.~~
6 ~~Any state or federal agency or any person receiving records under sub-~~
7 ~~section (c) may disseminate the information contained in the records~~
8 ~~without the consent of the person whose records will be disseminated.~~

9 ~~—(e) (c) The secretary of health and environment may prohibit the~~
10 ~~release of the name, address and telephone number of a maternity center,~~
11 ~~child care facility or family day care home when the secretary determines~~
12 ~~that **prohibition of** the release of the information is necessary to protect~~
13 ~~the health, safety or welfare of the public or the patients or children~~
14 ~~enrolled in the maternity center, child care facility or family day care~~
15 ~~home.~~

16 ~~—(f) Any records under subsection (a) or (b) shall be available to any~~
17 ~~member of the standing committee on appropriations of the house of~~
18 ~~representatives or the standing committee on ways and means of the~~
19 ~~senate carrying out such member's or committee's official functions in~~
20 ~~accordance with K.S.A. 75-4319, and amendments thereto, in a closed or~~
21 ~~executive meeting. Except in limited conditions established by 2/3 of the~~
22 ~~members of such committee, records received by the committee shall not~~
23 ~~be further disclosed. Unauthorized disclosure may subject such member~~
24 ~~to discipline or censure from the house of representatives or senate. Such~~
25 ~~records shall not identify individuals but shall include data and contract~~
26 ~~information concerning specific facilities.~~

27 ~~—(g) (d) In any hearings conducted under the licensing or regulation~~
28 ~~provisions of K.S.A. 65-501 et seq. and amendments thereto, the presid-~~
29 ~~ing officer may close the hearing to the public to prevent public disclosure~~
30 ~~of matters relating to persons restricted by other laws.~~

31 ~~—Sec. 2. K.S.A. 2008 Supp. 65-525 is hereby repealed.~~

32 *Section 1. On and after January 2, 2010, K.S.A. 21-3105 is*
33 *hereby amended to read as follows: 21-3105. A crime is an act or*
34 *omission defined by law and for which, upon conviction, a sentence*
35 *of death, imprisonment or fine, or both imprisonment and fine, is*
36 *authorized or, in the case of a traffic infraction or a cigarette or*
37 *tobacco infraction, a fine is authorized. Crimes are classified as*
38 *felonies, misdemeanors, traffic infractions and cigarette or tobacco*
39 *infractions.*

40 *(1) A felony is a crime punishable by death or by imprisonment*
41 *in any state correctional institution or a crime which is defined as*
42 *a felony by law.*

43 *(2) A traffic infraction is a violation of any of the statutory pro-*

1 **visions listed in subsection (c) of K.S.A. 8-2118, and amendments**
 2 **thereto.**

3 **(3) A cigarette or tobacco infraction is a violation of K.S.A. 21-**
 4 **4009 through 21-4014 and subsection (m) or (n) of K.S.A. 79-3321,**
 5 **and amendments thereto.**

6 **(4) All other crimes are misdemeanors.**

7 **Sec. 2. On and after January 2, 2010, K.S.A. 21-4009 is hereby**
 8 **amended to read as follows: 21-4009. As used in this act K.S.A. 21-**
 9 **4009 through 21-4014, and amendments thereto:**

10 (a) “Access point” means the area within a ten foot radius outside of
 11 any doorway, open window or air intake leading into a building or facility
 12 that is not exempted pursuant to subsection (d) of K.S.A. 21-4010, and
 13 amendments thereto.

14 ~~(a)~~ (b) “Bar” means any indoor area that is operated and licensed for
 15 the sale and service of alcoholic beverages, including alcoholic liquor as
 16 defined in K.S.A. 41-102, and amendments thereto, or cereal malt bev-
 17 erages as defined in K.S.A. 41-2701, and amendments thereto, for on-
 18 premises consumption.

19 (c) “Employee” means any person who is employed by an employer
 20 in consideration for direct or indirect monetary wages or profit, and any
 21 person who volunteers their services for a nonprofit entity.

22 (d) “Employer” means any person, partnership, corporation, associ-
 23 ation or organization, including municipal or nonprofit entities, which
 24 employs one or more individual persons.

25 (e) “Enclosed area” means all space between a floor and ceiling which
 26 is enclosed on all sides by solid walls, windows or doorways which extend
 27 from the floor to the ceiling, including all space therein screened by par-
 28 titions which do not extend to the ceiling or are not solid or similar struc-
 29 tures. For purposes of this section, the following shall not be considered
 30 an “enclosed area”: (1) Rooms or areas, enclosed by walls, windows or
 31 doorways, having neither a ceiling nor a roof and which are completely
 32 open to the elements and weather at all times; and (2) rooms or areas,
 33 enclosed by walls, fences, windows or doorways and a roof or ceiling,
 34 having openings that are permanently open to the elements and weather
 35 and which comprise an area that is at least 30% of the total perimeter
 36 wall area of such room or area.

37 (f) “Food service establishment” means any place in which food is
 38 served or is prepared for sale or service on the premises. Such term shall
 39 include, but not be limited to, fixed or mobile restaurants, coffee shops,
 40 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
 41 shops, soda fountains, taverns, private clubs, roadside kitchens, commis-
 42 saries and any other private, public or nonprofit organization or institu-
 43 tion routinely serving food and any other eating or drinking establishment

1 or operation where food is served or provided for the public with or
2 without charge.

3 (g) “Gaming floor” means the area of a lottery gaming facility or
4 racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,
5 and amendments thereto, where patrons engage in Class III gaming. The
6 gaming floor shall not include any areas used for accounting, mainte-
7 nance, surveillance, security, administrative offices, storage, cash or cash
8 counting, records, food service, lodging or entertainment, except that the
9 gaming floor may include a bar where alcoholic beverages are served so
10 long as the bar is located entirely within the area where Class III gaming
11 is conducted.

12 (h) “Medical care facility” means a physician’s office, general hospi-
13 tal, special hospital, ambulatory surgery center or recuperation center, as
14 defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
15 hospital licensed under K.S.A. 75-3307b, and amendments thereto.

16 **[(i) “Outdoor recreational facility” means a hunting, fishing,
17 shooting or golf club, business or enterprise operated primarily for
18 the benefit of its owners, members and their guests and not normally
19 open to the general public.]**

20 ~~[(j)]~~ **[(j)]** “Place of employment” means any enclosed area under the
21 control of a public or private employer, including, but not limited to, work
22 areas, auditoriums, elevators, private offices, employee lounges and rest-
23 rooms, conference and meeting rooms, classrooms, employee cafeterias,
24 stairwells and hallways, that is used by employees during the course of
25 employment. For purposes of this section, a private residence shall not be
26 considered a “place of employment” unless such residence is used as a
27 day care home, as defined in K.S.A. 65-530, and amendments thereto.

28 **[(k) “Private club” means an outdoor recreational facility op-
29 erated primarily for the use of its owners, members and their guests
30 that in its ordinary course of business is not open to the general
31 public for which use of its facilities has substantial dues or mem-
32 bership fee requirements for its members.]**

33 ~~[(l)]~~ **[(l)]** “Public building” means any building owned or operated by:
34 (1) The state, including any branch, department, agency, bureau, com-
35 mission, authority or other instrumentality thereof; (2) any county, city,
36 township, other political subdivision, including any commission, author-
37 ity, agency or instrumentality thereof; or (3) any other separate corporate
38 instrumentality or unit of the state or any municipality.

39 ~~[(m)]~~ **[(m)]** “Public meeting” means any meeting open to the public
40 pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other
41 law of this state.

42 ~~[(n)]~~ **[(n)]** “Public place” means any enclosed ~~indoor~~ areas open to
43 the public or used by the general public including, but not limited

1 ~~to: Restaurants~~ Banks, bars, food service establishments, retail service
 2 establishments, **retail stores, public means of mass transportation,**
 3 **passenger elevators, health care institutions or any other place**
 4 **where health care services are provided to the public,** medical care
 5 facilities, **educational facilities, libraries, courtrooms,** ~~state, county or~~
 6 ~~municipal~~ **public buildings, restrooms, grocery stores, school buses,**
 7 **museums, theaters, auditoriums, arenas and recreational facilities.**
 8 For purposes of this section, a private residence shall not be considered
 9 a “public place” unless such residence is used as a day care home, as
 10 defined in K.S.A. 65-530, and amendments thereto.

11 ~~(b) “Public meeting” includes all meetings open to the public.~~
 12 ~~—(c) ~~(m)~~ [(o)]~~ **“Smoking” means possession of a lighted cigarette,**
 13 **cigar, pipe or any other lighted smoking equipment burning tobacco in**
 14 **any other form or device designed for the use of tobacco.**

15 ~~(n)~~ [(p)] **“Tobacco shop” means any indoor area operated primarily**
 16 **for the retail sale of tobacco, tobacco products or smoking devices or**
 17 **accessories, and which derives not less than 65% of its gross receipts from**
 18 **the sale of tobacco.**

19 [(q) **“Substantial dues or membership fee requirements” means**
 20 **initiation costs, dues or fees proportional to the cost of membership**
 21 **in similarly-situated outdoor recreational facilities that are not con-**
 22 **sidered nominal and implemented to otherwise avoid or evade re-**
 23 **strictions of a statewide ban on smoking.]**

24 **Sec. 3. On and after January 2, 2010, K.S.A. 21-4010 is hereby**
 25 **amended to read as follows: 21-4010. (a) No person shall smoke in**
 26 **a public place an enclosed area or at a public meeting except in desig-**
 27 **nated smoking areas, including, but not limited to:**

- 28 (1) Public places;
- 29 (2) taxicabs and limousines;
- 30 (3) restrooms, lobbies, hallways and other common areas in public
 31 and private buildings, condominiums and other multiple-residential
 32 facilities;
- 33 (4) restrooms, lobbies and other common areas in hotels and motels
 34 and in at least 80% of the sleeping quarters within a hotel or motel that
 35 may be rented to guests;
- 36 (5) access points of all buildings and facilities not exempted pursuant
 37 to subsection (d); and
- 38 (6) any place of employment.

39 ~~(b) Smoking areas may be designated by proprietors or other persons~~
 40 ~~in charge of public places, except in passenger elevators, school buses,~~
 41 ~~public means of mass transportation and any other place in which smoking~~
 42 ~~is prohibited by the fire marshal or by other law, ordinance or regulation.~~
 43 ~~—(c) Where smoking areas are designated, existing physical barriers~~

- 1 ~~and ventilation systems shall be used to minimize the toxic effect of smoke~~
2 ~~in adjacent nonsmoking areas.~~
- 3 (b) *Each employer having a place of employment that is an enclosed*
4 *area shall provide a smoke-free workplace for all employees. Such em-*
5 *ployer shall also adopt and maintain a written smoking policy which shall*
6 *prohibit smoking without exception in all areas of the place of employ-*
7 *ment. Such policy shall be communicated to all current employees within*
8 *one week of its adoption and shall be communicated to all new employees*
9 *upon hiring. Each employer shall provide a written copy of the smoking*
10 *policy upon request to any current or prospective employee.*
- 11 (c) *Notwithstanding any other provision of this section, K.S.A. 21-*
12 *4011 or 21-4012, and amendments thereto, the proprietor or other person*
13 *in charge of an adult care home, as defined in K.S.A. 39-923, and amend-*
14 *ments thereto, or a medical care facility, may designate a portion of such*
15 *adult care home, or the licensed long-term care unit of such medical care*
16 *facility, as a smoking area, and smoking may be permitted within such*
17 *designated smoking area.*
- 18 (d) *The provisions of this section shall not apply to:*
- 19 (1) *The outdoor areas of any building or facility beyond the access*
20 *points of such building or facility;*
- 21 (2) *private homes or residences, except when such home or residence*
22 *is used as a day care home, as defined in K.S.A. 65-530, and amendments*
23 *thereto;*
- 24 (3) *a hotel or motel room rented to one or more guests if the total*
25 *percentage of such hotel or motel rooms in such hotel or motel does not*
26 *exceed 20%;*
- 27 (4) *the gaming floor of a lottery gaming facility or racetrack gaming*
28 *facility, as those terms are defined in K.S.A. 74-8702, and amendments*
29 *thereto;*
- 30 (5) *that portion of an adult care home, as defined in K.S.A. 39-923,*
31 *and amendments thereto, that is expressly designated as a smoking area*
32 *by the proprietor or other person in charge of such adult care home*
33 *pursuant to subsection (c) and that is fully enclosed and ventilated;*
- 34 (6) *that portion of a licensed long-term care unit of a medical care*
35 *facility that is expressly designated as a smoking area by the proprietor*
36 *or other person in charge of such medical care facility pursuant to sub-*
37 *section (c) and that is fully enclosed and ventilated and to which access*
38 *is restricted to the residents and their guests;*
- 39 (7) *tobacco shops; ~~and~~*
- 40 (8) *a class A or class B club defined in K.S.A. 41-2601, and amend-*
41 *ments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq.,*
42 *and amendments thereto, as of January 1, 2009; and (B) notifies the sec-*
43 *retary of health and environment in writing, not later than 90 days after*

1 *the effective date of this act, that it wishes to continue to allow smoking*
2 *on its premises]; and*

3 *[(9) a private club in designated areas where minors are*
4 *prohibited.]*

5 **Sec. 4. On and after January 2, 2010, K.S.A. 21-4011 is hereby**
6 **amended to read as follows: 21-4011. The proprietor or other per-**
7 **son in charge of the premises of a public place, or other area where**
8 **smoking is prohibited, shall post or cause to be posted in a conspic-**
9 **uous place signs displaying the international no smoking symbol and**
10 **clearly stating that smoking is prohibited by state law.** ~~The person~~
11 ~~in charge of the premises shall also post or cause to be posted in any~~
12 ~~designated smoking area, signs stating that smoking is permitted in such~~
13 ~~room or area. The proprietor or person in charge of the public place shall~~
14 ~~have the authority to establish the percentage of area in the public place~~
15 ~~which shall be posted and designated as a smoking area.~~

16 **Sec. 5. On and after January 2, 2010, K.S.A. 21-4012 is hereby**
17 **amended to read as follows: 21-4012.** ~~Any person found guilty of smok-~~
18 ~~ing in violation of this act is guilty of a misdemeanor punishable by a fine~~
19 ~~of not more than \$20 for each violation. Any person found guilty of failing~~
20 ~~to post signs as required by this act, is guilty of a misdemeanor punishable~~
21 ~~by a fine of not more than \$50. In addition, the department of health and~~
22 ~~environment, or local department of health, may institute an action in~~
23 ~~any court of competent jurisdiction to enjoin repeated violations of this~~
24 ~~act.~~ (a) *It shall be unlawful for any person who owns, manages, operates*
25 *or otherwise controls the use of any public place, or other area where*
26 *smoking is prohibited, to fail to comply with all or any of the provisions*
27 *of K.S.A. 21-4009 through 21-4014, and amendments thereto.*

28 (b) *It shall be unlawful for any person who owns, manages, operates*
29 *or otherwise controls the use of any public place, or other area where*
30 *smoking is prohibited, to allow smoking to occur where prohibited by law.*
31 *Any such person shall be deemed to allow smoking to occur under this*
32 *subsection if such person: (1) Has knowledge that smoking is occurring;*
33 *and (2) acquiesces to the smoking under the totality of the circumstances.*

34 (c) *It shall be unlawful for any person to smoke in any area where*
35 *smoking is prohibited by the provisions of K.S.A. 21-4010, and amend-*
36 *ments thereto.*

37 (d) *Any person who violates any provision of K.S.A. 21-4009 through*
38 *21-4014, and amendments thereto, shall be guilty of a cigarette or tobacco*
39 *infraction punishable by a fine:*

- 40 (1) *Not exceeding \$100 for the first violation;*
41 (2) *not exceeding \$200 for a second violation within a one year period*
42 *after the first violation; or*
43 (3) *not exceeding \$500 for a third or subsequent violation within a*

1 *one year period after the first violation.*

2 *For purposes of this subsection, the number of violations within a year*
3 *shall be measured by the date the smoking violations occur.*

4 *(e) Each individual allowed to smoke by a person who owns, manages,*
5 *operates or otherwise controls the use of any public place, or other area*
6 *where smoking is prohibited, in violation of subsection (b) shall be con-*
7 *sidered a separate violation for purposes of determining the number of*
8 *violations under subsection (d).*

9 *(f) No employer shall discharge, refuse to hire or in any manner re-*
10 *taliate against an employee, applicant for employment or customer be-*
11 *cause that employee, applicant or customer reports or attempts to pros-*
12 *ecute a violation of any of the provisions of K.S.A. 21-4009 through*
13 *21-4014, and amendments thereto.*

14 ***[New Sec. 6. The director of alcoholic beverage control is***
15 ***hereby authorized to promulgate rules and regulations to insure***
16 ***any exemption from the statewide ban on smoking is bona fide and***
17 ***the entity seeking such exemption is not inappropriately seeking to***
18 ***circumvent the smoking ban created under this act.]***

19 ***Sec. ~~6~~ [7.] On and after January 2, 2010, K.S.A. 65-530 is***
20 ***hereby amended to read as follows: 65-530. (a) As used in this***
21 ***section:***

22 ***(1) “Day care home” means a day care home as defined under***
23 ***Kansas administrative regulation 28-4-113, a group day care home***
24 ***as defined under Kansas administrative regulation 28-4-113 and a***
25 ***family day care home as defined under K.S.A. 65-517 and amend-***
26 ***ments thereto.***

27 ***(2) “Smoking” means possession of a lighted cigarette, cigar,***
28 ***pipe or burning tobacco in any other form or device designed for***
29 ***the use of tobacco.***

30 ***(b) Smoking within any room, enclosed area or other enclosed***
31 ***space of a facility or facilities of a day care home during a time***
32 ***when children who are not related by blood, marriage or legal adop-***
33 ***tion to the person who maintains the home are being cared for, as***
34 ***part of the operation of the day care home, within the facility or***
35 ***facilities is hereby prohibited. Nothing in this subsection shall be***
36 ***construed to prohibit smoking on the premises of the day care home***
37 ***outside the facility or facilities of a day care home, including but***
38 ***not limited to porches, yards or garages.***

39 ***(c) Each day care home registration certificate or license shall***
40 ***contain a statement in bold print that smoking is prohibited within***
41 ***a room, enclosed area or other enclosed space of the facility or fa-***
42 ***ilities of the day care home under the conditions specified in sub-***
43 ***section (b). The statement shall be phrased in substantially the same***

1 *language as subsection (b). The registration certificate or license*
2 *shall be posted in a conspicuous place in the facility or facilities.*

3 (d) *The secretary of health and environment may levy a civil*
4 *fine under K.S.A. 65-526 and amendments thereto against any day*
5 *care home for a first or second violation of this section. A third or*
6 *subsequent violation shall be subject to the provisions of K.S.A. 65-*
7 *523 and amendments thereto.*

8 (e) *In addition to any civil fine which may be levied pursuant to*
9 *subsection (d), any day care home that violates any provision of this sec-*
10 *tion may also be subject to criminal punishment pursuant to K.S.A. 21-*
11 *4012, and amendments thereto.*

12 *New Sec. ~~7~~ [8.] On and after January 2, 2010, the amendments*
13 *made to K.S.A. 21-4009 through 21-4012, and amendments thereto,*
14 *and K.S.A. 21-4013 and 21-4014, and amendments thereto, shall*
15 *constitute the Kansas indoor clean air act.*

16 *Sec. ~~8~~ [9.] K.S.A. 2008 Supp. 79-3301 is hereby amended to*
17 *read as follows: 79-3301. As used in this act K.S.A. 79-3301 et seq.,*
18 *and amendments thereto:*

19 (a) *“Carrier” means one who transports cigarettes from a man-*
20 *ufacturer to a wholesale dealer or from one wholesale dealer to*
21 *another.*

22 (b) *“Carton” means the container used by the manufacturer of*
23 *cigarettes in which no more than 10 packages of cigarettes are*
24 *placed prior to shipment from such manufacturer.*

25 (c) *“Cigarette” means any roll for smoking, made wholly or in*
26 *part of tobacco, irrespective of size or shape, and irrespective of*
27 *tobacco being flavored, adulterated or mixed with any other ingre-*
28 *redient if the wrapper is in greater part made of any material except*
29 *tobacco.*

30 (d) *“Consumer” means the person purchasing or receiving cig-*
31 *arettes or tobacco products for final use.*

32 (e) *“Dealer” means any person who engages in the sale or man-*
33 *ufacture of cigarettes in the state of Kansas, and who is required to*
34 *be licensed under the provisions of this act.*

35 (f) *“Dealer establishment” means any location or premises,*
36 *other than vending machine locations, at or from which cigarettes*
37 *are sold, and where records are kept.*

38 (g) *“Director” means the director of taxation.*

39 (h) *“Distributor” means: (1) Any person engaged in the business*
40 *of selling tobacco products in this state who brings, or causes to be*
41 *brought, into this state from ~~without~~ outside the state any tobacco*
42 *products for sale;*

43 (2) *any person who makes, manufactures, fabricates or stores*

- 1 *tobacco products in this state for sale in this state; or*
 2 (3) *any person engaged in the business of selling tobacco prod-*
 3 *ucts without outside this state who ships or transports tobacco prod-*
 4 *ucts to any person in the business of selling tobacco products in this*
 5 *state.*
 6 (i) *“Division” means the division of taxation.*
 7 (j) *“License” means, in addition to the privilege of a licensee to*
 8 *sell cigarettes or tobacco products in the state of Kansas, and the*
 9 *written evidence of such authority or privilege to so operate as evi-*
 10 *denced by any license as issued by the director of taxation.*
 11 (k) *“Licensee” means any person holding a current license is-*
 12 *sued pursuant to this act.*
 13 (l) *“Manufacturer’s salesperson” means a person employed by*
 14 *a cigarette manufacturer who sells cigarettes, manufactured by*
 15 *such employer and procured from wholesale dealers.*
 16 (m) *“Meter imprints” means tax indicia applied by means of ink*
 17 *printing machines.*
 18 (n) (1) *“Package” means a container in which no more than 25*
 19 *individual cigarettes are wrapped and sealed by the manufacturer*
 20 *of cigarettes prior to shipment to a wholesale dealer;*
 21 (2) *for the purposes of subsections (u), (v) and (w) of K.S.A. 79-*
 22 *3321, and amendments thereto, “package” shall have the meaning*
 23 *ascribed thereto means the same as provided in 15 U.S.C. §1332(4).*
 24 (o) *“Person” means any individual, partnership, society, asso-*
 25 *ciation, joint-stock company, corporation, estate, receiver, trustee,*
 26 *assignee, referee or any other person acting in a fiduciary or rep-*
 27 *resentative capacity whether appointed by a court or otherwise and*
 28 *any combination of individuals.*
 29 (p) *“Received” means the coming to rest of cigarettes for sale*
 30 *by any dealer in the state of Kansas.*
 31 (q) *“Retail dealer” means a person, other than a vending ma-*
 32 *chine operator, in possession of cigarettes for the purpose of sale to*
 33 *a consumer.*
 34 (r) *“Sale” means any transfer of title or possession or both,*
 35 *exchange, barter, distribution or gift of cigarettes or tobacco prod-*
 36 *ucts, with or without consideration.*
 37 (s) *“Sample” means cigarettes or tobacco products distributed*
 38 *to members of the general public at no cost for purposes of pro-*
 39 *moting the product.*
 40 (t) *“Self-service display” means a display that contains cigarettes or*
 41 *tobacco products and is located in an area openly accessible to a retail*
 42 *dealer’s consumers, and from which such consumers can readily access*
 43 *cigarettes or tobacco products without the assistance of a salesperson. A*

- 1 *display case that holds cigarettes or tobacco products behind locked doors*
 2 *does not constitute a self-service display.*
- 3 (u) **“Stamps” means tax indicia applied either by means of water**
 4 **applied gummed paper or heat process.**
- 5 ~~(tt)~~ (v) **“Tax indicia” means visible evidence of tax payment in**
 6 **the form of stamps or meter imprints.**
- 7 ~~(vv)~~ (w) **“Tobacco products” means cigars, cheroots, stogies, pe-**
 8 **riques; granulated, plug cut, crimp cut, ready rubbed and other**
 9 **smoking tobacco; snuff, snuff flour; cavendish; plug and twist to-**
 10 **bacco; fine cut and other chewing tobaccos; shorts; refuse scraps,**
 11 **clippings, cuttings and sweepings of tobacco, and other kinds and**
 12 **forms of tobacco, prepared in such manner as to be suitable for**
 13 **chewing or smoking in a pipe or otherwise, or both for chewing and**
 14 **smoking. Tobacco products does do not include cigarettes.**
- 15 (x) **“Tobacco speciality store” means a dealer establishment that de-**
 16 **rives at least 75% of such dealer establishment’s revenue from cigarettes**
 17 **or tobacco products.**
- 18 ~~(yy)~~ (y) **“Vending machine” means any coin operated machine,**
 19 **contrivance or device, by means of which merchandise may be sold.**
- 20 ~~(zz)~~ (z) **“Vending machine distributor” means any person who**
 21 **sells cigarette vending machines to a vending machine operator op-**
 22 **erating vending machines in the state of Kansas.**
- 23 ~~(aaa)~~ (aa) **“Vending machine operator” means any person who**
 24 **places a vending machine, owned, leased or operated by such per-**
 25 **son, at locations where cigarettes are sold from the such vending**
 26 **machine. The owner or lessee of the premises upon which a vending**
 27 **machine is placed shall not be considered the operator of the ma-**
 28 **chine, nor shall the owner or lessee, or any employee or agent of**
 29 **the owner or lessee be considered an authorized agent of the vend-**
 30 **ing machine operator, if the owner or lessee does not own or lease**
 31 **the machine and the owner’s or lessee’s sole remuneration from the**
 32 **machine is a flat rental fee or commission based upon the number**
 33 **or value of cigarettes sold from the machine, or a combination of**
 34 **both.**
- 35 ~~(bbb)~~ (bb) **“Wholesale dealer” means any person who sells ciga-**
 36 **rettes to other wholesale dealers, retail dealers, vending machine**
 37 **operators and manufacturer’s salespersons for the purpose of resale**
 38 **in the state of Kansas.**
- 39 ~~(ccc)~~ (cc) **“Wholesale sales price” means the original net invoice**
 40 **price for which a manufacturer sells a tobacco product to a distrib-**
 41 **utor, as shown by the manufacturer’s original invoice.**
- 42 ~~(ddd)~~ (dd) **“Importer” shall have the same meaning ascribed thereto**
 43 **means the same as provided in 26 U.S.C. §5702(l).**

1 ~~(ee)~~ (ee) “**Manufacturer**” shall have the same meaning ascribed
2 thereto means the same as provided in 26 U.S.C. §5702(d).

3 **Sec. 9: [10.] K.S.A. 2008 Supp. 79-3321 is hereby amended to**
4 **read as follows: 79-3321. It shall be unlawful for any person:**

5 (a) *To possess, except as otherwise specifically provided by this*
6 *act, more than 200 cigarettes without the required tax indicia being*
7 *affixed as herein provided.*

8 (b) *To mutilate or attach to any individual package of cigarettes*
9 *any stamp that has in any manner been mutilated or that has been*
10 *heretofore attached to a different individual package of cigarettes*
11 *or to have in possession any stamps so mutilated.*

12 (c) *To prevent the director or any officer or agent authorized*
13 *by law, to make a full inspection for the purpose of this act, of any*
14 *place of business and all premises connected thereto where ciga-*
15 *rettes are or may be manufactured, sold, distributed, or given away.*

16 (d) *To use any artful device or deceptive practice to conceal any*
17 *violation of this act or to mislead the director or officer or agent*
18 *authorized by law in the enforcement of this act.*

19 (e) *Who is a dealer to fail to produce on demand of the director*
20 *or any officer or agent authorized by law any records or invoices*
21 *required to be kept by such person.*

22 (f) *Knowingly to make, use, or present to the director or agent*
23 *thereof any falsified invoice or falsely state the nature or quantity*
24 *of the goods therein invoiced.*

25 (g) *Who is a dealer to fail or refuse to keep and preserve for the*
26 *time and in the manner required herein by this act all the records*
27 *required by this act to be kept and preserved.*

28 (h) *To wholesale cigarettes to any person, other than a manu-*
29 *facturer’s salesperson, retail dealer or wholesaler who is:*

30 (1) *Duly licensed by the state where such manufacturer’s sales-*
31 *person, retail dealer or wholesaler is located; or*

32 (2) *exempt from state licensing under applicable state or federal*
33 *laws or court decisions including any such person operating as a*
34 *retail dealer upon land allotted to or held in trust for an Indian*
35 *tribe recognized by the United States bureau of Indian affairs.*

36 (i) *To have in possession any evidence of tax indicia provided*
37 *for herein not purchased from the director.*

38 (j) *To fail or refuse to permit the director or any officer or agent*
39 *authorized by law to inspect a carrier transporting cigarettes.*

40 (k) *To vend small cigars, or any products so wrapped as to be*
41 *confused with cigarettes, from a machine vending cigarettes, nor*
42 *shall a vending machine be so built to vend cigars or products that*
43 *may be confused with cigarettes, be attached to a cigarette vending*

1 *machine.*

2 *(l) To sell, furnish or distribute cigarettes or tobacco products*
3 *to any person under 18 years of age.*

4 *(m) Who is under 18 years of age to purchase or attempt to*
5 *purchase cigarettes or tobacco products.*

6 *(n) Who is under 18 years of age to possess or attempt to possess*
7 *cigarettes or tobacco products.*

8 *(o) To sell cigarettes to a retailer or at retail that do not bear*
9 *Kansas tax indicia or upon which the Kansas cigarette tax has not*
10 *been paid.*

11 *(p) To sell cigarettes without having a license for such sale as*
12 *provided herein.*

13 *(q) To sell a vending machine without having a vending machine*
14 *distributor's license.*

15 *(r) Who is a retail dealer to fail to post and maintain in a con-*
16 *spicuous place in the dealer's establishment the following notice:*
17 *"By law, cigarettes and tobacco products may be sold only to per-*
18 *sons 18 years of age and older."*

19 *(s) To distribute samples within 500 feet of any school when*
20 *such facility is being used primarily by persons under 18 years of*
21 *age unless the sampling is: (1) In an area to which persons under*
22 *18 years of age are denied access;*

23 *(2) in or at a retail location where cigarettes and tobacco prod-*
24 *ucts are the primary commodity offered for sale at retail; or*

25 *(3) at or adjacent to an outdoor production, repair or construc-*
26 *tion site or facility.*

27 *(t) To sell cigarettes or tobacco products by means of a vending*
28 *machine in any establishment, or portion of an establishment, which*
29 *is open to minors, except that this subsection shall not apply to:*

30 *(1) The installation and use by the proprietor of the establish-*
31 *ment, or by the proprietor's agents or employees, of vending ma-*
32 *chines behind a counter, or in some place in such establishment, or*
33 *portion thereof, to which minors are prohibited by law from having*
34 *access;*

35 *(2) the installation and use of a vending machine in a commer-*
36 *cial building or industrial plant, or portions thereof, where the pub-*
37 *lic is not customarily admitted and where machines are intended*
38 *for the sole use of adult employees employed in the building or*
39 *plant; or*

40 *(3) a vending machine which has a lock-out device which is in-*
41 *operable in the continuous standby mode and which requires man-*
42 *ual activation by the person supervising the operation of the ma-*
43 *chine each time cigarettes or tobacco products are purchased from*

1 ***the machine.***

2 ***(u) To sell cigarettes or tobacco products by means of a self-service***
 3 ***display in any establishment, except that the provisions of this subsection***
 4 ***shall not apply to:***

5 ***(1) A vending machine that is permitted under subsection (t); or***

6 ***(2) a self-service display that is located in a tobacco specialty store.***

7 ***(v) To sell or distribute in this state; to acquire, hold, own, pos-***
 8 ***sess or transport for sale or distribution in this state; or to import***
 9 ***or cause to be imported, into this state for sale or distribution in***
 10 ***this state:***

11 ***(1) Any cigarettes the package of which (A) bears any statement,***
 12 ***label, stamp, sticker or notice indicating that the manufacturer did***
 13 ***not intend the cigarettes to be sold, distributed or used in the United***
 14 ***States, including but not limited to, labels stating “For Export***
 15 ***Only”, “U.S. Tax-Exempt”, “For Use Outside U.S.” or similar word-***
 16 ***ing; or (B) does not comply with (i) all requirements imposed by or***
 17 ***pursuant to federal law regarding warnings and other information***
 18 ***on packages of cigarettes manufactured, packaged or imported for***
 19 ***sale, distribution or use in the United States, including but not lim-***
 20 ***ited to the precise warning labels specified in the federal cigarette***
 21 ***labeling and advertising act, 15 U.S.C. 1333; and (ii) all federal***
 22 ***trademark and copyright laws;***

23 ***(2) any cigarettes imported into the United States in violation***
 24 ***of 26 U.S.C. 5754 or any other federal law, or federal regulations***
 25 ***implementing such laws;***

26 ***(3) any cigarettes that such person otherwise knows or has rea-***
 27 ***son to know the manufacturer did not intend to be sold, distributed***
 28 ***or used in the United States; or***

29 ***(4) any cigarettes for which there has not been submitted to the***
 30 ***secretary of the U.S. department of health and human services the***
 31 ***list or lists of the ingredients added to tobacco in the manufacture***
 32 ***of such cigarettes required by the federal cigarette labeling and***
 33 ***advertising act, 15 U.S.C. 1335a.***

34 ~~***(w)***~~ ***To alter the package of any cigarettes, prior to sale or***
 35 ***distribution to the ultimate consumer, so as to remove, conceal or***
 36 ***obscure:***

37 ***(1) Any statement, label, stamp, sticker or notice described in***
 38 ***subsection ~~(u)~~ of K.S.A. 79-3321, and amendments thereto (v); or***

39 ***(2) any health warning that is not specified in, or does not con-***
 40 ***form with, the requirements of, the federal cigarette labeling and***
 41 ***advertising act, 15 U.S.C. 1333.***

42 ~~***(x)***~~ ***To affix any stamp required pursuant to K.S.A. 79-3311,***
 43 ***and amendments thereto, to the package of any cigarettes described***

- 1 *in subsection ~~(v)~~ (v) or altered in violation of subsection ~~(w)~~ (w).*
2 *Sec. ~~10~~ [11.] K.S.A. 2008 Supp. 79-3301 and 79-3321 are*
3 *hereby repealed.*
4 *Sec. ~~11~~ [12.] On January 2, 2010, K.S.A. 21-3105, 21-4009, 21-*
5 *4010, 21-4011, 21-4012, 21-4016, 21-4017 and 65-530 are hereby*
6 *repealed.*
7 *Sec. ~~3~~ ~~12~~ [13.] This act shall take effect and be in force from and*
8 *after its publication in the statute book.*



Interoffice Memorandum

TO: JOHN D. VANGORDEN
Interim City Manager

FROM: JOHN H. BAILEY, P.E., Ph.D.
Director of Public Utilities

DATE: March 3, 2010

SUBJECT: Agenda Item – March 9, 2010
Engineering Services Agreement
Public Utilities Maintenance Building
KWPCRF Project No. C20 1818 01A

Attached you will find an Engineering Services Agreement from PKHLS Architecture, P.A. for the design and contract administration for the construction of a Public Utilities Maintenance Building. The basis of compensation is as follows:

Schematic Design Phase	\$ 500.00
Design Development Phase	\$ 500.00
Construction Documents Phase	\$16,800.00
Bidding or Negotiation Phase	\$ 1,200.00
Construction Phase	<u>\$ 4,500.00</u>
Total Compensation	\$23,500.00

The City of Pittsburg received authorization from KDH&E that this project would be funded through KDH&E's State Wastewater Revolving Loan Fund. This project will comply with the requirements of KDH&E and should result in 50% of the loan amount including engineering to be forgiven via use of stimulus money.

In this regard, would you please place this item on the agenda for the City Commission meeting scheduled for Tuesday, March 9, 2010. Action necessary will be approval or disapproval of the Engineering Services Agreement and, if approved, authorize the Mayor to sign on behalf of the City.

MEMO TO: JOHN D. VANGORDEN
MARCH 3, 2010
PAGE TWO

If you have any questions concerning this matter, please do not hesitate to contact me.

cc: Tammy Nagel, City Clerk
Project File
Memo File

AIA[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-ninth day of December in the year Two Thousand and Nine

(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Pittsburg
201 West 4th
Pittsburg, KS 66762-4701

and the Architect:
(Name, legal status, address and other information)

PKHLS Architecture, PA
101 South Star
PO Box 691
El Dorado, KS 67042

for the following Project:
(Name, location and detailed description)

City of Pittsburg
Public Utilities Building
12th and Walnut
Pittsburg, KS 66762

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

AIA Document B101[™] – 2007 (formerly B151[™] – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA[®] Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA[®] Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

March, 2010

.2 Substantial Completion date:

September, 2010

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. Kermit Dirksen, Construction Technician, PKHLS
Fred Britain, Intern Architect, PKHLS

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

- .1 General Liability
One Million Dollars (\$1,000,000)
- .2 Automobile Liability
One Million Dollars (\$1,000,000)
- .3 Workers' Compensation
Per State of Kansas Statute
- .4 Professional Liability
One Million Dollars (\$1,000,000)

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services associated with design of building systems. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice within 72 hours to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for acts of God, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

(Paragraphs deleted)

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall in writing update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall in writing update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site monthly or at intervals appropriate to the stage of construction in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

Init. AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

init

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Not Provided	
§ 4.1.2 Multiple preliminary designs	Not Provided	
§ 4.1.3 Measured drawings	Not Provided	
§ 4.1.4 Existing facilities surveys	Not Provided	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	Provided	
§ 4.1.6 Building information modeling	Not Provided	
§ 4.1.7 Civil engineering	Not Provided	
§ 4.1.8 Landscape design	Not Provided	
§ 4.1.9 Architectural Interior Design (B252™-2007)	Not Provided	
§ 4.1.10 Value Analysis (B204™-2007)	Not Provided	
§ 4.1.11 Detailed cost estimating	Not Provided	
§ 4.1.12 On-site project representation	Provided	
§ 4.1.13 Conformed construction documents	Not Provided	
§ 4.1.14 As-Designed Record drawings	Provided	
§ 4.1.15 As-Constructed Record drawings	Not Provided	
§ 4.1.16 Post occupancy evaluation	Not Provided	
§ 4.1.17 Facility Support Services (B210™-2007)	Not Provided	
§ 4.1.18 Tenant-related services	Not Provided	
§ 4.1.19 Coordination of Owner's consultants	Not Provided	
§ 4.1.20 Telecommunications/data design	Not Provided	
§ 4.1.21 Security Evaluation and Planning (B206™-2007)	Not Provided	
§ 4.1.22 Commissioning (B211™-2007)	Not Provided	
§ 4.1.23 Extensive environmentally responsible design	Not Provided	
§ 4.1.24 LEED® Certification (B214™-2007)	Not Provided	
§ 4.1.25 Fast-track design services	Not Provided	
§ 4.1.26 Historic Preservation (B205™-2007)	Not Provided	
§ 4.1.27 Furniture, Furnishings, and Equipment Design (B253™-2007)	Not Provided	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

4.1.5 Site Evaluation and Planning shall be considered as the site plan and architectural documentation necessary to satisfy local zoning ordinances for Planned Unit Development (PUD). This shall not include necessary civil engineering or detailed landscape design.

4.1.12 On-site project representation shall be limited to monthly coordination meetings and pay application review.

4.1.14 As-Designed Record drawings shall be considered the Construction Drawings provided as instruments of service by the Architect.

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing over and above two (2) sessions with City Commission;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify in writing to the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker (not to exceed 10);
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 One per month (1) visits to the site by the Architect over the duration of the Project during construction
- .3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) inspections for any portion of the Work to determine final completion

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 4.3.4 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals within (2) weeks in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials as per required by local building official.

(Paragraph deleted)

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

10

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations at no additional fee to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

11

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to not transmit in an editable form.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement without just cause, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the

Init. AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

(Paragraphs deleted)

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

13

perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

See 11.5

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Regular office hourly rate, per attached rate schedule, subject to adjustment on January 1st of each year.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Regular office hourly rate, per attached rate schedule, subject to adjustment on January 1st of each year.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent (10 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum, the compensation for each phase of services shall be as follows:

Schematic Design Phase	\$500.00
Design Development Phase	\$500.00
Construction Documents Phase	\$16,800.00
Bidding or Negotiation Phase	\$1,200.00
Construction Phase	\$4,500.00
<hr/>	
Total Stipulated Sum Compensation	\$23,500.00

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed to date whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Exhibit B

Employee or Category	Rate
-----------------------------	-------------

Init.

AIA Document B101™ – 2007 (formerly B151™ – 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

One and One Half Percent Per Month. 1.5%

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

None

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

§ 13.2 This Agreement is comprised of the following documents listed below:

.1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect

.3 Other documents:

(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

Exhibit A

Exhibit B

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

Rudy Draper Mayor

(Printed name and title)

(Signature)

Vince E. Haines President

(Printed name and title)

Init.

AIA Document B101™ - 2007 (formerly B151™ - 1997). Copyright © 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. **WARNING: This AIA Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:06:05 on 02/22/2010 under Order No.4506623790_1 which expires on 04/30/2010, and is not for resale.

User Notes:

(1345274194)

16

EXHIBIT A

City of Pittsburgh
Public Utilities Building

Initial project information

- A. City of Pittsburgh is considering the construction of a Public Utilities Maintenance Building. The building shall be approximately 9,000 square feet and be based on a pre-engineered metal building structure. The building shall consist of, but not be limited to:
1. Approximately 130'x70' pre-engineered metal building structure
 2. Four (4) vehicle bays arranged such to be drive through
 3. One (1) vehicle wash bay arranged such to be drive through
 4. Sixteen feet (16') sidewalls to accommodate 12'x13' overhead vehicle doors
 5. One segregated workshop for pipe fitting
 6. Departmental office space to consist of
 - a. Two offices
 - b. Break room
 - c. Restroom
 - d. Locker room with shower
 - e. Mud room with washer and dryer connections
 7. Exterior shall consist primarily of metal panels with the exception of decorative masonry around the Departmental Office space signifying the main public entry
 - a. Front entry shall be noted with covered walkway
- B. Other considerations for project based on budget availability
1. Environmental friendly design such as solar powered domestic hot water
 2. Additional length of the building by adding four (4) additional drive through vehicle bays within the center of the building. This shall increase the building size to 170' x 70'
 3. Provide wash bay and compressed air equipment
- C. City shall secure services of Civil Engineer to complete the site associated design and construction documents
- D. Architect shall provide, as outlined in AIA B101-2007, the scope of work for the building proper, including design services from structural, mechanical, and electrical engineers.



Architecture
PKHLS

101 South Star Street
El Dorado, KS 67042
T 316.321.4774
F 316.321.7991

110 East Fourth Street
Newton, KS 67114
T 316.283.9280
F 316.283.9282

EXHIBIT B

2009 HOURLY FEE SCHEDULE

Juris P. Krievins

Vince E. Haines

Lester L. Limón

David A. Stewart

Principals:	Juris Krievins	\$100.00 / hr
	Vince Haines	\$100.00 / hr
	Lester Limón	\$100.00 / hr
	David Stewart	\$100.00 / hr
Architect II (Associates):		\$85.00 / hr
Architect I:		\$70.00 / hr
Architect Intern:		\$55.00 / hr
Architectural Technician:		\$45.00 / hr
Construction Supervisor (other than above staff):		\$35.00 / hr
Clerical:		\$35.00 / hr
Large Format Printing - In-House:		
	24" x 36" sheet	\$5.00 / sheet
	30" x 42" sheet	\$8.00 / sheet
Xerox Duplication - In-House:		
	Black/White	\$.10 / page
	Color	\$.25 / page
Postage and Handling:		Cost plus 10%
Consultants:		Invoiced costs plus 10%

Defying gravity since 1952!

www.pkhls-architecture.com



Interoffice Memorandum

TO: JOHN D. VANGORDEN
Interim City Manager

FROM: TODD KENNEMER
Assistant Director of Public Works

DATE: February 26, 2010

SUBJECT: Agenda Item – March 9, 2010
Recommendation of the Planning and Zoning Commission
Request to Rezone the 600 Blocks of East Monroe and East
Madison from R-2 Two-Family Residential to IP-2 Planned
Medium Industrial

The Planning and Zoning Commission, in its meeting of February 22, 2010, considered a request submitted by Miller's Professional Imaging (MPI) to rezone the 600 Blocks of East Monroe and East Madison from R-2 Two-Family Residential to IP-2 Planned Medium Industrial (see attached map). MPI is planning to add a 100' x 120' square foot warehouse and loading docks on the south side of the building. This warehouse will straddle the Monroe Street right-of-way similar to the way the sally port on the new police station straddles the vacated 3rd Street right-of-way. The 600 Block of East Monroe was officially vacated at the February 23, 2010 City Commission meeting.

There was no one present at the meeting to speak in opposition to the request. MPI and City staff has visited with some property owners in the immediate area concerning traffic flow. Their concerns have been alleviated and there have been no objections to this request.

After hearing all the evidence presented, the Planning and Zoning Commission voted unanimously to recommend to the Governing Body **approval** of the rezoning request based on the following criteria considered when a change of zoning case is heard:

1. Character of the neighborhood. Residential and Industrial.

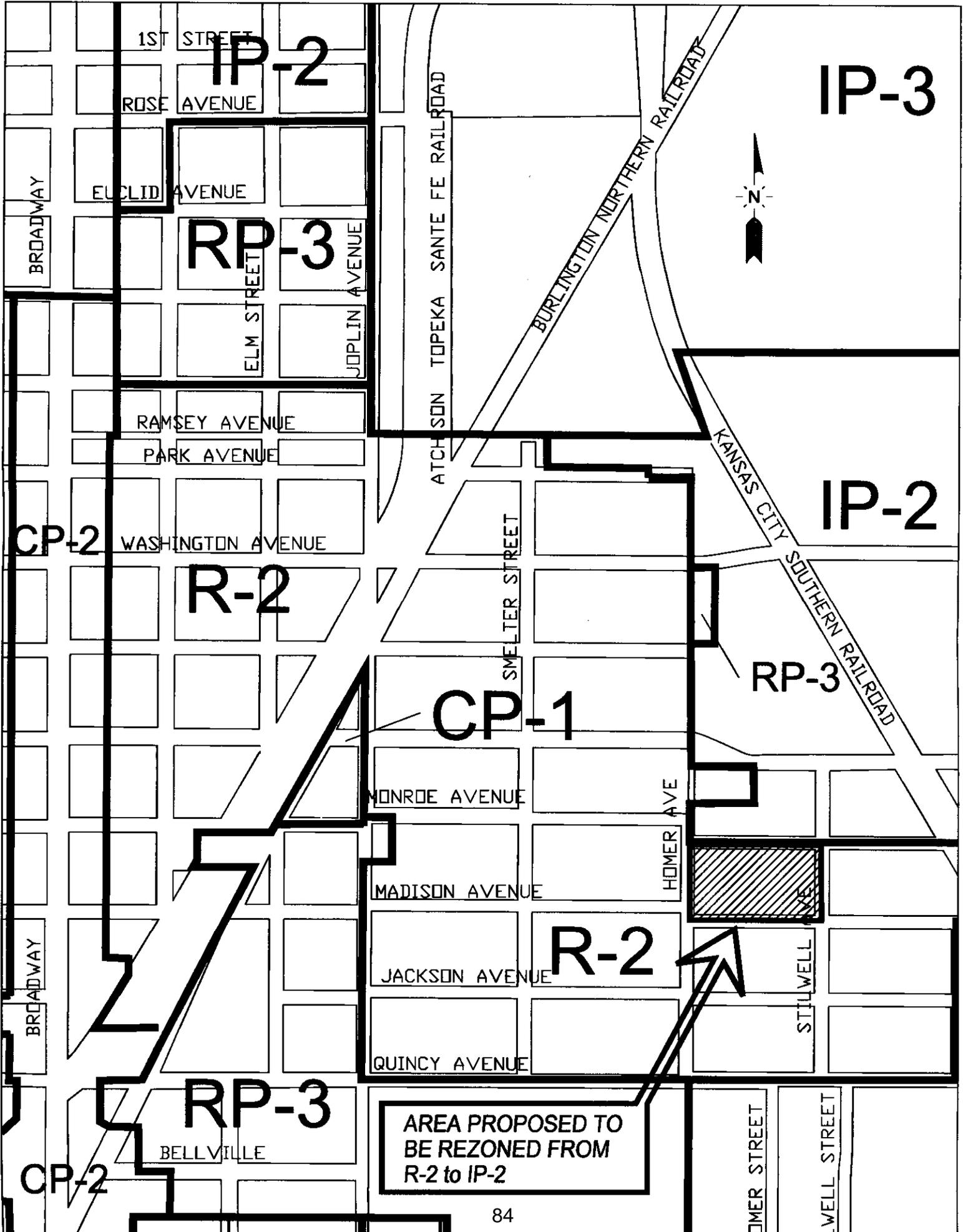
MEMO TO: JOHN D. VANGORDEN
FEBRUARY 26, 2010
PAGE TWO

2. Zoning and uses of nearby properties. All properties to the south, east and west are zoned R2 "Two-Family Residential" and are occupied by single-family and two-family dwellings. Property to the north is zoned IP-2 "Planned Medium Industrial" and is occupied by MPI.
3. Suitability of the subject property for the uses to which it is being considered. The subject property is suitable for the uses being requested in that it is already used exclusively by MPI. It is occupied by an existing MPI employee parking lot and a storage building.
4. Length of time the subject property has remained vacant as zoned. NA.
5. The extent to which removal of the restrictions will detrimentally affect the nearby property. None. That portion of the vacated Monroe Street that is being covered by the new warehouse is being shifted to the south and will continue providing access to the parking area. None of the existing traffic will be diverted to any of the surrounding residential streets.
6. Relative gain to public health, safety and welfare. HS&W of the public will not be affected.
7. Recommendation of professional staff. APPROVE
8. Conformance to Master Plan. NA

In this regard, would you please place this item on the agenda for the City Commission meeting scheduled for Tuesday, March 9, 2010. Action necessary will be for the Governing Body to consider the recommendation of the Planning and Zoning Commission and if they are in agreement with the recommendation as provided, approve the request. If the Governing Body is not in agreement with the recommendation as provided, the State Statutes stipulate that the Governing Body, by a 2/3 majority, may override the recommendation or may return the recommendation to the Planning and Zoning Commission for further consideration. A return of the recommendation must be accompanied with a statement specifying the basis for the Governing Body's returning the recommendation.

Attachment: Map

cc: Tammy Nagel, City Clerk
Bill Beasley, Director of Public Works
Memo File





Interoffice Memorandum

TO: JOHN D. VANGORDEN
Interim City Manager

FROM: TODD KENNEMER
Assistant Director of Public Works

DATE: February 26, 2010

SUBJECT: Agenda Item – March 9, 2010
Recommendation of the Planning and Zoning Commission
Request for a Conditional Use Under the Provisions of Article 30
of the Pittsburg Zoning Ordinance to Keep More than 4 Dogs as
Pets Only at 1131 W. 2nd Street

The Planning and Zoning Commission, in its meeting of February 22, 2010, considered a request submitted by Karen S. Clark for a Conditional Use under the provisions of Article 30 of the Pittsburg Zoning Ordinance to keep more than 4 dogs as pets only at 1131 W. 2nd Street. This request was submitted as the result of Ms. Clark receiving notice that she was in violation of the following City regulations:

1. **Zoning Code 1-103.107** – defines a kennel as any place where more than four (4) dogs are kept for any purpose;
2. **Zoning Code 30-104.22** – states that Conditional Use approval is required for a kennel in all zoning districts; and
3. **Municipal Code 10-73** which states it is illegal to have dogs without first obtaining dog license and rabies inoculations. There are no records of the applicant's dogs having either.

She is applying for a kennel license to come into compliance so she can keep her existing seven (7) dogs. The property measures 90' wide x 152' deep and is large enough to meet the setback requirements of Zoning Code 30-104.22(a) which states, "pens or open kennels shall be located at least 50' from the front lot line and at least 30' from any side or rear lot lines".

MEMO TO: JOHN D. VANGORDEN
FEBRUARY 26, 2010
PAGE TWO

There was no one present at the meeting to speak in opposition to the request, however, one letter was received from a neighboring property. Ms. Clark is somewhat isolated in that the yard is fenced on 2 sides (6' stockade fence adjoining neighbors (W), and front (N)); house to the east is in the floodplain and is empty, south is vacant.

The following criteria are considered when a change of zoning case is heard. Although these criteria are not required when considering a Conditional Use, they are used as a guideline when considering one.

1. Character of the neighborhood. Residential
2. Zoning and uses of nearby properties. All surrounding properties are zoned R-1C "Single Family Residential" and are used as such.
3. Suitability of the subject property for the uses to which it is being considered. Although the property is large enough to meet the kennel setback requirements, it is located on a residential street surrounded by a residential neighborhood.
4. Length of time the subject property has remained vacant as zoned. NA.
5. The extent to which removal of the restrictions will detrimentally affect the nearby property. Conditional Use approvals stay with the property, not the owners. Although the Clark's are making this request to keep their pets, they could choose to operate a full blown kennel at this location. If they were to sell or lease the house and move, the new tenants could also run a full-fledged kennel (if done within 6 months of taking possession of property).

Specific conditions would have to be implemented to prevent these unintended consequences from happening, such as:

- Limiting the number of dogs to the existing seven dogs.
 - No dogs shall be replaced with another so long as the number of dogs exceeds four.
 - This Conditional Use allowing excess dogs shall expire when the number of dogs is brought down to four.
 - This Conditional Use is non-transferrable.
6. Relative gain to public health, safety, & welfare. None
 7. Recommendation of professional staff. DO NOT APPROVE

MEMO TO: JOHN D. VANGORDEN
FEBRUARY 26, 2010
PAGE THREE

8. Conformance to Master Plan. NA

After hearing all the evidence presented, the Planning and Zoning Commission voted 6 to 2 to recommend to the Governing body **approval** of the request with the following stipulations:

1. No more than 7 dogs. This number shall go down to 4 by attrition.
2. When a dog dies, is removed, or sold it cannot be replaced unless the number of dogs total 4 or less.
3. All dogs must be licensed and vaccinated.
4. Owner must get kennel license.
5. Kennel license expires when owner reaches 4 dogs or when they sell the property, whichever is first.
6. Violations of these regulations will result in forfeiture of the CUP.

In this regard, would you please place this item on the agenda for the City Commission meeting scheduled for Tuesday, March 9, 2010. Action necessary will be approval or disapproval of the recommendation of the Planning and Zoning Commission.

cc: Tammy Nagel, City Clerk
Planning and Zoning Commission File
Memo File

1124 W 2ND

1122 W 2ND

1120 W 2ND

1118 W 2ND

1116 W 2ND

1114 W 2ND

2ND

106 N WOODLAWN

50'

30'

30'

1131 W 2ND
KENNEL
AREA
30 x 72

1129 W 2ND

1127 W 2ND

30'

0 W 1ST

1116 W 1ST



Interoffice Memorandum

TO: John Van Gorden
FROM: Mark Turnbull
DATE: March 3, 2020
SUBJECT: Progressive Products Tax Exemption

I received a call from Todd Allison, President of Progressive Products, requesting the tax exemption on equipment purchased for the expansion granted this year by the City Commission be rescinded. His request followed receipt from the Kansas Court of Tax Appeals review of the Company's application for tax exemption. He indicated the Court would not favorably rule on the exemption request if personal property was exempted in the ordinance. The letter of request from the Company and the Court's directive are attached for review.

Based on the request by Progressive Products staff requests the Commission rescind the tax exemption be modified to exclude equipment approved earlier this year.



RE: Tax Abatement, Docket No.: 2010-482-EDX

Mark,

I have recently received a letter from the Kansas Court of Tax Appeals about our tax abatement application. According to the letter, for the State of Kansas to give tax abatement for real estate, there also has to be personal property included with the real estate and be exempted under the same schedule (KSA 79-221).

There was approximately \$25,000 of personal property purchased for use in the real estate that we are seeking tax abatement. However, it is my understanding that the county has already granted tax abatement for the life of the personal property under KSA 79-223, which is their right to do.

Progressive Products wishes to withdraw from the personal property from the tax abatement granted by the county. We wish to seek abatement pursuant to Article 11, Section 13 of the Kansas Constitution, so that the personal property can be on the same tax abatement schedule as the real estate.

Without personal property associated with the real estate, we will not be granted tax abatement from the State of Kansas.

I will submit a copy of the letter I received for your examination. I must respond to the State by March 26, 2010.

Sincerely,

Todd Allison
President
Progressive Products, Inc.



K A N S A S

BRUCE F. LARKIN, CHIEF JUDGE
REBECCA W. CROTTY, JUDGE
J. FRED KUBIK, JUDGE

MARK PARKINSON, GOVERNOR

COURT OF TAX APPEALS

February 25, 2010

Todd Allison, President
Progressive Products Inc
3305 Airport Circle
Pittsburg, KS 66762

Re: More information
Docket No.: 2010-482-EDX
County: Crawford
Property Description: Real, Parcel ID# 019-191-12-0-00-00-004.00-0

Dear Applicant:

This will acknowledge receipt of your tax exemption application on February 18, 2010. The Kansas Constitution allows for counties or cities to exempt the property of new or expanding businesses from ad valorem taxation at their own discretion. The role of the Court in this matter is to ensure that the applicant satisfied all constitutional and statutory requirements enacted by the citizens of Kansas and the Legislature. However, before we can process your application the Court will need the following additional information:

1. The real estate and improvements are leased from Robert N. Allison Trust. Please provide evidence that the lessor, Robert N. Allison Trust, has a 51% or more ownership interest in the lessee, Progressive Products, Inc.
2. While the application indicates that you are seeking an exemption for personal property, the County comments indicate that the personal has been exempted pursuant to K.S.A. 79-223. Are you seeking an exemption for personal property totaling \$25,000 pursuant to Article 11, Section 13 of the Kansas Constitution? If so, please provide a list of the personal property for which you are seeking an exemption. The list should include the dates of acquisition (mm/dd/yy) of each item.
3. K.S.A. 79-221 sets forth the requirements for leased property to qualify for exemption pursuant to Article 11, Section 13 of the Kansas Constitution. Specifically, there must be a 51% or more ownership interest between the lessor and the lessee, or vice versa. Additionally, the leased property must be integrally associated with other property, which is owned by the lessee, that has been exempted pursuant to Article 11, Section 13 for the same term as the leased property. If the

personal property owned by Progressive Products, Inc, has been exempted pursuant to K.S.A. 79-223, please explain why you believe the leased property qualifies for exemption.

Please forward your response to the Court by March 26, 2010 and also submit a copy to the county appraiser. Pursuant to K.S.A. 79-213(g), the Court has 30 days after the date of receipt of all required information and data to either issue an order or set the application for hearing. Once the above requested information is received, we will then proceed to process your application.

Thank you in advance for your cooperation. If you have any questions, feel free to contact me at the number listed on this letter. Or you may contact Ed Serrano with the Kansas Department of Commerce at (785) 368-7293 if you have any other questions related to the exemption process. The Kansas Legislature recently authorized the Kansas Department of Commerce to assist applicants in requesting an economic development exemption. See K.S.A. 79-213(g).

Remember that to assure a fair and proper proceeding before the Court you should exchange all evidence, including copies of any correspondence with the Court, with the county appraiser.

Sincerely,



Tiane Seltmann
Attorney

cc: Michael Montgomery, Crawford County Appraiser
Crawford Co Courthouse
PO Box 217
Girard KS 66743-0217